

NO. 09-10875

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

UNITED STATES OF AMERICA,
Respondent - Appellee,

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
SUPPLEMENTAL RECORD EXCERPTS**

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Appellant North American Islamic Trust (“NAIT”) hereby moves this Court for leave to file supplemental record excerpts (“Record Excerpts Volume III”).¹ 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. On February 1, 2010, NAIT filed with this Court its Appellant’s Initial Brief and Record Excerpts (Volumes I and II). On April 5, 2010, the Government filed with this Court its Brief and a separate set of Record Excerpts.
3. Due to the size of the Record on Appeal, the difficulty of locating documents in that record, and for the convenience of this Court, NAIT seeks leave to file a supplemental record excerpt consisting of three (3) pages from the record.
4. Because the supplemental record excerpts (“Record Excerpts Volume III”) contain certain documents referred to in the Order, which has been sealed by the District Court, NAIT filed a motion with this Court on April 29, 2010, seeking

¹ Pursuant to Fifth Circuit Rule of Appellate Procedure 30.1.5 (Optional Contents of Record Excerpts), Appellant’s Record Excerpts Volume III consists of three (3) pages. Including these materials in Volume III, the optional contents of Appellant’s Record Excerpts total 35 pages, below the 40 page limit set forth by Fifth Circuit Rule of Appellate Procedure 30.1.6.

leave to file the supplemental record excerpts under seal.² (*See* Appellant’s Motion For Leave To File Under Seal Appellant’s Reply Brief and Record Excerpts, April, 29, 2010.) NAIT hereby incorporates that Motion.

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 supplemental record excerpts (“Record Excerpts Volume III”).

Dated: April 30, 2010

Respectfully Submitted,

By: _____ /s/ Timothy M. Maggio _____

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² In order to follow the orders of the District Court and the operation of the local sealing procedures pending this appeal, NAIT sought leave to file under seal Appellant’s Reply Brief and Record Excerpts Volume III, 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. 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 sought leave to file under seal its Appellant’s Reply 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.

/s/ Timothy M. Maggio
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 30th day of April, 2010 via the Court's electronic filing system:

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