

**ATTACHMENT 4**

**DEFENDANTS' MOTION TO PREVENT  
PLAINTIFFS' ACCESS TO THE  
SEALED CLASSIFIED DOCUMENT**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AQEEL ABDULAZIZ AL-AQEEL, )  
 )  
 Plaintiff )  
 v. )  
 )  
 JOHN SNOW, SECRETARY )  
 US DEPARTMENT OF )  
 TREASURY; CONDOLEEZZA RICE )  
 SECRETARY, DEPARTMENT OF )  
 STATE; ALBERTO GONZALES, )  
 ATTORNEY GENERAL, )  
 DEPARTMENT OF JUSTICE )  
 PATRICK O'BRIEN )  
 ASSISTANT SECRETARY )  
 TERRORIST FINANCING, )  
 )  
 Defendants )

Civil Case No. 05-0943 (GK)

**Amended Complaint**

**AMENDED COMPLAINT**

**PRELIMINARY STATEMENT**

1. Plaintiff brings this lawsuit on behalf of himself to challenge his designation by the United States Department of Treasury, Office of Foreign Asset Control (OFAC).
2. Plaintiff contends that the Defendants violated the Administrative Procedures Act, 5 U.S.C. §§ 554, 556, 558, and 701-706, by not providing him proper notice of the designation.
3. Plaintiff further contends that he was never shown the Administrative Record in this case and was never provided an opportunity to add to the administrative record nor was he provided a hearing as is required by APA 5 U.S.C. §§554, 556, 558.

4. As such, the Defendants violated the Plaintiff's Due Process rights by not providing him with notice, and also by not providing him an opportunity to submit evidence in his defense.

5. Defendants have violated the APA, his Due Process Rights and have acted in an arbitrary and capricious manner by designating the Plaintiff.

6. Plaintiff seeks declaratory and injunctive relief for himself. The Defendants be required to undesignated the Plaintiff until such time as the Defendants have properly notified him, have provided him with an opportunity to submit evidence on his behalf, and then have had an opportunity to review the evidence that the Plaintiff provides.

#### **JURISDICTION AND VENUE**

7. This court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question). Pursuant to 28 U.S.C. §§ 2201 and 2202 (declaratory judgments), this court has jurisdiction to declare the rights of the parties and to grant further relief deemed necessary and proper. Injunctive relief is proper under the Rule 65 of the Federal Rules of Civil Procedure.

8. Court further has jurisdiction under APA 5 U.S.C. § 701-706.

9. Venue is proper in this action pursuant to 28 U.S.C. § 1391(e) in that the designation was made in the District of Columbia.

#### **PARTIES**

##### **Plaintiff**

10. Aqeel Abdulaziz Al-Aqeel is a citizen of the Kingdom of Saudi Arabia and resides in Saudi Arabia.

**Defendants**

11. John Snow is the Secretary of Treasury and has authority and supervision over all Treasury offices including, the Office of Foreign Asset Control (OFAC). He is also responsible for all policies and procedures of that Department. He is sued in his official capacity.

12. Alberto Gonzales is the Attorney General of the United States has authority and supervision over the Department of Justice. Pursuant to the Executive Orders 13224 and 12947 must be consulted before the designation. He is being sued in his official capacity.

13. Condoleezza Rice is the Secretary of State and as such has authority and supervision over the Department of State. Pursuant to the Executive Orders 13224 and 12947 must be consulted before the designation. She is being sued in her official capacity.

14. Patrick O'Brien is the Assistant Secretary for Terrorist Financing and as such is directly responsible for the policy and procedures of OFAC. He is being sued in his official capacity.

**FACTUAL ALLEGATIONS**

15. The Plaintiff was the chairman of Al-Haramain Islamic Foundation (AHF), a charitable organization based in Saudi Arabia.

