

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

**COUNCIL ON AMERICAN-ISLAMIC
RELATIONS, INC.**

Plaintiff,

v.

ANDREW WHITEHEAD

Defendant.

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Law No. CL 04-926

**Defendant's Memorandum of Law in Support of Motion
To Compel Answers To Interrogatories**

I. INTRODUCTION

Plaintiff is the Council on American-Islamic Relations, Inc. ("CAIR"), a self-described Islamic civil rights advocacy group. According to one American Moslem source, CAIR is "a foreign-based subversive organization, comparable in the Islamist field to the Soviet-controlled Communist Party, USA, and the Cuban-controlled front groups that infiltrated 'Latin American solidarity' organizations in the U.S. during the 1980s."¹

Defendant Andrew Whitehead is a retired United States Navy veteran working as a corrections officer in a California juvenile detention and rehabilitation facility. Mr. Whitehead has a website called "Anti-CAIR," on which he posts articles and commentary

¹ See al-Kosovi, An Activist's Guide to Arab and Muslim Campus and Community Organizations in North America (May 26, 2003), available at www.frontpagemag.com/Articles/Printable.asp?ID=7991. Sen. Charles Schumer has said CAIR is an organization "which we know has ties to terrorism." Steven Pomerantz, the FBI's former chief of counterterrorism, has said "its leaders and its activities effectively give aid to international terrorist groups." The family of John P. O'Neill, Sr., the former FBI counterterrorism chief murdered on 9/11 pled it has "been part of the criminal conspiracy of radical Islamic terrorism" responsible for 9/11, and Tashbih Sayid of the Council for Democracy and Tolerance calls it a "fifth column" in the United States.

regarding CAIR's activities. On March 31, 2004, CAIR sued Mr. Whitehead for posting these allegedly false and defamatory statements:

- a) Let their (sic) be no doubt that CAIR is a terrorist supporting front organization that is partially funded by terrorists, and that CAIR wishes nothing more than the implementation of a SHARIA law in American. ACAIR, August 13, 2003, Press Release.
- b) [CAIR is an] – organization founded by Hamas supporters which seeks to overthrow constitutional government in the United States and replace it with an Islamist theocracy using our own Constitution as protection... ACAIR, July 4, 2003, Press Release.
- e) ACAIR reminds our readers that CAIR was stated by Hamas members and is supported by terrorists supporting individuals, groups and countries. ACAIR, June 14, 2003. Press Release.
- f) Why oppose CAIR? CAIR has proven links to, and was founded by, Islamic terrorists. CAIR is not in the United States to promote the civil rights of Muslims. CAIR is here to make radical Islam the dominant religion in the United States and to covert our country into an Islamic theocracy along the lines of Iran. In addition, CAIR has managed, through the adroit manipulation of the popular media, to present itself as the “moderate” face of Islam in the United States. CAIR has succeeded to the point that the majority of its members are not aware that CAIR actively supports terrorists and terrorist supporting groups and nations. In addition, CAIR receives direct funding from Islamic terrorists supporting countries. ACAIR, May 29, 2003, Press Release.
- g) CAIR has proven leaks (sic) to, and was FOUNDED by, Islamic terrorists. ACAIR, May 29, 2003.
- h) CAIR is a fundamentalist organization dedicated to the overthrow of the United States Constitution and the installation of an Islamic theocracy in America. ACAIR, April 16, 2003. Press Release.

See CAIR Motion for Judgment (March, 2004) (Exhibit 1) at ¶ 4.

Mr. Whitehead subsequently served discovery requests and requests for admission on CAIR. CAIR objected to almost all of the discovery, and then filed an amended motion for judgment, dropping many of its claims. Now, the only allegedly false and defamatory statements are:

- A. Let their (sic) be *no doubt that CAIR is a terrorist supporting front organization...* ACAIR, August 13, 2003, Press Release.
- B. [CAIR is an](sic)...*seeks to overthrow constitutional government in the United States...* ACAIR, July 4, 2003, Press Release.

See CAIR Amended Motion for Judgment (July, 2005) (Exhibit 2) at ¶ 4.

