In the City
SPECIAL INVESTIGATION

LONDON'S CLOSED COURTS

by **Slicker**

OPEN justice is a mantra that regularly echoes around the Supreme Court and lower courts. Indeed, the past decade has seen great advances in access to court hearings and, more significantly, court documents. Even the family courts, once temples of secrecy, have opened up. National security is now the only reason usually given to justify completely shutting the public and media out from legal proceedings.

But there is still one court process that remains closed to the outside world: arbitration. It's a system that can help allegations of illegal or criminal behaviour stay hidden.

The London Court of International Arbitration, based in Fleet Street, is one of the most globally favoured locations for settling big-ticket commercial disputes in private. Where arbitration rather than civil litigation is stipulated in international contracts for resolving disputes, English law and London are often the choice. Hearings are behind closed doors. Evidence is confidential. Decisions are known only to the parties involved.

Business is booming, making arbitration a major money earner for m'learned friends. Last year there were a record 346 cases – up 25 percent.

Most London arbitrations have zero public interest, relating only to mundane contractual disputes. They can also provide a cheaper and quicker way of resolving disputes than civil litigation. But most important of all, arbitration avoids the public hearings and disclosures that would usually come with a high court action over the same issue.

However, there is criticism that the lack of transparency provided by arbitration, especially where foreign states are involved, means serious issues of public interest – such as allegations of corruption – may never come to light.

Details of arbitration hearings are disclosed in only a handful of instances, where the losing party in the arbitration challenges the award or the winner starts enforcement proceedings in the high court. A recent example is the London arbitration that in 2017 made a potential award of $10bn to a small British Virgin Islands company over an aborted Nigerian gas supply contract. In September, a high court judge declared there was a "strong *prima facie* case" that the contract was "part of a larger scheme to defraud" the Nigerian government. The award is being challenged – the only reason the information is public.

But there are many other arbitrations where, at best, the public gets only a glimpse of alleged misdeeds. And in most cases, absolutely nothing makes its way into the public domain.

Ships in the night

The *Eye* is aware of three arbitrations involving allegations of paid or proposed multi-million-dollar kickbacks to Hannibal Gaddafi, the thuggish playboy son of deposed Libyan dictator Muammar Gaddafi, as part of the purchase of ships by Libya's state-owned shipping company.

Two concern Korean and Italian shipping companies. The third involves a company within the shipping empire of Norwegian-born billionaire John Fredriksen, by some measures the world's largest shipowner. He runs much of that empire from Britain and his family lives in one of London's largest homes – a property so splendid it boasts one of the biggest private gardens in the centre of the capital. (The largest is that of Buckingham Palace.)

The Fredriksen-linked company was party to an agreement to sell a ship to Libya's state-owned General National Maritime Transport Company (GNMTC). The sale was prevented by the revolution that overthrew Gaddafi in 2011. This resulted in London arbitration proceedings between the Fredriksen-linked company and a GNMTC special purpose vehicle (SPV) set up specifically for the purchase.

None of the evidence, findings or details from those arbitration proceedings are public because of the strict confidentiality rules that apply. However, after months of investigation the *Eye* can disclose the outline of a story that has significant public interest.

All our information relies only on publicly available high court documents, US diplomatic cables, foreign media reports, shipping industry databases and other public sources.

That the Gaddafi regime was corrupt is beyond doubt. The US ambassador in Tripoli summed it up well in a 2009 cable to Washington: "Libya remains a kleptocracy in which the regime has a direct stake in

Vessel 1046, identified by shipping news website, *TradeWinds*, as the Blue Lhotse

anything worth buying, selling or owning."

Details of that corruption began to come to light after Gaddafi was ousted and the new Libyan government tried to recover money from those, such as City banks, which had been involved in questionable dealings with the old regime.

Three's company

Evidence that Hannibal Gaddafi had been creaming off money from the Libyan state has emerged in various legal proceedings. The first disclosures came in a 2017 commercial court hearing in front of Mr Justice Males. He was told that, back in the day when the Gaddafi regime was still in power, GNMTC was run by a triumvirate: Hannibal held the whip hand and two GNMTC officials, Captains Ali Belhag and Abdul Hakim, carried out his orders.

The hearing stemmed from an attempt by management of the post-Gaddafi GNMTC to recover a kickback of between $5m and $7m that it claimed had been paid as part of the $66m purchase of a bulk carrier vessel just days before the Arab Spring uprising swept across Libya in February 2011.

In essence, GNMTC claimed the price had been deliberately inflated and that millions of dollars paid by the state-owned enterprise had then been siphoned off into a company, Babel Shipping, a front for Hannibal and used as his personal cash dispenser.

The ship concerned was identified by the unlovely name *Vessel 1045*. Males accepted that the evidence of corruption relating to the vessel appeared "compelling".

