

No. 09-10875

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

HOLY LAND FOUNDATION FOR RELIEF AND DEVELOPMENT, et al.,

Defendants.

NORTH AMERICAN ISLAMIC TRUST,

Movant-Appellant.

**GOVERNMENT’S MOTION FOR LEAVE
TO FILE MOTION UNDER SEAL**

Pursuant to Fifth Circuit Rule 25.2.8, the United States, appellee in the above-captioned case, respectfully moves for leave to file under seal its motion for leave to file record excerpts with optional contents in excess of 40 pages. In support of this motion, the government, through its undersigned attorney, represents the following:

1. This is an appeal by the North American Islamic Trust (“NAIT”) from (1) a memorandum opinion and order, issued in a criminal case against the Holy Land Foundation for Relief and Development (“HLF”) and seven individual defendants, granting in part and denying in part a third-party motion for equitable relief, and

(2) the district court's decision to seal that memorandum opinion and order.

2. The government has moved pursuant to Fifth Circuit Rules 27.1.15 and 30.1.6 for leave to file record excerpts with optional contents totaling 62 pages. In explaining the contents of the government's record excerpts and the need for 62 pages, that motion describes and discusses both the sealed district court order and arguments made by NAIT in its brief, which NAIT filed under seal.

3. The government thus seeks leave to file that motion under seal in order to follow the orders of the district court and also to not publicly reveal the contents of NAIT's sealed brief.

4. Counsel for NAIT has informed the government that they do not oppose this motion.

Accordingly, the United States requests that the Court enter an order allowing the government to file under seal its motion for leave to file record excerpts containing 62 pages.

Respectfully submitted,

LANNY A. BREUER
Assistant Attorney General

GREG D. ANDRES
Acting Deputy Assistant Attorney General

JAMES T. JACKS
United States Attorney
Northern District of Texas

SUSAN B. COWGER
Assistant United States Attorney
Northern District of Texas

s/ Vijay Shanker
VIJAY SHANKER
Attorney, U.S. Department of Justice
Criminal Division, Appellate Section
950 Pennsylvania Ave., NW, Rm. 1264
Washington, DC 20530
TEL 202.353.0268
FAX 202.305.2121
vijay.shanker@usdoj.gov

April 6, 2010

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system on April 6, 2010.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Vijay Shanker
VIJAY SHANKER
Attorney, U.S. Department of Justice
Criminal Division, Appellate Section
950 Pennsylvania Ave., NW, Rm. 1264
Washington, DC 20530
TEL 202.353.0268
FAX 202.305.2121