II. PROPER SCOPE OF DISCOVERY

Plaintiff, a high profile public figure, has alleged libel and libel per se. The elements of libel are (1) publication of (2) an actionable statement with (3) the requisite intent. See generally Jordan v. Kollman, 612 S.E.2d 203 (Va. 2005). To be actionable, the statement must be both false and defamatory. Id.; M. Rosenberg & Sons v. Craft, 29 S.E.2d 375, 378 (Va. 1944); Ewell v. Boutwell, 121 S.E. 912, 916 (Va. 1924).² True statements are not actionable. American Communications Network, Inc. v. Williams, 568 S.E.2d 683, 684 (Va. 2002).³

A. Standard of Review.

Under Rule 4:1(b)(1), Mr. Whitehead may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claims made by the plaintiff, or to the defenses asserted by Mr. Whitehead. The information sought need not be admissible at trial; all information reasonably calculated to lead to the discovery of admissible evidence should be produced.

² Plaintiff must prove the challenged statements are false and, by clear and convincing evidence, that Mr. Whitehead realized that his statements were false or that he subjectively entertained serious doubt as to the truth of those statements, at the time of publication. Williams v. Garraghty, 455 S.E.2d 209, 215 (1995); Bose Corp. v. Consumers Union of the United States, Inc., 466 U.S. 485, 511, n. 30 (1984).

³ Opinion statements are generally not actionable. Fuste v. Riverside Healthcare Ass'n, Inc., 575 S.E.2d 858, 861 (Va. 2003). Whether a statement is an actionable statement of fact or non-actionable opinion is a matter of law to be determined by the court. Jordan, *supra*; Chaves v. Johnson, 335 S.E.2d 97, 101-102 (Va. 1985).

Among other things, Mr. Whitehead may obtain an admission of the truth of any matters within the scope of Rule 4:1(b) that relate to statements or opinions of fact, or of the application of law to fact, including the genuineness of any documents described in the request. See Rule 4:11(a).

Mr. Whitehead is entitled to discovery of information that is relevant to, or reasonably calculated to lead to the discovery of evidence relevant to, both the truth of the allegedly libelous statements, CAIR's reputation, and its damages. Consequently, his discovery focused on CAIR's historic activities and associations, the historic and current beliefs and views of its officers, directors, and key employees, and its financial activities, all of which relate directly to CAIR's "front organization" activities⁴ and its intent to spread Islam in the United States and replace the Constitution with Islamic law.

B. CAIR Background.

1. CAIR's history, organization, and purpose.

CAIR is the child of the Islamic Association for Palestine (IAP). IAP was created by Musa Abu Marzook ("Marzook"), a key operative of the notorious Hamas terror group.⁵ IAP is and always has been a radical Islamic organization, preaching the

⁴ "Front organization" does not have a fixed meaning. Extant definitions suggest front organizations (1) share common ideological goals with persons engaged in illegal or subversive activity, (2) propagandize to advance the shared goals, (3) provide financial or logistical support to advance the shared goals, and (4) have covert or hidden relationships with like-minded groups or persons. See THOMPSON, ET AL, Other People's Wars: A Review of Overseas Terrorism in Canada, at p. 56-57 (Mackenzie Institute, 2003).

⁵ Marzook was named a terrorist and deported from the United States. On May 10, 1996, Awad organized a press conference to support Marzook at which Awad said, "[t]he arrest, detention and extradition is politically motivated...[and] this campaign has been orchestrated to serve as a wedge between America and Islamic countries." MARZOOK LEGAL FUND, JUSTICE FORUM (June, 1996). In June 1996, CAIR signed an open letter to

inevitability of conflict between “divinely inspired” Islamic Civilization and the materialistic, god-less West.⁶ IAP was recently held civilly liable for the terrorist murder of an American teenager. Boim v. Quranic Literacy Institute et al, 340 F. Supp. 2d 885, 908-10 (N.D. Ill. 2004).

IAP officers and employees Omar Ahmad (“Ahmad”) and Nihad Awad (“Awad” aka “Hammad”), and Rafiq Jabber, now IAP’s president, formed CAIR in 1994. The organizations had a close and mutually supportive relationship. See, e.g., Montgomery, Calls for ‘oceans of blood’ came during Kansas Muslim convention, The Kansas City Star (Feb. 2, 2002) (stating IAP “referred questions to...Hooper of the Council for American-Islamic Relations”) (Exhibit 3). CAIR officers and directors routinely attended and addressed IAP’s conventions and public events.

