

# 'NAJIB DID NOT CONTROL SRC'

Board of directors responsible for any oversight, court hears

RAHMAT KHAIRULRIJAL  
KUALA LUMPUR  
rahmat@nst.com.my

**D**ATUK Seri Najib Razak did not control the decisions of SRC International Sdn Bhd's board of directors and did not owe the strategic investment company any fiduciary duties in the same capacity as a director, the High Court heard.

Najib's lawyer Muhammad Farhan Muhammad Shafee said any official role or authority Najib held to approve matters as a shareholder was part of a legitimate governance structure.

He argued that this did not

make the former prime minister a controlling force or someone who exerted full influence over SRC International's decisions and operations.

"In other words, the responsibilities, duties, trusts and liabilities lay with the company's board of directors.

"The board and SRC International's management were accountable for all transactions carried out by the company.

"My client did not have exclusive control over SRC International's operations or the handling of loan proceeds from Retirement Fund Inc, or KWAP.

"All related transactions were carried out by the board, which was responsible for oversight. If any misappropriation occurred, it stemmed from the board's own decisions," he said before judge Datuk Ahmad Fairuz Zainol Abidin.

Farhan added that even assuming directives had come from Najib, the former finance minister

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ultimately left it to the board to manage the funds appropriately.

He said this in his submissions in the civil suit filed by SRC International on May 7, 2021, against Najib and former chief executive Nik Faisal Ariff Kamil, seeking US\$1.18 billion in damages.

Meanwhile, Farhan said his client also refuted SRC International's claim that Najib acted as a shadow director or de facto controller of the company.

A shadow director refers to an individual who, though not officially appointed, exerts significant influence over a company's board and its decisions.

He said evidence showed that the SRC International board made decisions independently and did not typically act under Najib's instructions.



Datuk Seri Najib Razak

"SRC International has not been able to present a single example where Najib issued binding instructions to the board concerning operational matters.

"One of the company's own witnesses, former head of fund management services at BSI Bank (Singapore), Kevin Michael Swampillai — who handled SRC's offshore accounts — clearly testified that he had 'never received, seen or known of any instruction from the first defendant (Najib)' directing any transfers or investments of SRC funds.

"All instructions regarding fund movements came from Jho Low (fugitive financier Low Taek Jho) and senior SRC officials, including Suboh, not Najib.

"This is a critical admission

from the plaintiff's own witness — that despite Najib holding a senior position, no directive from him was ever conveyed to the bank managing the funds."

In this suit, former SRC director Datuk Suboh Md Yassin was named third-party respondent, alongside other former directors including Tan Sri Ismee Ismail, Datuk Mohamed Azhar Osman Khairuddin, Datuk Shahrol Azral Ibrahim Halmi and Datuk Che Abdullah @ Rashidi Che Omar.

SRC alleges both defendants conspired and committed breaches of trust, and that Najib abused his position and personally benefited from SRC's funds, in addition to misappropriating them.

The company is seeking a declaration that all defendants are liable for the investment fund's losses from the use of the loan, along with general, exemplary and aggravated damages, interest, costs, and any other relief the court deems fit.

The trial continues.