

**IN THE MATTER OF AN ARBITRATION UNDER THE RULES OF ARBITRATION
OF THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT
DISPUTES**

ICSID Case No. ARB/14/22

BETWEEN

BSG RESOURCES LIMITED

(Claimant)

-v-

THE REPUBLIC OF GUINEA

(Respondent)

First Witness Statement

BENJAMIN STEINMETZ

I, **BENJAMIN STEINMETZ**, of Q.du Mont-Blanc 23, CH 1201 Geneve, with date of birth 2 April 1956 will say as follows:

- I. I am a beneficiary of a Lichtenstein foundation called Balda. Balda indirectly owns a group of companies whose businesses focus on resources, diamonds and real estate. BSGR is the part of that group of companies and owns all the resources projects. Whilst there is no legal entity called the 'BSG group', or indeed any group of companies which share BSG in their names, for the purposes of this statement when referring to the overall business interests of the group I shall refer to the 'BSG group'. I have no role on the board or as an employee of any of the BSG companies or of the Balda Foundation. I am, however,

contracted to advise the individual companies that make up the BSG group, and it is in this capacity that I am involved in their businesses: every action I took in relation to the Guinean project which is the focus of this statement, I took in my role as adviser to BSGR. I deal with my role in BSGR in more detail below.

2. I make this statement in relation to the claim by BSG Resources Limited ("BSGR") against the Republic of Guinea ("Guinea"). Save where I indicate otherwise, the facts and matters set out in this statement are based on my first-hand knowledge of the events in question.

A. BACKGROUND

3. I have been in business for many years. After my national service in Israel, instead of going to university, I immediately went into the diamond business, living in Antwerp and built a business into an international global leader in the diamond business. The business was held by the Balda Foundation (see below) and it became the largest De Beers siteholder and one of the biggest multinational diamond companies in the world. Since then the Balda Foundation have been involved in a many different businesses, both large and small. At the beginning of the 1990s the Group developed an interest in real estate. In the mid 1990s the Group co-founded a hedge fund called Hermitage as part of a joint venture with Republic National Bank (later HSBC) and Bill Browder which was focussed on investing in Russian companies. Hermitage became a big foreign investor in Russia and performed remarkably well. The Group also started to become interested in the mining industry and became the major shareholder in Anglovaal Mining in South Africa. We soon expanded to other mining projects, investing across Africa and in exploration projects throughout the world in a variety of commodities including copper, cobalt, gold, iron ore, manganese, nickel and diamonds. In 2003, these natural resource projects were consolidated into one company, BSGR. BSGR acquired Bateman Engineering, a South African engineering company, which later split into two: Bateman Engineering and Bateman Litwin. Following a successful turnaround and increased revenue, Bateman Engineering was listed on AIM in 2005 followed by Bateman Litwin in 2006, both raising millions of dollars.
4. In 2004, BSGR further expanded its business to mining and upstream production facilities in Macedonia and Kosovo through the purchase of Cunico Resources ("Cunico") and the refurbishment of ferro-nickel production facilities. Cunico is now one of the largest ferro-nickel manufacturers in the world. BSGR also invested in steel production in Azerbaijan, oil and power plants in Russia and Nigeria and solar renewable energy in South Africa. During the same period the BSG group of companies expanded to include real estate investment

and other private equity investment companies. The BSG group now operates in more than 20 countries worldwide.

5. In addition to advising the BSG group companies, I also own Scorpio (BSG) Limited which is a company with a group of subsidiaries whose businesses are in real estate ("Scorpio"). I acquired Scorpio in the late 1990s and the group has been active as a developer in the Central and Eastern European markets ever since. Scorpio specialises in mid to large real-estate development projects for residential, office and retail use. The business has suffered recently in the global downturn and continues to face difficulties caused by the lack of liquidity for East European real estate.
6. I also chair, jointly with my wife, the Agnes & Beny Steinmetz Foundation (the "Foundation"), which is one of the largest philanthropic organisations in Israel. The Foundation was founded in 2006 and specialises in youth education, welfare programmes, and health care. Since it has been in operation it has given thousands of children a chance of a better life. My wife and I believe that the primary years are critical to the development and health of each child and, accordingly, the Foundation's main focus is the improvement of early childhood services in Israel. The Foundation works in partnership with municipalities in the establishment and operation of about 20 early childhood centres nationwide. To date, more than 50,000 children and their parents have benefitted from the professional services in these centres. In addition, the work of these centres has become a model for the government and other municipalities in how to structure services for early childhood. The Foundation also annually supports 25 organisations that work with youth at risk, as result of which more than 8,000 young people have had the opportunity to enjoy a variety of activities and gained a chance to return to a more normal life.
7. For many years the Foundation has supported after-school activities for young children in the city of Netanya. Every year, over 150 children enjoy a hot meal, help with their homework and enrichment activities after school. The Foundation also grants 125 scholarships each year to students at Netanya College. To date, over 1,000 students have received these scholarships, which also require the students to take part in volunteering activities and to give back to their community. Since its establishment the Foundation has also supported many other organisations and programs in the areas of health, welfare, culture and education.
8. The University of Netanya awarded my wife and me honorary doctorates for our charity work. In addition, I am a director and supporter of the Tel Aviv Museum of Art. We also

