

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

STATE OF HAWAII, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

Civil Action No.: 1:17-CV-00050-DKW-KSC

**SUPPLEMENTAL DECLARATION OF
MARK HETFIELD, PRESIDENT AND
CEO OF HIAS, INC.**

**SUPPLEMENTAL DECLARATION OF MARK HETFIELD, PRESIDENT AND CEO
OF HIAS, INC.**

I, Mark Hetfield, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the President and Chief Executive Officer of HIAS, Inc.
2. This declaration supplements my prior declaration in this case, signed June 30, 2017.
3. The positions the federal government has taken in interpreting the Supreme Court's limited stay order threaten concrete and significant harm to HIAS and its clients. This declaration will highlight some of our clients who are or will be affected by the government's interpretation of the Supreme Court order of June 26, 2017 that refugees with a bona fide relationship with an entity or person in the United States be exempt from the entry restrictions in the Executive Order of March 6.
4. I am aware that the government asserted after June 26 that the fact of an assurance by a refugee resettlement organization like HIAS for a refugee does not establish a bona fide relationship to a U.S. entity for refugees. HIAS and our affiliates have currently assured that we can and will resettle several hundred specific refugees who not yet been admitted to the United

States. All of these assurances were given, and these individuals became our clients, prior to when the Supreme Court entered the partial stay on June 26, 2017. Some of these clients have no relatives in the United States as far as HIAS knows. Preventing these clients of HIAS from traveling would waste the efforts and resources HIAS and its affiliates have already expended to prepare for their reception in the United States.

5. Several of HIAS's assured clients were already authorized by the U.S. government for travel after July 12, but under the government's new policy will no longer be permitted to travel unless the government is convinced they have a "close family member" in the United States or a bona fide relationship with a U.S. entity. That policy is reflected in an email HIAS received from the U.S. Department of State on July 10, 2017. A true and correct copy of the email, with names and email addresses redacted, is attached as Exhibit A to this declaration. We have identified nine HIAS clients who have not yet been admitted to the United States, who are currently booked for travel after July 12, 2017, and who have no family members in the United States of which HIAS is aware. Based on the guidance of the July 10 email, travel will be cancelled for ten of HIAS' refugee clients.

6. The government's narrow new interpretation of "close familial relationship" in the Supreme Court limited stay order contradicts its previous interpretations and will also adversely impact HIAS's clients. In HIAS's experience, the close relatives which a refugee may have in the United States (grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law and sisters-in-law) will often not be covered by the government's new interpretation of "close family member." For example, we have identified HIAS clients whose only family in the United States to HIAS's knowledge are, respectively: a grandmother; a grandfather; a grandson; an aunt; an uncle; a cousin; a niece and a nephew; and a sister-in-law. One of the refugees assured by HIAS

whose travel will be cancelled is an individual who was approved as a refugee through the Lautenberg program. His qualifying family tie in the United States is with his grandmother and he was also expecting to join his two aunts and uncle in this country. According to the Federal Government's current interpretation of the Supreme Court ruling, a grandparent or a grandchild is not a "close family member." Yet in the official instructions issued earlier by the Department of State about the very same Lautenberg program for refugees from the former Soviet Union, the Department of State specifies that "Immediate relatives include spouses, parents, children, siblings, grandparents and grandchildren of legal U.S. residents."

7. The government has so far refused to recognize that individuals in several refugee programs, including the Central American Minor and Lautenberg programs for certain nationals of Iran and the former Soviet republics, are exempt from the ban by virtue of these refugee programs' pre-existing eligibility requirements of having U.S. ties. Currently, HIAS has more than 140 refugee clients who already established ties to the U.S. and who have been approved for the U.S. Refugee Admissions Programs through the Central American Minor and Lautenberg programs. Assessing their ties to the United States on a case-by-case basis will result in possible errors and needless delays that could exacerbate or heighten risks to refugees who continue to be in danger in the countries in which they are located due to protection concerns or needed acute medical care. This is also putting considerable stress and strain on HIAS staff whose workload has increased with the added requirement of explaining these changed requirements to applicants and documenting and establishing 'bona fide relationships' for these categories of cases.

8. Any additional delay in any of these cases, which should be exempt under the Supreme Court's order, will seriously harm HIAS clients. For example, one approved refugee client booked for travel after July 12 is in need of urgent hypertension treatment in the United

States. HIAS is concerned that any delay will exacerbate this individual's medical condition. Other clients remain in precarious situations including remaining in physical danger and living in uncertain situations in third countries while they wait for final travel arrangements. I am aware of one refugee family HIAS has assured that fled Syria, where family members had been killed, to Jordan. In Jordan, they do not have work permission and rely on friends and family for support, but are falling behind on rent and bills and face eviction. A United States citizen family friend is prepared to assist them in their integration into the United States.