CAIR is organized into “chapters,” which are the “dynamic arms of CAIR that carry out [its] mission.” (Exhibit 4). For the purposes of this case, these “chapters” are mere extensions of the plaintiff, and their activities are properly discoverable. For example, CAIR “assesses the merits” of chapter applications, and determines who serves

then Secretary of State Warren Christopher that railed against “the injustice that has prevailed against Dr. Marzook” and alleged that “our judicial system has been kidnapped by Israeli interests.” CAIR also labeled Marzook’s incarceration a hate crime in a 1996 report. See AMERICAN MUSLIM RESEARCH CENTER, THE PRICE OF IGNORANCE (1996); Goodstein, Harassment of Muslims, The Washington Post, April 20, 1996.

⁶ IAP’s belief is:

[T]he real nature of the conflict is a civilizational conflict waged between, on the one land (sic) Islamic Civilization with its divinely inspired laws and mission to create on this earth the society of justice and freedom which has been ordained by God; and on the other hand, Western Civilization with its materialistic culture, worship of ethnicity and the state, and denial of God's supremacy.

See <http://web.archive.org/web/20030622101126/www.iap.org/islamiccause.htm>

on chapter boards. Id. Chapter public communications are closely monitored and controlled by a “Chapter coordinator.” Id. CAIR maintains “direct control over the character and quality of [chapter] activities...” See Affidavit of Sheema Khan at ¶6. (Exhibit 5). It dictates chapter by-laws. See “CAIR-Austin By-Laws” Art. VIII (Exhibit 6). Chapter websites have identical designs, and contain duplicative, and in at least one case, identical, text. (Exhibit 7).

CAIR aims to advance Islam in the United States.⁷ It is closely tied to Islamic fundamentalists in Saudi Arabia, and elsewhere.⁸ A Senate Judiciary subcommittee

⁷ It favors a particularly strict brand of Islam. For example, radical Moslems prohibit women from being seen in public unless their hair is completely covered. On September 14, 2005, the CAIR website had pictures of a CAIR public relations event. Although a number of women attending the event chose not to cover their hair, CAIR altered the photo by crudely adding head-coverings before posting the picture. When CAIR’s deception was exposed, it posted a copy of the unaltered photograph, then simply made the entire matter vanish. (Exhibit 8).

⁸ The fundamentalist/terrorist credo was articulated in an officially approved May 13, 2005 religious sermon broadcast on Palestinian Authority television:

We (Moslems) have ruled the world before, and by Allah, the day will come when we will rule the entire world again. The day will come when we will rule America. The day will come when we will rule Britain and the entire world – except for the Jews...The day will come when everything will be relieved of the Jews...Listen to the Prophet Muhammad, who tells you about the evil end that awaits Jews. The stones and trees will want the Muslims to finish off every Jew.

See Palestinian Authority Sermon: We (Muslims) Will Rule America; Israel is a Cancer; Jews are a Virus Resembling AIDS; Muslims Will Finish Them Off, MEMRI Special Dispatch Series 908 (May 17, 2005) available at <http://memri.org/bin/articles.cgi?Page=archives&Area=sd&ID=SP90805> . There is evidence in the public record suggesting CAIR officers, directors, and key employees hold similar views. See, e.g., infra at §II(B)(4). In Virginia, a corporation speaks through its employees, its officers, its directors, its board members, and its agents. Oberbroeckling v. Lyle, 362 S.E.2d 682 (Va. 1987) (corporations liable for statements of agent or employee); Slaughter v. Valleydale Packers, 94 S.E.2d260 (Va. 1956)(corporation liable at tort for statements of its employees); White Hall Company v. Hall, 46 S.E. 290 (Va. 1904). Because plaintiff decided to sue Mr. Whitehead for speaking about CAIR’s connections to radical Islam,

report noted “Saudi Arabia’s long history of sympathy, coordination and support for terrorist groups” and found “CAIR receives hundreds of thousands of dollars from Saudi individuals and organizations.” (Exhibit 9)

2. CAIR fund-raising for terror.

CAIR raised money for the terrorist front Holy Land Foundation (HLF). HLF was created by convicted felon Ghassan Elashi (Elashi) - a CAIR chapter founder and board member, and Marzook’s brother-in-law - to complement the IAP’s activities and to provide financial and material support for Hamas. See Holy Land Foundation v. Ashcroft, 219 F. Supp. 57, 69-70 (D.D.C. 2002).⁹ HLF supported Hamas activities through direct fund transfers, and by funding “a network of organizations connected to HLF” in the United States, such as IAP and CAIR. Id. at 70 (IAP funding); see also Deposition Testimony of Nihad Awad (October 22, 2003) at pp. 173-74 (testifying CAIR received money from HLF).