support many causes elsewhere in the world, especially in Africa where the focus is also on youth education and health particularly through BSGR's projects.

9. I have always tried to keep a low profile. I am driven and work very hard but I value my privacy and have never in any of my business or philanthropic endeavours sought to draw attention to myself. That is why, before the issues that are the subject of this case came to light, there was very little written about me on the internet or elsewhere. I and the BSG companies I advise have enjoyed flawless reputations, the businesses have always been courted by banks and financial institutions and the companies have a list of partners that any organisation would be proud of.
10. For these reasons, the events of the last few years have been especially difficult. Not only have I disliked the attention immensely, but the extent of the false reporting and accusations has been shocking to me. In a smear campaign orchestrated by the Respondent, I have been accused of corruption, of funding attempted coups, of paying bribes to government ministers and even of contributing to the outbreak of Ebola. As well as being upsetting for my family and those who work in the BSG group, the effect of this campaign has been to rob some of the poorest people on the planet of an opportunity to transform their lives – an opportunity that may not return in the foreseeable future or ever.
11. The BSG group is a privately owned group of companies with interests across the globe in natural resources, real estate and the diamond industry. Over the last 35 years the group has established an impeccable reputation and impressive track record, operating in a fully transparent manner, working hand in hand with host governments at both the national and local level. The BSG group takes pride in its ability to build strong relationships with local communities and stakeholders in areas benefiting from its investments and operations.
12. BSGR, BSG group's natural resources company, is an international diversified mining company which has had operations in 14 countries across metals and mining operations in Africa and Eastern Europe, including ferro-nickel, diamonds, copper, iron ore and gold. The group has also been active in the production and exploration of oil and gas and power and engineering. BSGR has a 15 year track record of developing (as well as executing) mining operations, and has employed over 8,000 people whilst creating value and prosperity for its stakeholders and host countries.
13. It has been suggested by the Technical Committee set up by the Respondent to investigate BSGR's mining rights and agreements that BSGR did not have the experience or pedigree to

have undertaken the Simandou project.¹ This is simply not the case. Below I set out a non-exhaustive summary of BSGR's very extensive mining experience:

- (a) Since 2002, BSGR has invested more than USD 300 million in Sierra Leone developing the "Octea Diamond group". The group's flagship Koidu Diamond Mine includes a processing plant producing over 45,000 carats per month at end 2012, having effectively doubled diamond exports from Sierra Leone for the next 15 years while having concluded an exclusive off-take agreement with Tiffany & Co. The Octea Group employs 1,700 permanent staff, of whom 90% are Sierra Leoneans. Octea's social commitments in Sierra Leone include a community plan building 1,400 houses including a school for 3,000 pupils, cultural, sport and religious facilities. BSGR is also the largest private investor and one of the largest taxpayers in Sierra Leone.
- (b) BSGR, through a joint venture Cunico, owns an international ferro-nickel mining and metals company, specializing in the exploration, mining and manufacture of ferro-nickel. Cunico is the largest ferro-nickel manufacturer in Europe and the fourth largest in the world. BSGR has continuously invested in equipment, technology and production at Cunico's two plants raising capacity to a combined output of 30,000 tonnes of ferro-nickel per year. Cunico employs 2,500 people throughout its mining and production operations and over 3,000 people including its contractors. In Kosovo and Macedonia, Cunico is proudly one of the country's largest employers and taxpayers.
- (c) Through its subsidiary, Arctic Resources, BSGR held a controlling stake in Anglovaal Mining, a public company and one of the pillars of the South African mining industry. Anglovaal Mining held extensive precious metal, base metal, ferrous metal and diamond interests across Southern Africa. In 2003, BSGR sold its interest to a leading African mining group.
- (d) In 2000, BSGR took a 20% strategic stake in the iron ore asset Kumba and the steel producer Iscor, in South Africa. BSGR, as the single biggest shareholder, was the catalyst for the company being split in two. BSGR was also both financially and technically involved in the development

¹ Technical Committee's recommendation concerning the titles and mining agreement held by the company BSGR Guinea dated 21 March 2014 (the "Technical Committee Report") (Exhibit C-0064) p.27, para 126.

stages of Kumba's iron ore, which laid the foundation for steady production growth, which later peaked at 36 million tonnes per annum. BSGR sold its 20% strategic stake in Kumba to Anglo American in 2003.

