

ATTACHMENT B

DEFENDANTS' RESPONSE
TO THE OREGONIAN'S
MOTION TO INTERVENE AND
TO UNSEAL RECORDS

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF OREGON

3
4 AL-HARAMAIN ISLAMIC FOUNDATION, INC.,
5 et al.

6 Plaintiffs,

7 v.

8 GEORGE W. BUSH,

9 et al.

10 Defendants.

Case No:
3:06-cv-00274-KI

11 **DECLARATION OF FRANCES R. HOURIHAN**

12 I, Frances R. Hourihan, declare as follows:

13 (1) I am a special agent with the Federal Bureau of Investigation ("FBI") in Washington,
14 D.C. I have been a special agent with the FBI since July 5, 1998.

15 (2) The statements contained in this declaration are based upon my personal knowledge,
16 upon information provided to me in my official capacity, and upon conclusions and
17 determinations reached and made in accordance therewith.

18 (3) In August 2004, the FBI received notification that a government document containing
19 classified information had been disclosed to a private party without authorization.

20 (4) The FBI determined that the disclosure of the classified government document was both
21 unauthorized and inadvertent: an employee of the Office of Foreign Assets Control ("OFAC"), a
22 Department of Treasury component, had inadvertently included the classified government
23 document in a group of unclassified documents that were collected and subsequently produced to
24 private counsel for the Al-Haramain Islamic Foundation's Oregon headquarters ("Al-
25 Haramain"). OFAC provided these documents to Al-Haramain's counsel as part of an
26 investigation that resulted in the designation of Al-Haramain as a "Specially Designated Global
27 Terrorist" pursuant to the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C.
28 § 1701-1706, and Exec. Order No. 13,224.

(5) As a result of this inadvertent disclosure, several individuals without government security

1 clearances were identified as having received unauthorized access to the classified government
2 document. Several people who were identified as having unauthorized access to the government
3 document were interviewed by the FBI. Each person interviewed was asked to return all copies
4 of the classified document, asked to identify the location of any copies of the document not in
5 their possession, and advised that they should not further review, disclose, discuss, retain and/or
6 disseminate the classified document or the classified information contained in the document.
7 Each person interviewed during the investigation agreed to comply with this request and every
8 person interviewed who acknowledged having a copy of the document returned the document.

9 (6) Attorney Lynne Bernabei, of Bernabei & Katz Law Firm PLLC, who represented Al-
10 Haramain during the civil designation process, confirmed to the FBI that a government document
11 containing classification markings was included with several other documents that were
12 produced by OFAC to attorney Bernabei during the course of OFAC's civil designation process.
13 Upon being advised that the disclosure of the classified government document was not
14 authorized or intended, attorney Bernabei agreed to return all copies of the classified document in
15 her possession to FBI special agents. Additionally, attorney Bernabei identified the other
16 attorneys or persons involved in the litigation with whom she had shared the government
17 document or who may have had access to the government document.

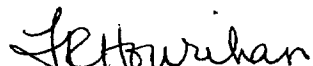
18 (7) The following persons, who are plaintiffs in this action, were among those identified as
19 having possession of or access to the classified government document and were contacted by the
20 FBI: Wendell Belew and Asim Ghafoor. Belew was contacted by the FBI on October 14, 2004,
21 and during an interview provided the FBI with two copies of the classified document. Belew also
22 admitted to the FBI that he provided a copy of the classified document to a reporter, and three
23 copies were subsequently recovered by the FBI through the reporter's attorney. In this instance,
24 the attorney was provided with a letter notifying and warning the attorney and client that they
25 should not further review, disclose, discuss, retain and/or disseminate the classified document or
26 the classified information contained in the document. The attorney advised the FBI that all
27 copies of the document in possession of the client had been returned as requested. Ghafoor was
28 contacted by the FBI on October 13, 2004, and during an interview he advised that he had only

1 one printed copy of the classified document, which copy he then provided to the FBI. Ghafoor
2 also said that he was aware of two electronic copies of the classified document on his home and
3 work computers, and he allowed the FBI to remove those electronic copies from his two
4 computers on November 1, 2004. Belew and Ghafoor both stated that the above-described
5 copies were the only copies of the classified document they had in any format, and they were
6 given a letter advising that they should not further review, disclose, discuss, retain and/or
7 disseminate the classified document or the classified information contained in the document.
8 Copies of those letters are attached as Exhibits 1 and 2 to this declaration.

9 (8) Among the other individuals believed to have obtained a copy or copies of the classified
10 document as a result of the inadvertent disclosure were Soliman Al'Buthe and Pirouz Sedaghaty
11 aka Pete Seda, two officers of Al-Haramain. Al'Buthe, a citizen of Saudi Arabia, was indicted
12 by a federal grand jury for violating criminal statutes governing financial transactions, and he
13 was also designated by OFAC as a "Specially Designated Global Terrorist" pursuant to IEEPA
14 and Exec. Order No. 13,224. Seda was also indicted on related charges. Al'Buthe and Seda are
15 both believed to be living overseas and neither was interviewed by the FBI.

16 (9) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
17 true and correct to the best of my knowledge and belief.

18 Executed this 11th day of April, 2006.

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21 
22 Frances R. Hourihan
23 Special Agent
24 Federal Bureau of Investigation
25 Washington, D.C.
26
27
28



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

October 14, 2004

Mr. Wendell Belew
1150 Connecticut Avenue, NW
Washington, D.C.

From: Beverly Fetty
Supervisory Special Agent
Washington Field Office

Subject: Inadvertent Production of a Privileged United States Government Document

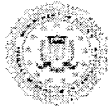
It was reported to this office that a classified and privileged U.S. government document was inadvertently included among documents provided to the office of Bernabei & Katz, LLC on August 20, 2004, by a government agency. Lynne Bernabei has informed this office that a copy of this document was subsequently provided to you. This document was not intended to be disclosed and the government employee who provided the document had no authorization to make this disclosure. The inadvertently disclosed document remains the property of the U.S. government.

This document was marked with classification markings at the top of bottom of each page. We have determined that the document was inadvertently included in a package of unclassified materials regarding the Al Haramain Islamic Foundation, Inc., sent to Bernabei & Katz, LLC in a routine document production on the above date. The government agency did not intend to send that document and reported the loss to the Federal Bureau of Investigation (FBI). This office has been requested to immediately retrieve the document.

Accordingly, we request that you immediately return this U.S. government document, as well as any and all copies (paper or otherwise) of said document. We further request that you safeguard the document in manner that ensures that the document and the classified information are not read or reviewed by anyone.

Please contact Special Agent Frances Hourihan to arrange the collection of the document. Please be aware that any further review, disclosure or dissemination of this classified document and the classified information contained in the document may be a federal crime.

Thank you in advance for the prompt return of this document.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

October 13, 2004

Mr. Asim Ghafoor
AG Consulting Group, PLLC
1054 31st Street, NW, Suite 510
Washington, D.C.

From: Beverly Fetty
Supervisory Special Agent
Washington Field Office

Subject: Inadvertent Production of a Privileged United States Government Document

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