IAP and CAIR, in turn, each raised money for HLF.¹⁰ HLF (like CAIR) was a featured player at IAP conventions, and IAP used its web-site to solicit HLF donations. Boim, 340 F. Supp. 2d at 909-10.

and its role as a terrorist supporting front organization, the views of CAIR, and its officers, directors, and key employees, are directly relevant and discoverable.

⁹ In 1994, Marzook designated HLF as Hamas’ primary U.S. fund-raising arm. Holy Land, 219 F. Supp. at 70. HLF was so concerned hiding from government investigators that it hired a security company to search listening devices; ordered one of its key members to take training on advanced methods in the detection of wiretaps; shredded documents after board meetings; and maintained incriminating documents in off-site locations. See HLF Indictment, Count I, ¶6 (Exhibit 10).

¹⁰ On September 5, 2001, less than a week before 9/11, federal agents raided Elashi’s company InfoCom Corporation. InfoCom ran the HLF website. At that time, the HLF web server was used by CAIR, the Islamic Society of North America (ISNA), the Muslim

CAIR exploited the 9/11 murders to raise money for HLF. Beginning on or about September 13, 2001, and continuing through September 24, 2001, the CAIR website contained a section titled “What you can do for the victims of the WTC and Pentagon attacks” that solicited contributions for “the NY/DC Emergency Relief Fund.” The “NY/DC Emergency Relief Fund” did not exist. Instead, the link in question led directly to the HLF website. On or about September 25, 2001, the “NY/DC Emergency Relief Fund” link was replaced with direct links to HLF and GRF. (Exhibit 11).

CAIR also embraced, and raised money for, the terrorist front Global Relief Foundation (GRF). GRF and its officers and directors, had connections to, and provided support for and assistance to, Usama bin Laden (UBL), al Qaida, and other terrorists. GRF maintained extensive ties with al Qaida and the Taliban through late 2001. See Global Relief Foundation v. New York Times, 390 F.3d 973, 983-85 (7th Cir. 2004). Rabih Haddad, a former CAIR fund-raiser, was a senior GRF official.¹¹

3. CAIR’s foreign funding sources.

CAIR is funded by foreign sources, primarily from radical Islamists, usually based in Saudi Arabia. For example:

- A press release from the Saudi Arabian embassy in Washington states that in August 1999, the Islamic Development Bank (IDB) - functionally controlled by the Saudi government - gave CAIR \$250,000 to help purchase its Washington, D.C. headquarters.

Students Association of the U.S. and Canada, the Islamic Circle of North America (ICNA), IAP, and the American Muslims for Jerusalem.

¹¹ Like CAIR, GRF was the recipient of HLF largess, receiving \$18,521 from that organization in 2000.

- CAIR acquired its headquarters through an unusual lease-purchase transaction with the United Bank of Kuwait. The bank was the deed holder and leased the building to CAIR; yet despite not owning the building, CAIR recorded the property on its balance sheet as a property asset valued at \$2.6 million. In September 2002, CAIR bought out the Kuwaiti bank with funds from the Al-Maktoum Foundation, based in Dubai. The markings on the deed indicate that the foundation provided “purchase money to the extent of \$978,031.34” to CAIR, or roughly one-third the value of the property.

- In December 1999, the World Assembly of Muslim Youth (WAMY)¹² announced at a press conference in Saudi Arabia that it “was extending both moral and financial support to CAIR.” WAMY also agreed to “introduce CAIR to Saudi philanthropists and recommend their financial support for the headquarters project.” In 2002, CAIR and WAMY announced, again from Saudi Arabia, their cooperation on a \$1 million public relations campaign. The Saudi Gazette, which reported the story, said that Awad, “had already met leading Saudi businessmen” in order to “brief them about the projects and raise funds.”