- (e) Between 2003 and 2007 BSGR held 13% of the capital of Danae Resources, a listed Australian company focusing primarily on the development and exploration of gold projects.
- (f) BSGR was a minority shareholder in Shore Gold, a Canadian diamond mining project.
- (g) Between 2003 and 2011, BSGR owned a steel plant in Baku, Azerbaijan as part of a joint venture.
- (h) Between 2003 and 2009, BSGR owned and operated (through a joint venture) Luanshya Copper Mines, which included the Baluba and Luanshya copper mines, and Chambishi Metals, comprising a large cobalt and copper smelter and solvent extraction located in the Zambian copperbelt. The mines and smelter together employed a total of 6,000 people. BSGR applied its technical expertise through Bateman Engineering to rehabilitate Chambishi Metals to become one of the largest producers of cobalt in the world.
- (i) BSGR invested in the copper mining industry in the Democratic Republic of Congo in 2003 and 2004, and was one of the pioneering investors at that time. It founded Nikanor Plc, which focused on exploration and production of copper and cobalt. BSGR completed a definitive feasibility study and subsequently listed Nikanor on the Alternative Investment Market (AIM) in London in late 2006, achieving what was then the largest capital raise on AIM. In 2008 Nikanor merged with Katanga Mining. Katanga Mining is now controlled by Glencore and is one of the largest scalable copper projects in the world, producing over 250,000 tonnes of copper cathode.
- (j) Between 2007 and 2009, BSGR held a controlling stake in DEM Mining, a mining contractor company in the DRC. DEM Mining operated a fleet of more than 200 vehicles, consisting of loaders, shovels, excavators, haul trucks, water bowsers and fuel trucks. The company employed over 800 people and had the capacity to excavate over 2 million tonnes per annum.

(k) BSGR also had strong engineering capabilities through its acquisition of Bateman Engineering in 2002. As explained above, BSGR split the company into Bateman Litwin and Bateman Engineering shortly after the acquisition. Bateman Engineering was an engineering firm founded in 1919 in South Africa, which expanded globally over the last century and specialized in processing solutions and engineering, procurement and construction contracting for the mining, minerals and metals, oil and gas and chemicals industries. The companies' expertise included state-of-the-art engineering, lump-sum turnkey and engineering, procurement, construction and management services over the complete project lifecycle to convert natural resources such as iron ore, gold, copper and diamonds as well as oil and gas into marketable products. Furthermore, the company tailored services for new process plants and brownfield upgrades, covering a wide range of commodities. Those companies together employed over 3,000 employees and were focused on Africa and developing countries. Bateman was active in over 25 countries and in 2012 was purchased by Tenova. It remains one of the most prominent engineering companies in Africa.

14. In addition BSGR has evaluated and considered more than 120 prospective deals on four continents over the last decade, which has significantly increased its technical expertise in the mining and commodities industry. These included iron ore exploration projects in Liberia, Gabon, South Africa, Senegal, Zambia, Brazil and Chile. Through this, BSGR has built very strong in-house technical and execution teams which have a strong reputation for their capacity to execute and to live up to their commitments. It is this reputation that has attracted such a large deal flow and has meant that BSGR has dealt with, and continues to deal with, multinational companies, junior miners, investment banks and sovereign governments, some of whom have approached us direct.

15. I have no formal role in the BSG group. I am not a director of any company. I am not a shareholder. The Balda Foundation was created in 1980 for family succession and governance reasons. I understand that this type of organisation is very common in similar businesses and I adhere to the formalities very strictly. My only role is as an adviser, for which I am paid a flat rate advisory fee. While, therefore, I take an interest in the operations of BSGR, I do not sit on its board; I do not involve myself in the day to day minutiae of its operations; and I do not make any decisions on its behalf. I am regularly consulted and I equally regularly offer my advice. On most occasions, the giving of advice is

a collaborative exercise and my comments are taken on board as part of a decision making exercise. Equally, on many occasions, what I have to say is listened to and then ignored. Sometimes, I am not consulted at all. The board of BSGR has independent obligations and takes those duties seriously. While not relevant to this dispute, the same system works in relation to the other businesses in the BSG group.

