

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF OREGON
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AL-HARAMAIN ISLAMIC FOUNDATION,
INC., *et al.*,

Plaintiffs,

No. CV 06-274-KI

v.

GEORGE W. BUSH, *et al.*,

Defendants.

4
5 **DECLARATION OF LYNNE BERNABEI**

6 I, Lynne Bernabei, this 5th day of June, 2006, declare as follows:

7 1. I am an attorney at law, with an office in Washington, D.C.

8 2. Among my clients are the Al Haramain Islamic Foundation, Inc. ("AHIF"), an
9 Oregon nonprofit corporation, as well as two of its directors, Pirouz Sedaghaty (Pete Seda) and
10 Soliman Al-Buthi. I have received a license to represent AHIF and Mr. Al-Buthi, after AHIF's
11 assets were frozen as a result of action by the Treasury Department's Office of Foreign Assets
12 Control ("OFAC").

13 3. I have been representing AHIF and Messrs. Seda and Al-Buthi in matters relating
14 to civil litigation arising from the terrorist attacks in New York and elsewhere on September 11,
15 2001, as well as matters arising from the investigations and designations by OFAC.

16 4. On the late afternoon of Friday, August 20, 2004, I received from OFAC the third
17 of three packets of materials relating to its investigation of AHIF relating to OFAC's potential
18 designation of AHIF as a "specially designated global terrorist" ("SDGT"). OFAC instructed me

1 that, in order to be considered in the designation process, my clients' responses to the packet of
2 materials were due on the morning of Monday, August 23, 2004, i.e., the following work day.

3 5. The individuals who would have had knowledge of the materials in the packet and
4 thus be able to respond effectively were located across the nation and the world. Moreover, both
5 my senior associate and I were leaving that weekend for vacations, and we were unable to
6 respond by Monday morning.

7 6. Upon receiving the packet of materials, I had them copied, and forwarded them to
8 Mr. Seda, Mr. Al-Buthi (in Saudi Arabia), Larry Matasar (Mr. Sedaghaty's attorney in Portland,
9 Oregon), Mary Rowland (an attorney in Chicago, Illinois, who is handling AHIF's property
10 matters), and David Cole (a Law Professor at Georgetown University involved in a potential
11 challenge to the OFAC designation). I also discussed the OFAC administrative record with two
12 other attorneys, Asim Ghafoor and Wendell Belew.

13 7. Sometime later in August or September, David Ottaway of the Washington Post
14 reviewed the entire OFAC administrative record, as he was doing an article on the OFAC
15 designation process, and the process by which a designated group, such as AHIF, could
16 challenge its potential or actual designation.

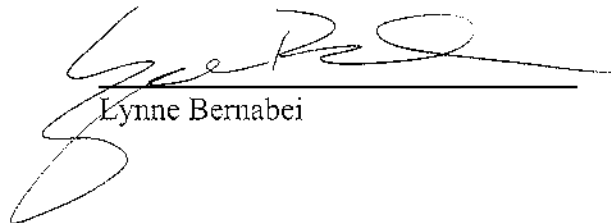
17 8. On October 7, 2004, I subsequently learned from the Federal Bureau of
18 Investigation ("FBI") that included among the materials in the third packet was a sensitive
19 document, which the Treasury Department claimed had been inadvertently released. When the
20 document was provided to me and my co-counsel, it was tabbed and labeled as part of the
21 "unclassified" record supporting a potential designation of AHIF as a SDGT. The cover letter,
22 from OFAC Director Richard Newcomb, also stated that the enclosed materials were
23 unclassified.

1 9. On October 7, 2004, two agents of the FBI visited my office, informed me of this
2 disclosure, and requested to retrieve the document. In response, I returned the copies of the
3 document in my possession, and I prepared and hand-delivered the letter attached and
4 incorporated hereto as Attachment 1.

5 10. On October 13, 2004, an FBI agent called me and told me that I could inform co-
6 counsel in the case that the FBI would be visiting them to retrieve the document that OFAC said
7 had been inadvertently disclosed. I called Mr. Matasar in Portland, Oregon, as the attorney for
8 Pete Seda, a former officer of AHIF, to inform him that the FBI was seeking to retrieve the
9 document. While we were on the telephone discussing the document, Mr. Matasar told me that
10 one or more FBI agents were coming into his office to retrieve the document. He told me later
11 that he returned the document pursuant to the FBI's request. I also called Ms. Rowland in
12 Chicago, and David Cole, in Washington, D.C., shortly thereafter, to let them know that the FBI
13 would be visiting them to retrieve the document. Both told me in subsequent telephone
14 conversations that the FBI had sought the return of this document from them, and that they had
15 provided it to the FBI.

16 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, this 5th day of
17 June 2006, that the foregoing is true and correct to the best of my knowledge,
18 information, and belief.

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21


Lynne Bernabei

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By Hand Delivery
October 7, 2004

Beverly Fetty,
Supervisory Special Agent
Washington Field Office
Federal Bureau of Investigation
601 - 4th Street, N.W.
Washington, D.C. 20535

Re: Al Haramain Islamic Foundation, Inc. (U.S.A.) / OFAC

Dear Ms. Fetty:

On behalf of Bernabei & Katz, PLLC, I am returning the only copy that we have of the document referenced in your letter of this date, which was disclosed by the Office of Foreign Assets Control on August 20, 2004, thereby discharging our firm's responsibilities. Mr. Newcomb's letter of August 20, 2004 explicitly stated that all the materials were "unclassified."

Prior to your arrival, we cannot guarantee that the contents of this document were not disclosed to individuals whom we do not know. We had provided a complete set of OFAC's administrative record, as disclosed to us, to our two clients, Mr. Sedaghaty and Mr. Al-Buthe, as well as to our co-counsel, *i.e.*, Lawrence Matasar, Mary Rowland, and David Cole. We also discussed OFAC's administrative record with two other attorneys, *i.e.*, Wendell Belew and Asim Ghafoor. In addition, David Ottaway, of the Washington Post, who we understand is writing an article about OFAC and the Al Haramain Islamic Foundation, Inc., may have seen a copy of this document, based on conversations we had with him, in which he appeared to know of this document.

Sincerely,



Lynne Bernabei

Enc.