

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

INTERSPAN DISTRIBUTION CORP.,	§	
	§	
Plaintiff,	§	
	§	
V.	§	CIVIL ACTION NO. H-07-1078
	§	
LIBERTY INSURANCE	§	
UNDERWRITERS, INC.,	§	
	§	
Defendant.	§	

MEMORANDUM AND ORDER

The events involved in this case read more like a movie plot than the background facts of an insurance coverage dispute. The arrests, detention, and trial of individuals in Uzbekistan allegedly led their relatives, principals in a tea-import business based in Houston, to abandon that business and its assets. The company, Interspan Distribution Corp., claimed insurance benefits for the business assets and interests lost in Uzbekistan. Interspan asserted its claim under the “Extortion Bodily Injury” hazard of a Special Coverages Policy issued by Liberty Insurance Underwriters, Inc. Interspan claimed that in 2006, its Uzbekistan tea-importation business was the target of a scheme, orchestrated by members of one of Uzbekistan’s most powerful families who were also in the tea business, to force Interspan to stop doing business in that country and to abandon the assets located there. Liberty denied coverage. This litigation resulted.

The following motions are pending:

- Interspan has moved for partial summary judgment that it is entitled to coverage under Hazard 2 (Extortion Bodily Injury) and to Additional Coverage for related “legal judgments.” (Docket Entry No. 32). Liberty has responded, (Docket Entry No. 54), and filed objections to certain of Interspan’s summary judgment evidence, (Docket Entry No. 56). Interspan

has replied, (Docket Entry No. 62), and filed a supplemental memorandum of law, (Docket Entry No. 82).

- Interspan has filed a motion *in limine* to preclude all evidence that Liberty adduced after denying coverage to Interspan. (Docket Entry No. 68). Liberty has responded. (Docket Entry No. 78).
- Interspan has filed a motion *in limine* to preclude all evidence suggesting that Interspan should have purchased political risk insurance. (Docket Entry No. 70). Liberty has responded. (Docket Entry No. 79).
- Interspan has filed a motion *in limine* to preclude all evidence from Liberty relating to a purported side agreement between Interspan and Charles Rudd. (Docket Entry No. 72). Liberty has responded. (Docket Entry No. 80).
- Liberty has cross-moved for partial summary judgment that Interspan is not entitled to coverage under Hazard 1 (Kidnap/Ransom) of the Special Coverages Policy. (Docket Entry No. 34). Interspan has responded by withdrawing its claim under Hazard 1 “because it believes that the Liberty Policy’s Extortion Bodily Injury coverage is broader than its Kidnap/Ransom coverage.” (Docket Entry No. 46).
- Liberty has cross-moved for partial summary judgment that Interspan is not entitled to coverage under Hazard 2 (Extortion Bodily Injury) of the Special Coverages Policy. (Docket Entry No. 35). Interspan has responded. (Docket Entry No. 48).
- Liberty has cross-moved for partial summary judgment that Interspan is not entitled to Additional Coverage for “legal judgments” under the Special Coverages Policy. (Docket Entry Nos. 36, 37). Interspan has responded. (Docket Entry No. 48).
- Liberty has cross-moved for partial summary judgment that the act-of-state doctrine precludes coverage. (Docket Entry No. 39). Interspan has responded, (Docket Entry No. 50), and Liberty has replied, (Docket Entry No. 85).
- Liberty has cross-moved for partial summary judgment that Corporate Risk International (“CRI”), which provided crisis-response services after the arrests and detentions in Uzbekistan, was not Liberty’s agent, and that Charles Rudd, who investigated the arrests and detentions in Uzbekistan on CRI’s behalf, was not CRI’s agent. (Docket Entry No. 40). Interspan has responded, (Docket Entry No. 52), and Liberty has replied, (Docket Entry No. 86).

Based on the pleadings; the motions, responses, and replies; the summary judgment record; and the applicable law, Interspan's motions for partial summary judgment and motions in limine are denied. Liberty's cross-motions for partial summary judgment are granted as to the lack of coverage under Hazard 1 and as to agency, and otherwise denied. Liberty's evidentiary objections are overruled. A scheduling conference is set for **September 17, 2009, at 9:00 a.m.** in Courtroom 11-B.

The reasons for these rulings are set forth below.

I. Background

A. The Cast of Characters

To reduce confusion, it is helpful to provide a cast of characters. A list of those central to the plot, and a brief description of each individual or entity, is set out below.