16. In my role as adviser, I concentrate on my strengths, one of which is the sourcing of transactions. I like a "deal" and am adept at finding opportunities that may be attractive to the group and following through on the processes that need to be undertaken from the inception of a possible deal to its completion. I am also involved in high level strategy discussions and one of my main contributions is in business development: I am able to play an ambassadorial role for the BSG group companies by making high level connections with people and organisations that the BSG companies might work with. These are time consuming exercises and it means that, while I can work on several projects at any one time, many aspects of the operation of the group will take place without any input from me at all.
17. That was the case with Guinea. The group had no presence there at all until the second half of 2005/early 2006 and, whilst I would have occasionally spoken to Roy Oron (who was the CEO and a minority shareholder of BSGR at the time) about what was going on, I had no real involvement once we had started there until 2008. Many, probably the majority, of opportunities that the group looks at never emerge from the exploratory stage and I will have had little or no involvement with them at all.
18. So in the early days, therefore, I had virtually nothing to do with Guinea.

B. BSGR IN GUINEA

19. The first time I visited Guinea was in February 2008. (I will return to this later as it is part of the evidence that fundamentally and fatally undermines the material supplied by Ms Touré on which the Respondent relied to revoke BSGR Guinea's rights). I am a very frequent traveller. I have access to the Balda Foundation's jet in the performance of my role as an adviser, and I operate by ensuring I have face to face meetings and visit the physical locations of the various operations in executing my role as ambassador. I am "on the road" for well over half the year. Guinea was so far down the list of priorities until the beginning of 2008 that it did not merit a visit.
20. During the latter half of 2007 I was more regularly kept updated with what was going on on the ground in Guinea by Asher Avidan, BSGR's Country Manager in Guinea, and Marc

Struik, the CEO of BSGR Mining & Metals. Although I have no recollection of this now, I can see from reviewing contemporaneous documents that I knew at the time that Rio Tinto was in danger of losing its rights over Simandou blocks 1 and 2, and that BSGR was working hard to put itself in the best position to apply for those rights should they have become available. Mr Avidan and Mr Struik were doing what they could to improve BSGR's position, including having discussions with relevant people about BSGR, its track record and experience. I believe, from my memory of what was being told to me at the time by those on the ground, that the Respondent was encouraging BSGR towards these blocks because they were keen to get a company into them which was both capable of, and likely to do, the work on the ground. As BSGR had completed a very significant amount of work in relation to Simandou North and South and thus proven its abilities and appetite for getting the work done, the Respondent was keen to try and replicate that with blocks 1 and 2. Indeed, I remember that when I did meet with President Conté, which must have been sometime after February 2008, he said to me that very thing – that the Respondent was keen that we replicate the work on Zogota in blocks 1 and 2.

21. By the beginning of 2008 the area that has become known as Zogota and which had been a speculative investment (it was early stage exploration which is known as greenfield exploration) now looked as if it may be real and merited my involvement. At the same time the project was beginning to get very expensive. It was eating money and the directors of BSGR asked me to become more involved and to provide advice on the geopolitics of the country as well as the economics of the project.
22. Accordingly, I started visiting Guinea more often. I do not have a clear memory of this time because it was a long time ago, but I do remember having one, maybe two meetings with President Conté. I certainly remember meeting the President once at his Presidential Palace – the meeting took place outside, under a tree and Mr Avidan was also present. There were around 10 other people there, but I did not know any of them. President Conté made a great play about not being interested in money about which I think he was sincere. He looked sick and tired. He chain smoked and had terribly swollen legs. (Later, I was told he was a diabetic). He told me that he was old and dying and that he wanted to do the best for his country. He said that he wanted us to invest in the country and not behave like the other big companies which talked big but did nothing.
23. As explained above, I very often perform an ambassadorial role for the group and this was the case in relation to Guinea too. As well, therefore, as giving advice on commercial aspects of the deal from 2008 onwards I made myself available to meet senior stakeholders

in the project in Guinea. This was entirely natural. My commercial instincts told me that there was potential for a world class project with BSGR acting as the catalyst for its development. There were many precedents for such a deal: for instance, a company called Fortescue in Australia had shown that an entrepreneurial approach by a smaller company could yield outstanding results with the right asset. The project was important on both sides. For BSGR it represented a very significant investment into which it was committing more and more money and corporate effort. For Guinea it was potentially one of the largest mining and infrastructure projects in its history: a project that had the potential, after decades of being unable to exploit its resources for the benefit of its people, to transform the fortunes of the nation. In any environment, whether it be a developing economy or in an advanced European nation, close contact between investor and government is to be expected and welcomed.