- CAIR received \$500,000 from Saudi Prince Al Waleed bin Talal to distribute Islamist literature throughout the United States. The centerpiece of the distribution was an English version of the Koran that had been banned by the Los Angeles School District because it was, as one Moslem scholar put it, “a polemic against the Jews.”

- CAIR has received at least \$12,000 from the International Relief Organization (also called the International Islamic Relief Organization, or IIRO), which itself has

¹² At that time, and to this day, WAMY, with Sheikh Saleh al-Sheikh, the Saudi minister of Islamic affairs, as its leader, was linked to terror. Both Indian officials and the Philippine military have cited WAMY for funding terrorist groups and militant Islamists (in Kashmir and the Philippines, respectively). UBL’s brother was WAMY’s treasurer.

received millions from the KSA and Saudi officials and has been directly linked to Hamas, Algerian radicals, and the Egyptian precursor to al Qaida. See Declaration of David Kane in United States v. Biheiri, Case No. 03-365-A (E.D. Va.) at ¶¶ 6-10.

- The International Institute of Islamic Thought (IIIT) gave CAIR \$14,000 in 2003. IIIT is part of an interwoven group of terror-financing conduits the sent money to, among others, Islamic Jihad leader Sami al-Arian.¹³ See Proposed Redacted Affidavit of David Kane (October 2003) (Kane Affidavit) at 55-57 (Exhibit 12).

4. CAIR's control group.

CAIR's key players - Awad, Ahmad, and Hooper – have ties to IAP, Elashi, Saudi interests, and radical groups.

- CAIR founder and Executive Director Awad was IAP's public relations director. He complained to the Simon Wiesenthal Center because it placed a picture of the notorious Ayatollah Khomeini on a "Wall of Demagogues." Awad wrote in the Muslim World Monitor that the World Trade Center trial, which ended in the conviction in 1994 of four Islamic fundamentalist terrorists, was "a travesty of justice" and that there was "ample evidence indicating that both the Mossad and the Egyptian Intelligence played a role in the explosion." He is an admitted supporter of "the Hamas movement."

- CAIR founder and Board Chairman Ahmad, also a former IAP official, was heard on FBI surveillance tapes of Hamas meetings in the United States during 1993 explaining that the IAP could not, for political reasons, admit its support for Hamas, and then discussing how the Hamas agenda could be cloaked and advanced in the United States.

¹³Al-Arian, president of the "Islamic Committee for Palestine," a leader of Islamic Jihad, and a major IIIT beneficiary, wrote: "we [Moslems] are in a battle of life and death, in a battle of fate and future against the Western Hegemony (sic)... What is needed is a dismantling of the cultural system of the West." See Kane Affidavit at p.31.

Ahmad's practice while at IAP was to bring Hamas representatives to speak at IAP conferences. Boim, 340 F. Supp. 2d at 911 (citations omitted).

- Rafeeq Jaber, a CAIR founder, is or was IAP's president. He testified that IAP promoted HLF "in every way", raising money, promoting Hamas speakers, and publishing Hamas communications. Boim, 340 F. Supp. 2d at 910.
- Mohammed Nimer, a CAIR official, was on the board of the United Association for Studies and Research, a Hamas front founded by Marzook.
- Doug aka "Ibrahim" Hooper ("Hooper"), CAIR's Director of Communications, also worked for the IAP before joining CAIR. He has said: "I wouldn't want to create the impression that I wouldn't like the government of the United States to be Islamic sometime in the future..." On the Michael Medved radio show in 2003, he said that if Muslims ever become a majority in the United States, it would be safe to assume that they would want to replace the U.S. Constitution with Islamic law, as most Muslims believe that God's law is superior to man-made law.
- Ihsan Bagby, a CAIR board member, has written Moslems "can never be full citizens" of the United States, "because there is no way we can be fully committed to the institutions and ideologies of this country" as the U.S. is not a Moslem country.
- Randall ("Ismail") Royer, CAIR's communications specialist and civil rights coordinator, is serving a twenty year prison term, pleading guilty after being charged with conspiring to help al Qaida and the Taliban kill Americans in Afghanistan. When arrested, CAIR's Royer had: "AK-47-style rifles, telescopic lenses, hundreds of rounds of ammunition and tracer rounds, documents on undertaking jihad and martyrdom, [and] a

copy of the terrorist handbook containing instructions on how to manufacture and use explosives and chemicals as weapons.”

