

FROHSIN & BARGER, LLC

www.frohsinbarger.com

205-933-4006

FOR IMMEDIATE RELEASE

August 12, 2010

U.S. Department of Justice Pays Iranian-American Defense Contractor \$290,000 in Reparations Following Misguided Prosecution

Case Initiated During Bush Administration Settled By Obama DoJ

Birmingham, AL – In an historic and precedent-setting case, the U.S. Department of Justice will pay Alabama defense contractor Alex Latifi, who was acquitted of violating the Arms Export Control Act (AECA) and other charges in a six count government indictment and trial in 2007, \$290,000 in restitution for legal expenses incurred while defending his federal prosecution.

The announcement of the settlement was made today by Henry Frohsin and Jim Barger, the Birmingham, Alabama defense attorneys with Frohsin & Barger, LLC, who represented Latifi, along with colleague J. Elliott Walthall.

“It's a revolutionary ruling and case,” said Mr. Frohsin. “I can't speak for the Department of Justice, but it's not likely that you will find any other case where the government has voluntarily agreed to make restitution. The fact is it was a misguided and unfair prosecution by the Bush administration and DoJ that never should have been waged in the first place and one the government ultimately lost. We believe this settlement begins to rectify some of the evils of the past administration.”

The Justice Department, U. S. Army, FBI, and Customs Service began investigating Latifi and Axion Corporation in 2003 when Axion employed about 60 people and had annual revenues of about \$4 million. In the course of the investigation, the government froze \$2.5 million of Latifi's business and personal assets, seeking to seize it as ill-gotten gains. The forfeiture action and criminal indictment, brought by federal prosecutors and led by Birmingham U.S. Attorney Alice Martin, alleged Latifi broke the law by illegally exporting sensitive military technology involving aircraft parts for the Army's Black Hawk helicopter to China. The defense successfully established that any fault lay with the Department of Defense's mishandling of its own information as well as bungling by the Department of State.

Following Latifi and Axion Corporation's October 2007 acquittal on all counts in the criminal action, the government moved to dismiss the civil forfeiture action against them as well, but desperately fought Axion and Latifi's request for attorneys' fees under the Hyde Amendment and the Civil Asset Forfeiture Reform Act.

In a groundbreaking decision in 2008, Birmingham U.S. District Court Judge Inge Johnson ruled that under the Civil Asset Forfeiture Reform Act (CAFRA) – a 2000 law designed “to give owners innocent of any wrongdoing the means to recover their property and make themselves whole after wrongful government seizures” – Axion and Latifi were entitled to government reimbursement for legal fees and costs incurred. The government appealed Judge Johnson's

ruling, and partially prevailed in the 11th Circuit Court and later in the U.S. Supreme Court by reducing the amount of the award. However, Frohsin & Barger's allegations of prosecutorial misconduct and bad faith by Martin and the U.S. Attorney's Office as well as certain agents of the Army Criminal Investigation Division remained pending under the Hyde Amendment and contempt motions regarding the withholding of exculpatory evidence by the government. To avoid putting the former prosecutors on trial, DoJ elected to pay restitution to Latifi.

Although the U.S is paying Mr. Latifi \$290,000 to settle the case, the DoJ does not admit to any liability or fault on the part of the government.

"We knew from the start that it would be a long and difficult battle," says Mr. Barger. "After all, the U.S. Department of Justice is the largest and most powerful legal organization in the world. But we also knew that the government was wrong in this case, and we were not going to give up. We subpoenaed Alice Martin, David Estes, and other members of the government's legal team and were prepared to question them under oath to expose the extreme misconduct in this case.

Of course, we're pleased that Mr. Latifi will receive this compensation, but his family-owned defense contracting company was basically decimated. Alex is now fighting to get his company and his reputation back, and he is succeeding. Over the past two years Axion Corporation has secured a number of contracts with the U.S. Government to produce parts and equipment for the Defense Department and war efforts in Iraq and Afghanistan. We are proud to say that he produces one of the most important safety devices in the war theaters, the Abrams Mine Roller, which protects our soldiers against IEDs."

Frohsin points out that this is the first case that originated in the Bush Administration that the Obama DoJ has settled. He says he doesn't expect it to be the last.

"The Axion case should be a clear signal to the DoJ and to future defendants that a guilty plea is not always the answer to a government charge. The Axion case may also ultimately have the positive effect of encouraging the government to focus on developing meritorious cases, rather than pursuing weak or marginal cases of dubious merit." Frohsin commended U. S. Attorney General Eric Holder, U. S. Attorney Joyce Vance, and her team for their leadership and cooperation in effecting this settlement.