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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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April 3, 2009

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

As part of the Subcommittee's ongoing oversight of contract management, I am writing to request information relating to the Justice Department's efforts to pursue accountability for foreign companies working under U.S. contracts overseas. This issue was brought to my attention by Senator Bill Nelson, who requested that the Subcommittee initiate an investigation into the death of Lieutenant Colonel Dominic "Rocky" Baragona, an Army logistician from Florida.

On May 19, 2003, Lt. Col. Baragona was killed in Safwan, Iraq, when his vehicle was struck by a truck being driven by a driver employed by the Kuwait & Gulf Link Transport Company (KGL), a Kuwaiti company.¹ Since 2000, KGL has received nearly \$40 million in prime contracts from the federal government.² KGL has also received approximately \$100 million from federal subcontracts, including multiple subcontracts under KBR's massive LOGCAP contract to support the troops in Iraq.³

On May 12, 2005, Lt. Col. Baragona's family brought a wrongful death claim against KGL in federal court in Georgia.⁴ After KGL refused to appear in the matter, the court entered a default judgment and ordered the contractor to pay \$4.9 million in damages to the Baragona family.⁵ On February 15, 2008, KGL requested that that the

¹ *Baragona v. Kuwait Gulf Link Transport Co.*, Civ. No. 1:05-CV-1267-WSD, Opinion and Order (N.D.Ga. Nov. 5, 2007).

² USASpending.gov (accessed April 1, 2009).

³ S. 526, 111th Congress (March 4, 2009).

⁴ *Baragona v. Kuwait Gulf Link Transport Co.*, Civ. No. 1:05-CV-1267-WSD, Complaint (N.D.Ga. May 12, 2005).

⁵ *Baragona v. Kuwait Gulf Link Transport Co.*, Civ. No. 1:05-CV-1267-WSD, Opinion and Order (N.D.Ga. Nov. 5, 2007).

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judgment be vacated on the grounds that the court has no personal jurisdiction over the company.⁶

I recently learned that the Justice Department has encountered similar difficulties establishing personal jurisdiction over foreign contractors of the U.S. government.⁷ I request that the Department provide the Subcommittee with a briefing on the details of any such cases.

I request that you provide this briefing as soon as possible, but in no case later than **Friday, April 17, 2009**.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress).

Please contact Margaret Daum with the Subcommittee staff at (202) 224-8316 with any questions and to schedule the requested briefing.

Sincerely,



Claire McCaskill

Chairman

Subcommittee on Contracting Oversight

cc: Susan Collins
Acting Ranking Member

⁶ *Baragona v. Kuwait Gulf Link Transport Co.*, Civ. No. 1:05-CV-1267-WSD, Defendant Kuwait & Gulf Link Transport Company's Memorandum of Law in Support of its Motion to Vacate Default Judgment (N.D.Ga. Feb. 15, 2008).

⁷ Department of Defense Briefing for McCaskill Staff (Feb. 10, 2009).