- Elashi, a founder both of CAIR’s Austin, Texas chapter and HLF, was convicted in July 2004 of having illegally shipped computers to Libya and Syria. He was convicted in April 2005 for conspiracy and money laundering with a known terrorist. Elashi has also been charged with providing more than \$12.4 million to Hamas through HLF.

- Bassem Khafagi, CAIR’s community relations director, pled guilty in September 2003 to lying on his visa application and passing bad checks, and was deported. Khafagi was also a founding member and president of the Islamic Assembly of North America (IANA), a radical organization under federal investigation for terror-related activities.

- Rabih Haddad, a CAIR fundraiser, was arrested on terror-related charges and deported from the United States.

- Siraj Wahaj, a CAIR advisory board member, is a former member of the National of Islam (NOI) who supports polygamy and full implementation of Islamic law in the United States.¹⁴ In 1991, speaking to the Islamic Association of North Texas, Wahaj called Operation Desert Storm “one of the most diabolical plots ever in the annals of history,” and that the war was “part of a larger plan, to destroy the greatest challenge to the Western world, and that’s Islam.” See Islam’s Flawed Spokesman, available at <http://archive.salon.com/news/feature/2001/09/26/muslims/index.html> (September 26, 2001). In 1995, he was named an un-indicted co-conspirator in the plot to blow up the

¹⁴ See Ahari, The Islamic Community in the United States: Historical Development, www.islamherald.com/asp/explore/history/islam_in_america_historical_development.asp

World Trade Center that was led by the “blind sheikh,” Omar Abdul Rahman. CAIR described Wahaj as “one of the most respected Muslim leaders in America.”

III. THE DISCOVERY DISPUTE.

CAIR’s claims set the limits of discovery in this case, and those limits here are very broad indeed.

A. Areas For Discovery.

The first of the allegedly false and defamatory statements is: “Let their (sic) be *no doubt that CAIR is a terrorist supporting front organization....*” See Amended Motion for Judgment at ¶4(a) (emphasis in original). The second allegedly false and defamatory statement is CAIR “seeks to overthrow constitutional government” in the United States, and replace it with Islamic religious law. See Amended Motion for Judgment at ¶4(b).

CAIR - properly defined as plaintiff, its chapters, its principals, and all officers and directors - has therefore exposed all of its current and historic financial, ideological, business, programmatic, and propaganda contacts, relationships (covert and overt), and activities, here in the United States and abroad, to discovery. Information regarding CAIR’s contacts with and support for terrorists, Islamic fundamentalists, and their enablers (e.g. IAP, InfoCom, HLF, WAMY, foreign funding sources, etc) directly bear on the truth of the assertions CAIR is a “front organization” and/or working to bring Islamic law to the United States.

Similarly, CAIR has opened the ideological and religious beliefs of its principals, officers, and directors to scrutiny. Of particular relevance are the current and historic views, opinions, and beliefs of its control group, including Hooper, Awad, Ahmad, and its Board, regarding Islamic law, the State of Israel, Islamic terrorism, U.S. policy in Iraq,

and other related issues, because this information will produce relevant evidence regarding CAIR's shared goals and beliefs with foreign Islamic fundamentalists, including Sheik Talal, and groups such as al Qaida, Hezbollah, and Hamas.

Finally, CAIR finances and fund raising, both for itself and others (such as HLF), has been opened to discovery because this information is reasonably calculated to lead to relevant evidence regarding CAIR's connections to, and support for, terror groups and Islamic fundamentalists.

B. Interrogatory Objections.

The interrogatories and objections are attached as Appendix A and B for the Court's convenience.

Interrogatory 1. CAIR objects to disclosing the identities of persons who provided information used to answer interrogatories on attorney-client and attorney work-product grounds. However, the identities of these persons are not privileged.