24. Immediately after President Conté died, he was replaced by Captain Moussa Dadis Camara. I understand from Mr Avidan that he, keen to ensure that the new government stood by the issue of the exploration permits for blocks 1 and 2 which had just been awarded to BSGR, arranged to meet with Captain Camara after he took power, and that he introduced BSGR to Captain Camara and explained the good work BSGR had done and planned to continue doing. Mr Avidan contacted me after his meeting with Captain Camara, and said that the new President had specifically requested that I go to Guinea to attend a big meeting.
25. I therefore flew to Guinea for the meeting, even though I had been there only two days beforehand. The meeting was held in a large auditorium in Guinea. During it, Captain Camara unexpectedly asked me to speak to the large crowd, which I accordingly did in French. I told them of the good work that BSGR had done so far in Guinea with its mining rights and that it intended to continue this work. Captain Camara asked me, in front of the crowd, whether BSGR would build a trans-Guinean railway. I answered that it would. In fact it was our idea and we were very sincere about, and committed, to it.

C. PENTLER HOLDINGS LIMITED ("PENTLER")

26. At the beginning of 2008, as I became more involved, I became aware that there was an issue between BSGR Steel Holdings Limited ("BSGR Steel") and Pentler. I learnt that Pentler had introduced BSGR to Guinea and helped set up the operations on the ground in 2006. In return for this, Pentler had been given a free shareholding in BSG Resources (Guinea) Limited, which was a BVI company ("BSGR Guinea (BVI)"). I considered this all to be completely normal. (Carried interests of this type for people or organisations that had

introduced opportunities to BSGR or other companies in the BSG group were common). The issue arose, however, because Pentler seemed to be under the impression that it would not have to contribute to the, now significant, capital requirements of the Guinea project. BSGR Steel obviously disagreed: it was not fair that Pentler should own a share of a project that BSGR Steel alone was required to fund. I therefore turned my attention to the terms of the agreement BSGR had made with Pentler in 2006 under which it had been awarded a carry in the Simandou project.

27. Until this time I did not know the Pentler people at all. They had been "silent" partners after they had introduced BSGR to Guinea and helped it set up the offices and all dealings with them had been conducted by others. I anticipated, however, that they would be reluctant to give up their shareholding as they thought they had a very significant interest in a substantial project for which, up until then, they had had to pay or risk nothing. I was right, but, in the end, Pentler did not have the resources required to meet their contractual obligations to contribute. I led the negotiation of the buy out of their shares in BSGR Guinea (BVI) in March 2008. We conducted the negotiation with Michael Noy. It was the first occasion on which I met with Mr Noy and we established a decent working relationship. Avraham Lev Ran was also involved in the negotiations to a limited extent. David Barnett was supporting me on the BSG side.
28. In the end, the agreement was to buy out Pentler's interest for US\$22 million in four instalments (the "Pentler Share Purchase Agreement").² If BSGR realised a profit of US\$1 billion Pentler would receive an additional payment of US\$8 million, bringing the total payment to US\$30 million. It is important to note that, if the project ceased operation for any reason, no payment, or further payment if any had been made already, would be due to Pentler.
29. This was a fair deal for both parties. Although Pentler had had a 17.65% interest in the project, it could not afford to fund its stake. While it had performed an important and valuable initial task for BSGR in introducing it to the country it was not fair that it enjoyed a free ride – potentially benefitting enormously without any contribution other than the original introduction to the country. If a deal were done at US\$1 billion Pentler would have received 3% of the enterprise value for no financial investment against the anticipated investment by BSGR which, at the time, it was clear was going to have to be well over US\$100 million.

² Share Purchase Agreement between BSGR Steel and Pentler dated 24 March 2008 (Exhibit C-0084).

30. In reality I do not think Pentler had any real choice but to sell their shareholding, although at the time they were obviously reluctant. I remember I was told by Mr Noy that Frederic Cilins was very much against doing the deal and felt strongly that Pentler should remain a shareholder. As it was, following this agreement the world went into recession and the price of commodities, including iron ore, dropped very significantly. It looked for a while like we may have made the wrong decision in buying Pentler out because it was difficult to imagine the potential for the project to actually make any money in that economic environment. Indeed, in 2008 and 2009, when the iron ore price was ruinously low and many mining companies found themselves on the brink of bankruptcy, the economic situation made the deal that Pentler had done look very attractive for them.
31. During the global financial crisis real estate prices fell dramatically along with stocks and shares and prices of commodities were similarly significantly reduced – at one point, the price of iron ore fell to around \$50/metric tonne. There was a serious liquidity crisis globally. Lehman Brothers collapsed. BSGR was certainly not immune to any of this, and nor were other mining companies: Rio Tinto, for example, was on the verge of bankruptcy. The two 2008 payments to Pentler were made, but BSGR was facing liquidity issues. On 15 April 2009, BSGR did not pay the next payment of US\$9 million. Pentler threatened to sue and even to treat the previous arrangements as "cancelled" and deal in the shares it had transferred to BSGR the previous year. This led to a dispute between BSGR and Pentler over the unpaid instalments, with both sides instructing lawyers and the situation becoming very heated. After a lengthy period, the matter was resolved and in July 2010, we reached a final agreement with Pentler pursuant to which BSGR agreed to a total settlement payment to Pentler of \$34.5 million in return for more favourable payment terms.