16. AHF has numerous branches all over the world, including one in the United States.

17. On June 2, 2004 the Defendants designated the Plaintiff a "Specially Designated Global Terrorist" (SDGT) pursuant to the "International Emergency

Economic Powers Act (“IEEPA”), 50 U.S.C. § 1701-1706 and pursuant to Executive Order 13224.

18. The Defendants never notified the Plaintiff of such designation.

19. Defendants never notified the Plaintiff that the designation was impending.

20. The Plaintiff learned of his designation through a Department of Treasury press release which mentioned his name along with that of others.

21. Unlike in other cases in which the Defendants have designated under this authority, the Defendants never officially notified the Plaintiff nor did the Defendants provide him an opportunity to defend himself.

22. The Plaintiff was never accorded the opportunity to see the administrative record against him.

23. The Plaintiff was never given the opportunity to add to the administrative record.

24. The Defendants never provided the plaintiff the opportunity or a hearing, even in written form.

25. The Plaintiff is not aware of any activity that might cause him to be designated.

26. The Plaintiff has not and does not engage in any terrorist activity.

27. The Plaintiff has never advocated any violence towards the United States or any of its interests.

28. This designation by the Defendants has caused grave harm to the Plaintiff in that he is prohibited from doing any business in the United States.

29. The designation has also caused the Plaintiff harm in the international community in that the Defendants asked the United Nations to take action against the Plaintiff.

30. The Plaintiff's property interests have been harmed because of this designation.

31. Recently the OFAC has provided the Plaintiff with unclassified and unprivileged portion of the administrative record.

32. OFAC stated that it was withholding the certain privileged and Law Enforcement Sensitive("LES") portions of the administrative record.

33. OFAC has also informed the Plaintiff where he can go file redress for this designation.

#### **COUNT 1**

#### **PROCEDURAL DUE PROCESS**

34. Plaintiff incorporated by reference ¶¶ 1-33, *supra*, as if fully set forth herein.

35. Defendants violated the APA 5 U.S.C. §§ 554, 556, 558, and 701-706 by not notifying him of his impending designation.

36. Defendants further violated the APA 5 U.S.C. §§ 554, 556, 558, and 701-706 by not providing the Plaintiff notice and opportunity to challenge the designation.

#### **COUNT II**

#### **SUBSTANTIVE DUE PROCESS**

37. Plaintiff incorporated by reference ¶¶ 1-33, *supra*, as if fully set forth herein.

38. Defendants violated the APA 5 U.S.C. §§ 554, 556, 558, and 701-706 by not notifying him of his impending designation.

39. Defendants further violated the APA 5 U.S.C. §§ 554, 556, 558, and 701-706 by not providing the Plaintiff notice and opportunity to challenge the designation.

40. Defendants violated his substantive due process rights under the Fifth Amendment by not notifying the Plaintiff, providing him with an opportunity to add to the administrative record or a hearing, even in written form, to challenge the designation and by not providing him with the complete unredacted privileged and LES portion of the administrative record.

### **COUNT III**

#### **FOURTH AMENDMENT**

41. Plaintiff incorporated by reference ¶¶ 1-33, *supra*, as if fully set forth herein.

42. Defendant's blocking of asset and interference with his assets overseas without first notifying the Plaintiff and providing him with an opportunity to challenge the designation, providing him with a complete unclassified portion of the administrative record violates the due process clause of the Fourth Amendment.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiff respectfully requests that the Court:

1. Assume jurisdiction over the matter.
2. Declare that the Defendants violated the Plaintiffs due process rights by not notifying him, allowing him to see the entire unclassified administrative record to include LES and other privileged information and by not allowing the Plaintiff to submit evidence to rebut this designation.
3. Issue an injunction against the designation until such time as the Defendants provide the Plaintiff with appropriate due process and provide the Plaintiff with the remaining unredeacted privileged and LES portion of the administrative record.
4. Award reasonable attorneys fees and costs.
5. Grant any other relief the Court deems appropriate.



Respectfully Submitted,

/s/

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