

NO. 09-10875

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS

FILED

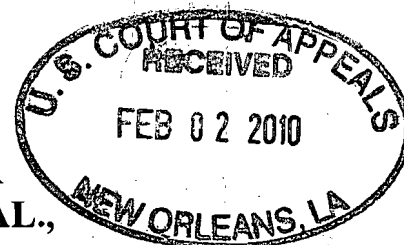
FEB - 2 2010

UNITED STATES OF AMERICA,
Respondent - Appellee,

CHARLES R. FULBRUGE III
CLERK

V.

HOLY LAND FOUNDATION FOR
RELIEF AND DEVELOPMENT, ET AL.,
Defendants



Appeal Of:

NORTH AMERICAN ISLAMIC TRUST
Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
United States v. Holy Land Foundation For Relief and Development, et al.,
CASE NO. 3:04-CR-0240

**APPELLANT'S MOTION FOR LEAVE TO FILE UNDER SEAL ITS
APPELLANT'S INITIAL BRIEF AND RECORD EXCERPTS**

Robert M. Stephenson
Timothy M. Maggio
LOCKE LORD BISSELL & LIDDELL LLP
111 South Wacker Drive
Chicago, Illinois 60606
(312) 443-0700 phone
ATTORNEY FOR APPELLANT
NORTH AMERICAN ISLAMIC TRUST

Appellant North American Islamic Trust ("NAIT") hereby moves this Court for leave to file under seal "Appellant's Initial Brief" and "Record Excerpts" filed herewith. In support of this Motion, NAIT states as follows:

1. On August 26, 2009, the North American Islamic Trust ("NAIT") filed a Notice of Appeal asking this Court to review a July 1, 2009 Memorandum Opinion Order (the "Order") of the United States District Court for the Northern District of Texas. That Order was issued under seal in the criminal proceeding styled *United States v. Holy Land Foundation For Relief And Development, et al.*, Case No. 3:04-CR-00240.
2. The Appellant's Initial Brief identifies, describes, and discusses various other items sealed by the District Court in addition to the Order at issue in this appeal. These items include some papers filed by organizations that are not parties to this appeal. Under the District Court's sealing procedures, no description whatsoever is placed on the docket, or otherwise accessible to the public, for some of the identified documents.
3. The attached Record Excerpts contain, as required by Fifth Circuit Rule 30.1.4(e), the Order at issue in this appeal and, as permitted by Fifth Circuit Rule 30.1.5(a), an essential pleading that has been sealed by the District Court.
4. In order to follow the orders of the District Court and the operation of the local sealing procedures pending this appeal, NAIT seeks leave to file under seal

Appellant's Initial Brief and Record Excerpts, thus preventing the public disclosure of items the District Court has decided should be, or by operation of the local sealing procedures are, shielded from public view.¹

5. NAIT has conferred with counsel for the Appellee, the United States of America. The Appellee does not oppose this motion.

WHEREFORE the North American Islamic Trust respectfully requests that this Court enter an order granting it leave to file under seal its "Initial Appellant's Brief" and "Record Excerpts."

Dated: February 1, 2010

Respectfully Submitted,

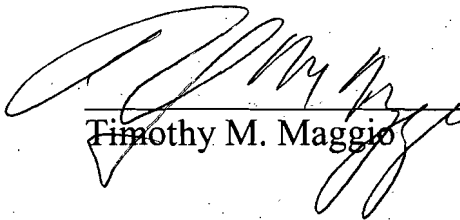
By: 

Robert M. Stephenson
Timothy M. Maggio
Kevin A. Wisniewski (Admission Pending)
LOCKE LORD BISSELL & LIDDELL LLP
111 South Wacker Drive
Chicago, Illinois 60606
(312) 443-0700 phone
(312) 443-0336 fax
ATTORNEY FOR APPELLANT
NORTH AMERICAN ISLAMIC TRUST

¹ NAIT opposes the District Court's sealing order shielding the July 1, 2009 Order from the public and believes that the Order should be public. However, to comply with and respect the District Court's sealing order, NAIT has filed all motions before this Court under seal, and seeks leave to file under seal its Appellant's Initial Brief and Record Excerpts.

CERTIFICATE OF CONFERENCE

Counsel for the North American Islamic Trust conferred with counsel for United States of America, Appellee, regarding this motion. The Appellee does not oppose this motion.

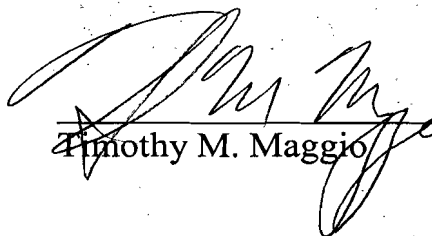


Timothy M. Maggio

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all counsel of record on this the 1st day of February, 2010 via Federal Express to the following address:

Susan Cowger
Assistant U.S. Attorney
U.S. Attorney's Office
Northern District of Texas, Room 300
1100 Commerce Street
Dallas, TX 75242-1699



Timothy M. Maggio