D. DEMANDS FOR MONEY

32. I now understand from reviewing contemporaneous documentation that Ms Touré attempted to blackmail BSGR on 8 June 2010 – shortly after the Vale deal was announced. I have no recollection of this from the time and feel certain that I did not deal with it. It is not uncommon in this sort of project to receive blackmail attempts and, regrettably, very common in Africa, so it is not surprising to me that I do not now remember this particular incident.
33. I now know that Ms Touré irrevocably withdrew her claims at the time and agreed to destroy the "invented" documents attached to her blackmail attempt, only later to withdraw her withdrawal. I expect that it was not considered by Mr Avidan or Mr Struik at the time to have the credibility to warrant a conversation with me.

34. So, I do not recall having heard of Ms Touré until much later, in March 2012 when Mr Avidan reported to me about the meetings he had had with Walter Hennig. This seemed to me to be quite a serious matter: what we considered to be a blackmail attempt had happened in London, had come from a South African businessman and as a result of a meeting that had been set up through Lloyd Pengilly, of J.P.Morgan, who was one of the leading natural resources investment bankers at the time. He was therefore a man of great influence in mining in Africa. I knew him well because BSGR had a strong banking relationship with J.P.Morgan. I conferred with the BSGR directors and we agreed first, that BSGR should undertake an internal investigation into the allegations. I was aware that if there had been any wrongdoing at all it would potentially jeopardise the project. BSGR had operated and does operate to the highest standards of governance for a private company and I was confident that no one amongst the senior personnel would have endangered the deal or the company's reputation. I could not guarantee, however, that something untoward had not happened somewhere in the system and therefore agreed with the BSGR directors that a thorough investigation should take place and that Pentler should be included in the enquiries. This investigation was undertaken by Daniel Pollak and did not uncover any wrongdoing. As described below, by this time, we had re-engaged with Pentler who were assisting us in introducing intermediaries for our discussions with the Government of Guinea. When Mr Hennig produced the forged contracts Pentler accepted responsibility for the issue and arranged for another withdrawal of the allegations by Ms Touré in May 2012³, which I thought at the time would be the end of the matter.
35. It was also agreed that BSGR should seek legal advice as to whether Mr Hennig's attempts to blackmail BSGR should be reported to the criminal authorities. We went to see Ken Macdonald QC, the former Director of Public Prosecutions in the UK.
36. The background to these efforts by Mr Hennig is set out in the witness evidence in support of BSGR's challenge of the UK's Serious Fraud Office's (SFO) decision to serve section 2 notices on BSGR.⁴ In particular, in February 2011, BSGR decided that it should not accede to President Condé's attempts to obtain significant payments relating to the project. The reaction to that refusal is also set out in Mr Cramer's statement and led, in the end, to the commencement of the Technical Committee process in October 2012. Again Mr Cramer's SFO statement deals with all of the flaws and weaknesses in the DLA and Veracity reports and the evidence the Technical Committee relied upon. Other than to deal with specific items that relate to me I am not going to add anything further.

³ Affidavit of Mamadie Touré dated 27 April 2012 (Exhibit C-0085)

⁴ Witness Statement of Dag Cramer in support of BSGR's Judicial Review Application dated 25 November 2014 (Exhibit C-0028).

E. THE RESPONDENT'S ALLEGATIONS

37. I have explained above my experience of the Guinea project. Notwithstanding the true position, the Respondent revoked BSGR's exploration and mining rights on the basis of the Technical Committee report which concluded that BSGR acquired these rights through corruption, based on (i) a statement of Ms Touré; and (ii) recordings of Mr Cilins which purportedly show him asking Ms Touré to destroy contracts. As I explain below, this "evidence" is fatally flawed. Neither I nor anyone associated with BSGR is, was or has been involved in any type of unlawful or criminal activity. The reasons I can say this with such confidence are:
- 37.1 Insofar as any of the allegations concern things I am supposed to have done, they are untrue.
- 37.2 Insofar as the allegations concern matters others are said to have done, the Balda Foundation and BSGR have instigated the widest possible enquiries within the BSG businesses by leading investigators who have had the fullest access to every document and person in the organisation and who have concluded that there has been no wrongdoing. I have fully supported these investigations.
- 37.3 In contrast with the manufactured evidence used to deprive BSGR of its rights, what really happened – a conspiracy to extort money from BSGR or to steal BSGR's rights, based on the obligations created during President Condé's election campaign in 2010 – has been fully and convincingly established, without rebuttal.
- 37.4 When Mr Cilins travelled to the United States in 2012 to meet with Mamadie Touré, he was not travelling at my or BSGR's behest, with either of our authority or on either of our behalves.