Further support for that conclusion came last year when GNMTC failed to enforce a $5m arbitration award over the *1045* purchase for technical legal reasons. However, Mrs Justice Moulder disclosed that an arbitrator had "found that [the] payment constituted a bribe".

Significantly, Males was also told in 2017 that this was not a one-off corrupt deal. It followed a pattern. Over the years that Hannibal dominated GNMTC, the company had spent around $1bn on new tonnage. Most purchases included bribes disguised by inflating prices, Males was told. Captain Belhag had admitted to investigators in Libya that "secret commissions were paid in connection with such vessel transactions and that such payments were made to [Hannibal's front company] Babel".

Quoting from Belhag's evidence, Males was told the Libyan captain "confirms that all of the vessels acquired by GNMTC… were the subject of a similar arrangement [to the *1045* deal]… he also confirms that he made arrangements for the various payments".

In his judgment, Males said he had been told that "the transaction followed a common pattern". In fact, *Vessel 1045* was one of two South Korean-built bulk carriers GNMTC agreed to buy at almost the same time. The second was identified as *Vessel 1046*. The Libyan group had set up two Maltese SPVs to handle the purchases – Silver Dry Bulk for *1045* and Golden Dry Bulk for *1046*.

A dispute over the Libyans' failed purchase of *1046* had gone to arbitration, Males was told. Little could be said about that arbitration – after all, details were confidential. But in his judgment on *1045* – the one where he accepted that evidence of corruption appeared "compelling" – Males said: "Substantially similar material has already persuaded one international arbitral tribunal, concerned with *Vessel 1046*, that the transaction in question was corrupt."

Males was told by GNMTC's lawyers: "We have run one arbitration successfully already." This was confirmed as relating to *1046*. "We were successful in proving this pattern," the lawyers added.

However, there was one crucial difference between the purchases of *1045* and *1046*. The sale of *1045* was completed just days before the revolution in Libya. But *1046* was not: the deal was prevented by UN sanctions against the Gaddafi regime. As a result, at the *1046* arbitration the seller had argued "that nothing was paid so there was no bribe, there was no corruption".

They also argued that big commissions were common in shipping deals; that services had or would have been provided; and that Belhag's evidence was a forced confession and thus unreliable.

The identity of the seller of *1046* was not disclosed at the Males hearing. The judge was simply told that it was a "large shipping

NORWAY'S SHIPPING KING

JOHN FREDRIKSEN's stature in world shipping is undisputed. Over more than 50 years this self-described trader has earned his nickname "Big Wolf". The Fredriksen family fortune was estimated at more than £6.6bn in this year's *Sunday Times* Rich List – a number 20 ranking comfortably ahead of better-known tycoons such as Richard Branson, ex-Formula One magnate Bernie Ecclestone and Lord Bamford of JCB.

Born in Oslo, the son of a welder and a canteen manager, Fredriksen, 76, started work at 16 as a messenger in a shipbroking firm but soon left Norway for Beirut, Athens and Singapore. In the 1960s he leased barges and tugs to the US military during the Vietnam war. Cleverly timed purchases of ships when charter rates were at rock bottom in the mid-1970s propelled him into the big league.

But the really huge leap in his fortunes came from providing the tankers that carried Iranian oil during the eight-year Iran-Iraq war of the 1980s. An unauthorised biography described Fredriksen as "the lifeline to the Ayatollah". His vessels kept Iranian oil exports flowing, despite the constant threat of attack by Saddam Hussein's forces, bringing in desperately needed dollars to support Iran's regime.

Fredriksen became seriously wealthy. "I still work on a gut feeling," he told Bloomberg in a rare 2012 interview. He described most of his years in the tanker business as "awful" but also "fun".

In the 1980s he moved to Cyprus, escaping Norway's far less generous tax regime. At that stage he was reckoned to be the richest Norwegian. He later became a Cypriot citizen.

London calling

In 2001 the shipowner moved into a historic Chelsea mansion once described by an estate agent as "probably the best home in London". The Old Rectory is vast, reckoned to have floorspace of 30,000 square feet. It sits in two acres of private grounds, and there is a ballroom and a spectacular indoor swimming pool. The 2008 value given in Land Registry records was £110m. Ownership was transferred from an Isle of Man company to Fredriksen's daughter Cecilie in 2017.

The London home is one of a string of properties the family owns, including in Spain, Cyprus and Norway. Twin daughters Cecilie and Kathrine, 37, were born in the UK. They were given control of a $2bn investment portfolio in 2015.

Fredriksen's daughters sit on the boards of several of their father's companies. The women remain Norwegian citizens. There has been increasing speculation about who will run the empire in the future, and last year Kathrine hit back at suggestions she and her sister would not take over from their father.