9. HIAS and its partners have already taken concrete steps on behalf of many of these individuals. For example, I am aware of a Syrian family lacking family ties in the United States which HIAS had assured for resettlement in New York. A synagogue and a church had partnered in cooperation with HIAS to welcome and support the refugee family and assist them in their integration into the United States. In order to do so, the congregations had raised funds and rented and furnished an apartment, but because of the government's interpretation of the Supreme Court ruling the family is now in limbo in spite of the relationship with HIAS and faith-based entities.

10. Even a relatively short delay of weeks or a month caused by additional processing time for refugees, particularly for those already assured, could cause current security checks to expire, potentially adding years of waiting in dangerous situations before the refugees can travel to safety in the United States.

11. Prior to receiving assurances to travel to the United States, all refugee applicants are subject to numerous security and vetting checks. Refugees must successfully clear all of these checks in order to be approved for resettlement and granted an assurance by a resettlement agency. Several of these checks can take months or years to complete.

12. First, refugees must clear a Consular Lookout and Support System (“CLASS”) check, run by the Department of State Refugee Processing Center. The CLASS check is valid for 15 months.

13. Second, refugees must receive an approved Security Advisory Opinion (“SAO”) from the Department of State for *every* identity document possessed by *every* member of the case. This means that a family of four who each has a passport and national identification card must receive eight separate SAOs. Further, none of the SAOs may be obtained concurrently—they must be issued one at a time. Each SAO is valid for a period of 15 months.

14. Third, refugees must undergo an Inter-Agency Check (“IAC”) which varies from six months to two years to complete. The IAC involves numerous U.S. intelligence agencies all running the refugees’ names, identification documents, and biometrics against proprietary databases (meaning that each agency must run the data check separately). It expires after 33 months.

15. Finally, a Department of Homeland Security officer takes fingerprints which are valid for 15 months.

16. Prior to being assured, each refugee also undergoes a medical check, which is valid for six months.

17. Each of these checks is only valid for certain periods of time. Once the time elapses, the checks “expire” and must be re-initiated.

18. Determining whether refugees have a bona fide relationship on a case-by-case basis will likely result in many refugees having at least one clearance expire during that additional processing time.

19. The expiration of a single clearance often creates a snowball effect because while the first check is being re-run, others will sequentially expire. For that reason, any appreciable delay in processing can result in a refugee's resettlement to the United States being delayed for months or years.

20. The government has instructed that refugee interviews that have already been scheduled should be cancelled unless the applicant "has a claim to a bona fide relationship with an individual in the U.S." See Exhibit A. The instructions do *not* make an exception for individuals with a bona fide relationship to an *entity* in the United States, meaning that interviews for those individuals will be cancelled under current guidance.

I hereby declare under penalty of perjury that the foregoing is true and correct.



Mark Hetfield

Executed this 10th day of July 2017

Exhibit A to
Supplemental
Declaration of Mark
Hetfield, President and
CEO of HIAS, Inc.

[REDACTED]

From: [REDACTED]@state.gov>
Sent: Monday, July 10, 2017 7:23 AM
To: [REDACTED]@HIAS.org; [REDACTED]
Cc: [REDACTED]
Subject: FW: Message #19: Update on Refugee Admissions and Operations

Official - SBU

UNCLASSIFIED

From: [REDACTED]
Sent: Saturday, July 08, 2017 8:05 AM
To: [REDACTED]

Subject: Message #19: Update on Refugee Admissions and Operations

Dear colleagues,

Thank you all for the quick turnaround on collecting bona fide relationship (BFR) documentation from passengers on ABN for travel next week. PRM has sent back a number of responses to the RSCs confirming the validity of these relationships and we are actively working through the rest.

Please see below for additional detailed guidance:

1. We have been informed that all passengers traveling on July 11 and July 12 may proceed as planned, whether or not they have a credible claim to a bona fide relationship with an individual or entity in the United States. Effective July 13, only cases with a credible claim to a bona fide relationship to a person or entity in the U.S. may travel until the end of the 120-day pause.
2. RSCs are asked to immediately begin reaching out to all passengers currently on ABN for any travel date, in the order of the closest to departure, to confirm whether any case member has a credible claim to a bona fide relationship with an individual or entity in the U.S., as defined in Message #17. Please see the below list of relevant documentation types (Annex A).
3. RSCs do not need to include documentation for the following category of refugee: I-730 (Visa 93), Syrian and Iraqi beneficiaries of approved I-130s, P3 family reunification, and CAM (unless a caregiver is included in the application). These cases may travel and do not need to appear on lists submitted to PRM/A Program Officers.
4. Once BFR documentation is received from the applicant, the RSC should scan and upload it to WRAPS with the document type of "Bona Fide Relationship Evidence" following WRAPS SOPs. [Note: This document type was