Affidavit of Ms Touré

38. Before I address any of the specific allegations made about me including in the various statements of Ms Touré, I should give some overall context. If I have ever met Ms Touré, I can only recall one occasion when it may have happened, which was at a meeting with the President (Conté) which I describe at paragraph 22 above. There were two or three younger women with him, one of whom (not Ms Touré, as I recall) was introduced as a wife: the others were mistresses. If she was there (and I am far from certain that she was) that was the only time I ever met her. As I say above, the first time I can recall having heard her name was in relation to Mr Avidan's meetings with Mr Hennig in 2012. I cannot

remember knowing of her before that – even if I had heard her name, it would not have meant anything to me.

39. Turning now to some of the specific allegations that Ms Touré has made. First it is said that there was meeting with Ms Touré and others in Guinea in 2006, at which I was supposed to have offered her 5% of BSGR's Guinea company's assets.⁵ This is not true. I did not travel to Guinea until 2008. It follows, therefore that everything Ms Touré says about the meeting that was supposed to have taken place and all of the events and promises that followed it are completely made up by her. On top of that, however, as I have already said, I did not know Ms Touré, I had not heard of her and it is clear that BSGR did not have and never has had any commercial or contractual relationship with her.
40. Ms Touré refers to another meeting that was supposed to have taken place on 20 June 2007.⁶ This is another lie. There was no such meeting. I had still not visited Guinea by this time. There was no deal of the nature described or at all.
41. Ms Touré describes a meeting that was supposed to have taken place with President Conté in Dubreka.⁷ She does not put a date on the meeting. The meeting did not take place. I do not even know where Dubreka is. It is alleged that I gave the President a diamond encrusted car. I did not – on this occasion (which did not happen) or on any other. BSGR did produce a small model car with industrial diamonds in it as a corporate gift. The wooden base of the car has BSGR's name engraved in it. It is worth little – they cost a few hundred dollars to make - and was, in fact, a marketing device. They categorically were not, and have never been to my knowledge, used as an attempt to bribe anyone. It would be interesting for any company to try to bribe people using a relatively cheap marketing device that has the company's name stamped all over it. I will produce one of these cars for the Tribunal at the hearing. The car was not given to President Conté or Ms Touré. One had been given in 2006 to the Ministry of Mines at a public event.
42. As well as this, Ms Touré's description of my conduct at this alleged meeting also illustrates the falsity of her account. She says I offered the President money.⁸ I pride myself on the propriety with which I conduct myself. I also frequently meet with very many presidents, prime ministers, heads of state and senior government officials in my ambassadorial role. I know how to conduct myself and I have never offered money to any head of state, president, prime minister or government official that I have met. Ms Touré's account bears

⁵ Affidavit of Mamadie Touré dated 2 December 2013 (Exhibit C-0086) p.2, para 14.

⁶ *Ibid.*, p.3, para 17.

⁷ *Ibid.*, p.4, paras 22 to 23.

⁸ *Ibid.*, p.4, para 23.

no relation to any conversation I have ever had, or would dream of having, with any public official. For the avoidance of any doubt, I never offered President Conté money, whether at this meeting or at all.

43. Ms Touré also says I arranged for her to be given two Land Cruisers, a necklace and a white gold chain.⁹ Each of these allegations is also untrue.
44. Once we had received Ms Touré's statement to the US authorities from the Technical Committee, it was clear that BSGR would need to rebut the contents of her statement. Advice was taken and a line by line analysis was conducted, the relevant results of which form part of this statement. For example, in order to show that many of the meetings she referred to were made up, it was necessary to demonstrate that I had not travelled to Guinea until 2008. We analysed my passports and the travel records of the plane I use.¹⁰ They showed that I had not been to Guinea until 2008 and that when the plane had been used to go to Guinea on previous occasions I had been in London as shown from hotel receipts or in Israel as shown by records obtained from the Israeli Interior Ministry.