Wide net

The Fredriksen business interests extend well beyond shipping to include fish farming, property, offshore drilling rigs and oil trading. The Mowi fish farming business – no stranger to *Eye* readers – has large operations in Scotland and claims to be "one of the largest seafood companies in the world, and the world's largest producer of Atlantic salmon".

The Fredriksen businesses are run from offices in London and Oslo but are controlled through a tax-efficient global network of companies in offshore havens stretching from Cyprus and Jersey to Bermuda. According to filings with US regulators, Fredriksen "disclaims beneficial ownership" and has "no pecuniary interest" in major share stakes in listed companies such as leading tanker and bulk carrier fleet owners Frontline and Golden Ocean, as well as deep-sea oil rig operator Seadrill. These are held in trusts established by Fredriksen "for the benefit of his immediate family members".

A pivotal part in this structure is played by CK Limited – its name apparently mirroring the names of his daughters – which acts as the Jersey trustee for the trusts. The move to Jersey came in or around 2010 after a tax claim in Cyprus.

By having his businesses controlled through trusts, Fredriksen was able to make an extraordinary claim, "I own nothing", to Norwegian journalists in a 2012 interview – despite being ranked as one of the richest men in the world.

At the start of last year, a Fredriksen company helped to bail out Norwegian Air, which was threatened with collapse, by injecting $100m.

After the Covid-19 pandemic struck, the Norwegian government granted a lifeline when the airline's survival was again under threat. But last week a second bailout was withheld.

Fredriksen has often attracted critics, such as by helping Russia with the opening-up of oil reserves in the Arctic's Kara Sea, for which he was awarded the Russian Order of Friendship by Vladimir Putin in 2015.

Fredriksen's wealth has allowed him to acquire the usual toys and trappings beloved of billionaires. But he also collects Norwegian art and has donated generously to medical research. However, his real passion is salmon fishing – naturally not for the farmed variety, but in remote parts of northern Norway.

company" and that it had "absolutely" denied paying any bribe.

The "large shipping company" involved in the *1046* arbitration had, Males was told, sought permission to appeal the tribunal's verdict but had been refused. Had it succeeded, then full details would have been made public.

GNMTC's lawyers' told Males that *1045* was "a sister transaction that chronologically took place during the same time, and the size of the bribes is the same, the mechanism is the same, the characters involved are the same".

Oslo revelation

At the Males hearing, only *Vessel 1046* and its would-be purchaser, Golden Dry Bulk, were named. However, the identity of the "large shipping company" was revealed two weeks later by the Oslo-based online shipping news website *TradeWinds*. It identified *1046* as the Panamanian-registered, 180,000-ton deadweight bulk carrier *Blue Lhotse*, quoting Norwegian sources that it had been in John Fredriksen's fleet "all along". Shipping operators stated they had chartered the vessel from a Fredriksen company, Golden Ocean, and a Golden Ocean official confirmed *Blue Lhotse* was under commercial management.

A review of shipping and other databases provides further confirmation that: *1046* had been built in 2011 by the same South Korean shipyard as *1045*; the hull and other identification numbers matched *Blue Lhotse*; the ship was owned since 2011 by a Liberian company, Gramma Investments; Gramma is identified as linked to Fredriksen's Frontline group from 2016. A recently discovered 2015 high court document also tied Gramma to *Blue Lhotse* and to arbitration proceedings.

The document recorded a request for evidence in an arbitration case between Golden Dry Bulk, the proposed purchaser of *Vessel 1046* identified before Males, and Gramma, the owner of *Blue Lhotse*, identified as being part of Fredriksen's fleet.

In addition, *Private Eye* has found further evidence of the link between Fredriksen's shipping empire and *Blue Lhotse*. This came in Maltese court proceedings brought in 2012 against GNMTC by a Greek shipbroker. The case mainly involved *Vessel 1045*, but the broker identified *1046* as one of four ships ordered from South Korea by the Fredriksen group's Golden Ocean. That link to *1046* was confirmed by counsel for GNMTC during the Maltese proceedings.

The part that Hannibal played in GNMTC and his role in the Gaddafi regime's looting of state assets featured in a 2008 cable from the US embassy in Tripoli headed "Hannibal goes to sea". It described his role at GNMTC. Although his formal title was a mere "consultant", Hannibal was said have a "controlling interest" playing "a key management role… particularly with respect to procurement decisions".

During the Males hearing, the judge was told that Captain Belhag had described to Libyan investigators how Hannibal ruled GNMTC by fear: "No one could say no to Hannibal at that time."

Familiar pattern

Other evidence has subsequently confirmed the pattern of bribery at GNMTC outlined to Males involving Hannibal. In February 2017 GNMTC launched proceedings in the high court against Hannibal, Belhag, Hakim and Babel. Korean, Japanese and Turkish shipping companies that sold ships to GNMTC were also named as defendants.