1. Interspan

- Eric Johnson: A principal of Interspan and of Centrax International, which held a 50% stake in Interspan. Johnson lived in The Woodlands, Texas when the incidents in this suit occurred. Johnson lived in Uzbekistan doing Interspan business between about 2001 and 2004.
- Emir Kiamilev: An Interspan principal and 50% Interspan stakeholder. Kiamilev lived in San Diego, California when the incidents in this suit occurred. Kiamilev lived in Uzbekistan after Interspan was founded until about 2004.
- Eskender Kiamilev: Emir Kiamilev's father. Eskender Kiamilev worked in Uzbekistan between 2001 and 2006 to oversee Interspan's business. Eskender Kiamilev was arrested in Uzbekistan on February 13, 2006 and released to the United States on February 21, 2006.
- Bakhrom Khakimov: Interspan's manager in Uzbekistan. Khakimov was third-in-charge of the business after Eric Johnson and Emir Kiamilev.
- Mikhail Matkarimov: Eric Johnson's brother-in-law. Matkarimov leased and managed Interspan's warehouses in Keles, Uzbekistan. Mikhail Matkarimov was

arrested in Uzbekistan on February 24, 2006 and detained, tried, and convicted of criminal commercial practices. He was released on August 11, 2006.

- Natasha Matkarimov: Mikhail Matkarimov's wife and the sister of Eric Johnson's wife.
- Sergey Matkarimov: Mikhail Matkarimov's brother. Sergey Matkarimov was involved in security and distribution for Interspan.
- Furkhat: A customs broker who worked on retainer for Interspan in Tashkent, Uzbekistan.
- Famous Brands Tea Company: Interspan's shipping agent in Dubai. Famous Brands had the same shareholders, in the same percentages, as Interspan.
- Centrax International: A 50% shareholder in Interspan. Eric Johnson, his father, Mike Johnson, and Larry Crews were principals.

2. *Liberty, CRI, and PIA*

- Liberty Insurance Underwriters, Inc.: The insurer issuing the Special Coverages Policy.
- Professional Indemnity Agency ("PIA"): PIA quoted and bound insurance, contracted with reinsurers and crisis response firms, and issued policies in Liberty's name. PIA, with the reinsurers, was responsible for investigating claims under the Special Coverages Policy.
- Corporate Risk International ("CRI"): A crisis-response firm that worked on a semi-exclusive basis with PIA to provide crisis-response services to insureds. CRI was named in the Special Coverages Policy as the entity to which loss should be reported. CRI responded to Interspan's request for assistance in Uzbekistan.
- Unity Resources Group ("URG"): A risk consulting group headquartered in Dubai. CRI asked Unity Resources Group to find a consultant in Uzbekistan who could assist CRI with Interspan's situation in Uzbekistan.
- Albert ("Bert") Van Wagenen: The division manager for the kidnap/ransom and extortion coverage lines at PIA. Van Wagenen received reports from CRI about Eskender Kiamilev's and Mikhail Matkarimov's arrests.
- Buck Kidder: Another PIA employee. Kidder, with Van Wagenen, decided that CRI could respond to the arrests of Eskender Kiamilev and Mikhail Matkarimov but that CRI would not be permitted to assist Interspan in recovering its lost assets.

- Richard Hildreth: The senior vice-president of CRI's crisis-management services. Hildreth was responsible for coordinating CRI's efforts in Uzbekistan for Interspan.
- Mike Fiacco: A member of URG who recommended a consultant in Uzbekistan that could assist CRI in Uzbekistan.
- Charles Rudd: An American businessman living permanently in Uzbekistan. Mike Fiacco of URG recommended Rudd to CRI as a person who could assist with CRI's response in Uzbekistan. Rudd was not employed by URG, but his contracting services for CRI were billed through URG.
- John L. Wortham: The broker who sold the Special Coverages Policy to Interspan.
- Richard F. Roarke: The attorney who prepared the denial of Interspan's claim for Liberty and PIA.

3. *Uzbekistan*

- Uzbegin: One of Interspan's importers in Uzbekistan. Uzbegin was an umbrella entity for a numerous businesses, including real estate, retail, and other companies. Several Uzbegin-related companies, including J.V. Trade and Production International, Farmers, and Avileasing, were also involved in importing tea for Interspan.
- Khurshid: A manager for Uzbegin and Interspan's chief contact at Uzbegin.
- Takhir: A friend of Emir Kiamilev's who worked in the Tashkent, Uzbekistan prosecutor's office.
- Vissaryon Lee: One of Rudd's legal contacts in Uzbekistan.
- Arustamov: Another of Rudd's legal contacts in Uzbekistan. Arustamov was a former prosecutor in Tashkent, Uzbekistan.
- Venir: Mikhail Matkarimov's attorney after the arrest.
- Gulnara Karimova: The daughter of Islam Karimov, President of Uzbekistan.
- Mirabror Usmanov: A former Minister of Trade and former Deputy Prime Minister of Uzbekistan. Usmanov was the beneficial owner of the Samarqand Tea company, which packaged and sold bulk tea in Uzbekistan.
- Beta Tea: Another tea company that sold packaged tea in Uzbekistan. Beta had a larger share of the packaged-tea market than Interspan.

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