Interrogatory 5. CAIR refuses to answer the question asked. Its officers, directors, and key employees' travel to, and meetings with persons in, countries that harbor, finance, or support terror, is absolutely relevant because it bears on CAIR's front group activities. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 6. Discovery into the sources of CAIR funding is reasonably calculated to lead to admissible evidence. If CAIR (for example) is receiving funds from Saudi Arabians or others who support terrorism, or seek to spread fundamentalist Islam, then such evidence would be admissible regarding the truth of the allegedly false and

defamatory statements. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 7. CAIR's communications with Named Persons, all of whom have either admitted to, been convicted of, or been indicted due to, ties with terrorism, are relevant and admissible. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 8. A front group, by definition, has covert or hidden relationships with like-minded groups or persons. Information that CAIR employees or officers have received payments from Islamic fundamentalists, or from terror supporters like HLF, is critically relevant. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 9. This interrogatory is reasonably calculated to lead to the discovery of relevant evidence because concerns CAIR control group relationships with "like-minded" groups or individuals that support terror. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatories 10, 14. These interrogatories concern CAIR solicitations for terrorists, terrorist supporters (HLF/GRF) and Islamic fundamentalists. CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 11. Under Rule 4:1(b)(1) CAIR must demonstrate that the requested discovery is either privileged or not reasonably calculated to lead to the discovery of admissible evidence. The information requested – which seeks to determine the extent of CAIR control group's entanglement with terrorists, terror supporters, and Islamic fundamentalists – is reasonably calculated to lead to the discovery of admissible

evidence, for this information will establish that CAIR's control group shares the ideology of, and seeks to achieve the same goals as, Islamic terrorists and religious fundamentalists. Furthermore, CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatories 12, 18. The identity of the person who directed institution of legal proceedings is not privileged and is reasonably calculated to lead to the discovery of admissible evidence. CAIR's use of legal process to prevent critical scrutiny of CAIR's activities and intentions is wholly consistent with the allegation it is a front group, and might in fact be part of a larger strategy to advance CAIR's Islamic agenda.

Interrogatory 15-16. CAIR does not demonstrate that this request is vague, nor show how it is burdened by compliance.

Interrogatory 19. There is nothing vague about this interrogatory – the term “support” is specifically defined by reference to its dictionary definition. Furthermore, “CAIR” includes officers, directors, agents, and employees. See Lyle, 362 S.E.3d at 682; Valleydale Packers, 94 S.E.2d. at 260 (corporation liable at tort for statements of its employees); White Hall Company, 46 S.E. at 290-291.

Interrogatories 20-22, 24. See above. Corporations are capable of having and articulating beliefs or positions; CAIR does so daily.¹⁵ CAIR does not demonstrate that this request is vague.

¹⁵ See CAIR's Core Principles No. 7 available at <http://www.cair.com/default.asp?Page=corePrinciples>, stating “CAIR believes the active practice of Islam strengthens...”; see also CAIR News Release, CAIR Presents Award to Imam W. Deen Mohammed (September 6, 2005) available at www.cair-net.org/default.asp?Page=articleView&id=1735&theType=NR, stating “CAIR believes in community empowerment...”; see also CAIR Initiates Islam in the Workplace, (December 4, 1996) available at www.hartford-hwp.com/archives/27/027.html, stating “CAIR believes in a pro-active approach...”

Interrogatory 23. CAIR objects to disclosing the organizations on which Ahmad, Awad, Jaber, Hooper, and/or any present or former CAIR officers, directors, or agents serve as officers, directors, employees, agents or advisors on the grounds this information is not reasonably calculated to lead to the discovery of reasonable evidence. This reticence is understandable, given that CAIR's control group historically have worked with and for terror supporters. However, in a case where CAIR claims the statement it is a terrorist supporting front organization is false and defamatory, its principals' relationships with groups such as the IAP or HLF is absolutely relevant (and highly instructive, as well).

IV. CONCLUSION.

Wherefore, Mr. Whitehead respectfully requests his Motion to Compel be granted.

ANDREW WHITEHEAD

By Counsel

A handwritten signature in black ink, appearing to read 'R. Rubinstein', is written over a horizontal line.

Reed D. Rubinstein (VSB #25011)

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant's Memorandum of Law In Support of Motions To Compel Answers To Interrogatories was mailed via first class mail on this 12th day of October, 2005 to:

Jeremiah A. Denton III
VBN #19191
477 Viking Drive, Suite 170
Virginia Beach, VA 23452

A handwritten signature in black ink, appearing to read 'Reed D. Rubinstein', written over a horizontal line.

Reed D. Rubinstein