

October 29, 2015

**STATEMENT OF ROBERT MCDUFF, ATTORNEY
FOR MIKAL WATTS, REGARDING THE UNSEALED INDICTMENT**

The indictment issued today against Mikal Watts recycles claims made by BP in a lawsuit against Mikal nearly two years ago where it sued him. Neither BP's lawsuit nor this indictment has any merit, and Mikal is not guilty of the crimes of which he is accused.

This indictment against Mikal and others contains a litany of examples of people whose names were included on the client list of his firm but who may have never signed up with him. Obviously, fraud was committed somewhere down the line by others. But as the evidence at trial will show, there was no fraud on the part of Mikal Watts or the people who work in his office.

In the indictment, the Government handpicks a selection of emails and events that are taken out of context and that paint a misleading picture. And the Government also takes the illogical position that Mikal and others intentionally paid millions of dollars for someone to merely pull names out of a phone book. Actually, the money was spent to support an extensive external field team that was asked to obtain information regarding real people who, Mikal was informed, suffered real damages from the oil spill and wanted his office to represent them. Although at times he and others in his office expressed frustration with the data regarding some of these individuals, Mikal believed that the vast majority of the people on the list were real people with real damages, and he knew that any fraudulent claims would be sifted through the routine processes in cases such as this.

Mikal Watts is a successful, talented, and nationally respected lawyer. Contrary to the allegations in the indictment, he and the people in his office never set out to create a phony client list of 40,000 people. No sensible lawyer would do that. Once the full story is at presented at trial, we fully believe that he evidence will show Mikal and the people from his office who have been charged will be found not guilty.

The Source Of The Information For The Client List

Generally, in mass tort cases, lawyers representing thousands of clients do not personally meet with, investigate, and sign up the case of each individual client. That is literally impossible in such large cases. In the BP oil spill matter, the Watts firm clients were processed by an outside field team directed by two individuals who had been in charge of the outside field team in another mass tort case handled by the Watts firm, the FEMA Trailer Formaldehyde case. In the FEMA case, the overwhelming majority of thousands of plaintiffs for whom the firm filed suit turned out to have valid claims. Mikal had reason to rely on a process managed by these same people in the BP case.

The people in the field recruited their own workers - and many of were different than those relied upon in the FEMA case. Apparently, some these different workers fabricated information for the people

described in the indictment who, according to the government, never actually signed up. But the fact that, unknown to Mikal Watts, some people in the field may have committed fraud does not mean everyone did, and certainly does not mean that Mikal Watts or anyone in his office in Texas did.

Over a period of months, the field team provided information that over 40,000 people signed up with the firm. Although that is a large number in a short period of time, it is not out of line with numbers that signed up with the firm in other cases. The Watts firm has successfully handled cases with tens of thousands of plaintiffs on multiple occasions including one in which the firm represented nearly 70,000 plaintiffs.

Both Mikal And BP Believed The Client List Was Legitimate

At the time that he filed these cases, Mikal believed he represented over 40,000 plaintiffs, and that this list was composed of real people who suffered real injuries. So did BP, which stated (in papers filed as part of its lawsuit against Mikal) that when he filed these cases, BP believed they were legitimate.

Mikal Proposed A Process To Obtain Income Tax Records On All Plaintiffs

Mikal proposed the creation of a process by which income data on all plaintiffs in the BP case (including his own clients) could be obtained from the IRS and shared with all parties and entities (something he would not have done if he believed most of his clients were phony). He did this very early on in the litigation, demonstrating that he did not believe his client list was suspect.

Mikal Was Highly Qualified For The PSC And Had No Incentive To Commit Fraud

Contrary to the allegations of the U.S. Attorney in the indictment, Mikal had no incentive to sign up phony plaintiffs. He knew, as most lawyers do, that claims cannot be proven for phony plaintiffs and therefore the lawyer will receive no fee on them. While some lawyers in mass tort cases get paid for work they do for the “common benefit” of all plaintiffs, those payments come only as a result of hard work for the benefit of everyone, not because of the number of clients on a list.

Mikal had no incentive to create a bogus client list in order to obtain a seat on the PSC (Plaintiff’s Steering Committee). Contrary to the belief of many, PSC members are not guaranteed money in the form of “common benefit” fees. Those fees are awarded only as a result of hard work and significant contributions to the benefit of all, and PSC membership is not required to receive them.

Mikal was highly qualified for the PSC. He had served on PSCs in other mass tort cases. He was well-regarded for his talent and his work ethic. He was a trailblazer in representing people who had been victimized by corporate misconduct, including winning the first national jury awards in cases involving the withdrawn diabetes drug Rezulin and the recalled Sulzer hip implants. As a result, Mikal and his law firm have achieved national recognition for well over a decade.