Mr Cilins' interactions with Ms Touré in March and April 2013

45. It did not occur to me or anyone at BSGR that we should seek to speak to Ms Touré. Not only did we have no contact and no relationship with her, it was plain to us that there was little point in contacting Ms Touré and it would have been extremely dangerous to have done so. In any event, Pentler had a relationship with Ms Touré, but BSGR did not. Pentler saw that a problem that was entirely their issue was threatening adversely to affect BSGR's business. Mr Noy spoke to me and told me that Pentler would make efforts to seek to persuade Ms Touré to tell the truth and withdraw, as she had done before, the untrue allegations she was making. Even then, I hardly knew Mr Cilins and had no real relationship with him. All my dealings with Pentler had been with Mr Noy. I had met Mr Cilins on perhaps four or five occasions, including during meetings with an intermediary that Pentler had introduced us to - Francois de Combret - through whom we were trying to explore whether a settlement with President Condé would be possible. Mr Cilins brought us three different people, each of whom he suggested would be able to assist in brokering a deal – M. de Combret, Gaby Peretz and Michel Billard de la Motte. It is clear that Mr Cilins thought that if he could help us broker a deal he would be able to ask us for a significant fee. I never met Mr Cilins alone. Had Pentler's efforts through M. de Combret led to the project getting back on track I would have advised BSGR to pay a fee. It would have been a

⁹ *Ibid.* p. 4, paras 26 and 27.

¹⁰ Benjamin Steinmetz passports and flight documents (Exhibit C-0087).

very valuable contribution. Nothing, however, was properly discussed, let alone agreed. It was acknowledged there would be a discussion if and when there was a solution.

46. So while I was aware that Pentler was going to try to ask Ms Touré to restate the falsity of the allegations she had made and get her to withdraw them again, I never assumed that they would be able get her to withdraw the statements, or that such a withdrawal would lead to the end of the Technical Committee process. I accordingly advised BSGR that it needed to carry on dealing with the allegations contained in the Technical Committee letter.
47. I did not offer money, through Mr Cilins or in any other way, for Ms Touré to sign a further statement or destroy documents. Mr Cilins did not travel to America on my or BSGR's instructions – or with our authority. He was not authorised by me or BSGR in any capacity whatsoever. When I found out about his arrest I was as shocked and surprised as anyone.
48. As to the transcripts of Mr Cilins conversations with Ms Touré, I would say just one thing. (There is much more to say about the transcripts, but I will leave that to submissions from BSGR's lawyers). It is a very common thing for people to speak as if they have my authority, when they do not. I have experienced it many times. People seek to improve their position in a negotiation by saying they know me, or have access to me or speak with my authority. In truth, no one does. I can't bind any company or organisation and only make recommendations or provide my advice. This is not a form of arrogance, it is just a statement of what often happens. I recognise that I have influence and people may seek to improve their position by claiming an association they do not have. This happens regularly when someone approaches me and says that someone else has said something in my name. There is little I can do about it – except to make it very clear when I do give authority to speak in my name. This was not one of those occasions. I repeat. Mr Cilins did not travel to speak to Ms Touré with my authority, on my behalf or on behalf of BSGR or anyone associated with BSGR.

F. CONCLUSION

49. The allegations of wrongdoing against BSGR made by the Respondent are entirely false. They have been drawn from a deeply unreliable woman, who has embellished and in many cases simply created entire stories about BSGR which are entirely wrong. President Condé, keen to remove BSGR Guinea from its rights in Simandou so that he could distribute them in satisfaction of his various illegal election debts, has seized upon Ms Touré's claims, saying that they evidence a prima facie case against BSGR. They do not.

First Witness Statement of Benjamin Steinmetz
CWS-1

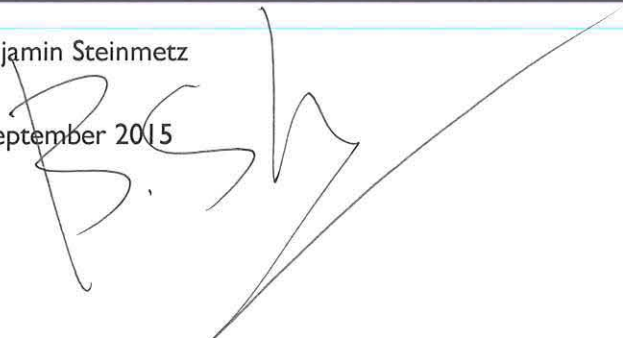
50. The result of all this is not only that seven years of hard work and investment has been wasted, and that BSGR Guinea's assets in Simandou have been expropriated, but also that President Condé's campaign against me and against BSGR has catastrophically damaged both our reputations to the enormous detriment of his own people.

I confirm this statement is true to the best of my knowledge and belief.

.....

Benjamin Steinmetz

2 September 2015

A handwritten signature in black ink, appearing to be 'B. Steinmetz', written over a horizontal line. The signature is stylized and extends to the right, crossing the line.