- recently added to WRAPS. If the evidence is a document that is already attached to the case, attach an additional copy of the document and select BFR Evidence as the document type.] Past BFR documentation that has been uploaded without using these labels should be re-scanned and re-uploaded with the correct labels.
5. Once documentation is uploaded for all passengers on a given travel day, the list must be sent to your PRM/A Program Officer, copied to the Overseas Section Chief. RSCs with fewer passengers may group passengers traveling over multiple days together on one list. Each list should contain at least all passengers departing on a given day (in other words, please do not break up passengers into multiple lists for a single departure day). Lists should be sent at least daily until further notice, unless multiple travel days are included on a single list.
 6. RSCs should only send cases that claim a qualified BFR to PRM/A. Cases that do not claim a qualified BFR may not travel. Once BFR documentation is sent to PRM/A, RSCs should enter the following case comment in WRAPS, "Requested PRM BFR Credible Claim Determination." If the case does not claim a qualified BFR, the RSC should enter the following case comment, "RSC determines no Credible Claim to BFR."
 7. RSCs are responsible for canceling the travel of all cases that do not have a credible claim to a BFR in the U.S. RSCs should work with IOM regional offices to ensure this travel is cancelled. RPC will issue further guidance on tracking and labeling cases that have been approved or placed on hold in the coming week.
 8. When compiling lists of passengers with qualifying BFRs, RSCs should check all cross-references (hard and soft) to determine whether any of the cross-references has a qualifying relationship with the first case. In other words, case A is cross-referenced with case B. If case A's arrival in the United States would create a qualifying BFR for case B, the RSC should include case B together with case A on the list of cases sent to their PRM/A Program Officer for review, noting the relationship between A and B. Anyone on case B may have the relationship with anyone on case A.
 9. In cooperation with DHS/USCIS, PRM/A Program Officers will provide confirmation of the credible claim to the BFR by email back to the RSC. These emails must be scanned and uploaded into WRAPS and the decision should be noted in case comments as "PRM BFR Credible Claim Determination Received: Qualified" or "PRM BFR Credible Claim Determination Received: Not Qualified." Once confirmation is received, the applicant may travel.
 10. When the BFR is first claimed by the applicant, RSCs must check what information is already in WRAPS on this relationship. Normally the BFR should already appear in the family tree. The minimum information about the BFR required in WRAPS is name, qualifying relationship, and city and state in the U.S. Thus, if the applicant claims a BFR that does not appear in WRAPS at all, or if the location is listed as Unknown, the RSC must enter this additional BFR documentation in WRAPS. These additions will trigger an IAC bio-diff. If the RSC receives additional information from the applicant on a claim to a BFR in the U.S., such as phone number or email address, this should be entered into WRAPS as well.
 11. DHS/USCIS is preparing to conduct circuit rides in quarter four. For scheduled circuit rides, RSCs should reach out to all applicants scheduled for interview to confirm whether any case member has a claim to a bona fide relationship with an individual in the U.S. Only those making a claim (and qualifying cross-references per #7 above) should remain on the schedule for interview. RSCs should ensure BFR documentation is uploaded into WRAPS following the above guidance and included in the case file prior to interview.
 12. RSCs should contact all applicants to request BFR documentation as applicants reach the following stages (the documentation only needs to be collected once, depending on which stage the person is currently at):
 - i. When scheduled for an upcoming circuit ride
 - ii. When scheduled for I-590 stamping (if not already done at point i)
 - iii. When RFD (if not already done at point i or ii)
 13. We are still confirming the types of relationships with U.S. entities that will qualify as bona fide relationships under the Supreme Court ruling. Assurances alone do not qualify, nor does the fact that the case is an embassy referral. Please flag any potential relationships with entities in the U.S. to your PRM/A Program Officer for guidance.
 14. PRM will issue guidance the week of July 10 on when new ABNs may be scheduled for new cases with bona fide relationships.
 15. Public messaging and updated text for RSC websites will be forthcoming.

Annex A: Relevant documentation to establish a credible claim to a bona fide relationship with an individual in the United States:

- birth certificates
- marriage certificates
- pending/approved I-130 petitions
- pending/approved I-730s
- RSC and UNHCR family trees (including the family tree of the family member in the United States)
- Affidavits of Relationship
- sworn affidavits (by applicant, family members in U.S., other family members, entity in the United States)
- databases (e.g. CCD, CLAIMS, CIS, WRAPS)
- testimony
- previous statements to RSC or UNHCR
- DNA
- any other documentation/evidence that corroborates the relationship

Official

UNCLASSIFIED