Mikal was recommended for the PSC and chosen by the Judge overseeing the lawsuit against BP in New Orleans. Mikal was given assignments by the people chairing the PSC based on his talent and hard work, not the number of people on his list. This was not some fly-by-night lawyer who used a large

client number to be selected to a PSC for which he was not qualified and who tried to obtain a common-benefit fee without doing any work. Mikal was highly qualified, worked very hard, and contributed a great deal to the common benefit of all plaintiffs.

The Numbers Regarding Problematic Cases

During the course of the BP oil spill case, Mikal sent approximately ten status letters to most or all of the 40,000 people who he had been told had wanted his firm to represent them. Only a small number responded by saying that they never authorized him to represent them, and the percentage of returned mail was not out of line with the percentages in similar mass tort cases along the Gulf Coast. At one point, the Administrator of the Gulf Coast Claims Facility (GCCF) wrote Mikal about complaints from a number people saying that they never signed up with the firm --- that number that was approximately one-tenth of one percent of the total client list. Although this indicated there were some problems in the field, the numbers did not put the firm on notice that a significant part of the list included such people.

Mikal Knew That Any Claims Without Merit Would Be Sifted Out

Every mass tort case has plaintiffs with claims that lack merit and a lawyer cannot always sort them out, particularly in the early stages of the case. Mikal knew that, as part of the routine procedures in mass tort cases, any plaintiffs who, unbeknownst to him, did not have valid claims, would be sifted out at the settlement stage of the case and their claims would be automatically dismissed. That is how it happened in the BP case. Prior to the BP settlement (which was approved in 2012), the focus of the lawyers and the Judge in the case was not on investigating and reviewing the individual plaintiffs, but on the larger issues of liability that affected all plaintiffs who were injured. Indeed, early on in the litigation, the Judge stayed all of the individual cases in order to focus on those larger issues, meaning that the sifting out process would occur at a later date. Mikal, who had been selected by the leaders of the Plaintiffs' Steering Committee (PSC) to take a lead role in the case on behalf of everyone injured by the spill, whether on his list or not, spent nearly all of his time over more than two years working on those larger liability issues, knowing that the time for review of the individual claims would come later. Mikal and others collectively examined millions of pages of documents and took hundreds of depositions. Mikal personally created a trial matrix well over a thousand pages long that was topically organized to assist the team in its preparation for trial. From a group of several hundred lawyers working on behalf of plaintiffs in the BP case, Mikal was one of only 11 selected to try the case, and he was specifically assigned tasks central to proving the case against BP.

Eventually, the settlement was approved, which triggered the procedure for most individuals to apply to be paid by BP, and for the sifting-out by a Special Master appointed by the Judge, of meritless and fraudulent claims. Under this process, only valid claims were to be paid, and all other claims, including fraudulent claims, were automatically dismissed.

Mikal Took Steps To Prevent Fraud

In the interim, Mikal took steps to prevent fraud by refusing to process 35 checks for potential clients sent to him by the Gulf Coast Claims Facility (GCCF) because the GCCF did not provide enough information to ascertain which of the clients (many of whom had common names similar to the names of other clients) the checks were intended for. Instead, Mikal returned the checks totaling approximately \$400,000 to the GCCF for redelivery directly to the appropriate individuals, and took no fee that he could have taken had he simply cashed these checks.

Mikal Was Twice Re-Appointed To The PSC

The Judge reappointed Mikal to the PSC twice, on October 5, 2011 and again on September 10, 2012. The Judge did this even though he was aware that a lawyer with the Gulf Coast Claims Facility had raised questions about some of the clients on Mikal's list. As this confirms, the existence of problems with respect to some of the people on a client list does not put the lawyer on notice that the entire list is flawed.

The Settlement Process

Eventually a settlement was reached and a process was established by the parties for plaintiffs to submit applications for payment. Applications for the settlement were submitted by a comparatively small number of the firm's clients in relation to the number of people who the firm believed had originally signed up. No one with the firm created any phony documentation (such as boat captains' letters, payment records, affidavits, or the like) in order to qualify anyone for a settlement payment. Instead, the firm forwarded to the Settlement Master's office for their review the documents that the clients sent to the firm in support of their application.

BP's Claim that Mikal's List Caused Them to Pay More Money

BP has claimed that Mikal's client list was so central to the settlement negotiations that it paid more in settlement than it otherwise would have. But the Judge in charge of the BP case rejected that contention in a hearing in February 2013 in BP's lawsuit against Mikal. "BP's argument that somehow the Watts claims were the driving force in these negotiations is clearly without basis; in fact, that they, at best, were the tail wagging the dog, and maybe they were even the flea on the tail wagging the dog."