Then, last year, the prominent Italian newspaper *Corriere della Sera* published an article about the hunt for looted Gaddafi family assets and Hannibal's role in the plundering. A London arbitration case from 2017 was cited. It involved Italian shipowner Motia, which sold two tankers to GNMTC in 2009. A $6m commission had been paid and the newspaper reported that GNMTC was seeking the return of that money plus $4m interest. GNMTC was quoted as claiming: "The president and the two members of the [GNMTC] council who conducted the negotiation were in [a secret] agreement with Hannibal Gaddafi."

Corriere della Sera stated it was claimed Babel had received $60m in "commissions" from similar transactions – money that was transferred to Hannibal's bank account. The arbitration was later reported to have been settled confidentially in 2018.

The link between John Fredriksen's shipping empire and *Blue Lhotse* is a matter of public record. Also in the public domain is that a deal was struck to sell the ship to GNMTC – and that, according to a high court judge, an arbitration tribunal found that deal was corrupt. But details of the arbitration's findings, what corruption it uncovered and those involved in that corruption remain secret.

Private Eye put a number of questions to John Fredriksen about the *Blue Lhotse* sale that never was. We asked whether any Fredriksen employee or agent had conducted negotiations for the sale of *Blue Lhotse* to GNMTC with Belhag and Hakim; the ownership of Gramma; whether Gramma or any other Fredriksen company had entered into an agreement with GNMTC for the sale of the ship; whether such an agreement included commission payments and, if so, to whom; if the sale had been completed whether those payments would have been made; and whether in 2011 or since Fredriksen had been aware that Hannibal Gaddafi could have received a payment directly or indirectly from the purchase of *Blue Lhotse* by GNMTC.

Last week lawyers acting for Fredriksen told the *Eye* he denied "making or knowing of any unlawful payments of the sort mentioned" or "any wrongdoing in connection with Libya or Hannibal Gaddafi". But Fredriksen could not answer questions about an arbitration because he "is bound by the confidentiality of any such proceedings" and so was "bound not to respond to the questions raised". ■

SON, SEA AND SCANDAL

HANNIBAL GADDAFI was a man to be feared. The youngest son of the Libyan dictator Muammar Gaddafi, he shared some of the family's pastime of ripping off the Libyan people through his key role in the state-owned shipping company, General National Maritime Transport Company (GNMTC).

Hannibal had studied marine navigation and went on to complete an MBA in Denmark before being appointed "first consultant" to GNMTC in 2007. Inside GNMTC his orders had to be followed. "No one could say no to Hannibal," according to evidence presented to the high court in London. As a result, he became very rich.

But it was his playboy lifestyle that got him into the headlines. In 2004 he was caught driving his Porsche at 90mph the wrong way down the Champs-Elysées in Paris. The following year, again in Paris, he was given a suspended jail sentence for slapping his pregnant future wife and possessing a gun without a licence. He was arrested again in 2008 for reportedly assaulting two domestic servants at a luxury hotel in Geneva. Charges of "bodily harm, threatening behaviour and coercion" were later dropped after pressure from Libya on the Swiss government. GNMTC threatened to halt oil shipments.

In the same year, Hannibal lost a legal case against a Danish newspaper that reported that, during his time as a student in Copenhagen, he had directed the abduction and beating of a Libyan national in the Danish capital.

On Christmas Day 2009, police were called to Hannibal's suite at Claridge's Hotel in London after reports of a woman screaming. His wife, Aline Skaf, a Lebanese former lingerie model, was found bleeding from wounds to her face that required hospital treatment. Days later, Hannibal threw a New Year's Eve party on the chic Caribbean island of St Barts, paying a reported $2m for Beyoncé to entertain the guests.

One of Hannibal's four children was killed in a bombing raid on a Gaddafi family compound in April 2011. In August that year, when rebels entered Tripoli, the family fled to Algeria. A laptop that had apparently belonged to Hannibal was found at his Tripoli mansion. Pictures stored on the device showed the family enjoying holidays, luxurious homes, a yacht and private jet. The Independent reported that there were also details of recent multi-million-dollar bank transfers – the largest for almost $15m – to accounts in Tunis, Paris and Panama.

Hannibal and his family, including his mother and sister, moved on in 2012 to Oman, where they were granted political asylum while reportedly under house arrest.

In December 2015 Hannibal was briefly abducted in Syria by Shia militia and taken to Lebanon. He was released but then arrested by Lebanese security forces, and has been detained ever since, nominally as part of an investigation into the 1978 disappearance of an influential Shiite cleric in Libya. Hannibal has been accused of concealing information. His family remain in Syria.

In an interview last year, Hannibal, now 45, complained: "My detention has nothing to do with this case; I was detained simply because I'm the son of Muammar Gaddafi." That's obviously no longer such an advantage.