

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, INC.,

Plaintiff,

v.

At Law No. CL04-926

ANDREW WHITEHEAD,

Defendant.

PLAINTIFF'S BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR PROTECTIVE
ORDER AND IN OPPOSITION TO DEFENDANT'S MOTION TO COMPEL

COMES NOW the Plaintiff, Council on American-Islamic Relations, Inc. ("CAIR"), by counsel, and files this brief in support of the Plaintiff's Motion for Protective Order filed herein on or about October 10, 2005, and in opposition to Defendant's Motion to Compel Answers to Interrogatories, Motion to Compel Answers to Request for Admissions, and Motion to Compel Document Production.

I.

FACTUAL BACKGROUND

This is a defamation action brought by CAIR against Andrew Whitehead ("Whitehead") because of statements the latter published about the former in the summer of 2003 stating that "CAIR is a terrorist supporting . . . organization . . .," which "seeks to overthrow constitutional government in the United States. . . ." AmMFJ, para. 4.¹

¹ Providing material support or resources to a foreign terrorist organization, or attempting or conspiring to do so, within the United States, or areas subject to the jurisdiction of the United States, is felony for which one could be indicted and punished. 18 U.S.C.A. § 2339B(a)(1). As such, Whitehead's statements are defamatory *per se*.

CAIR is a non-profit corporation, organized under the laws of the District of Columbia having been incorporated in 1994. Much like the National Association for the Advancement of Colored People (“NAACP”), the American Civil Liberties Union, and the Anti-Defamation League (“ADL”), CAIR is a mainstream, national, public advocacy and educational organization representing the interests of a minority, namely, American Muslims. Much like the NAACP, ACLU, and ADL, CAIR is the primary advocacy group for its constituency in the United States. Much like the NAACP, ACLU, and ADL, CAIR is regularly and roundly disparaged by a small but shrill assortment of public policy partisans, one of whom is Andrew Whitehead, an internet “blogger” who operates a website titled “*Anti-CAIR*.”² CAIR maintains in this suit that Whitehead has crossed the line from constitutionally protected expression of opinion to actionable publication of false and defamatory statements of “fact.”

CAIR is geographically situated at 453 New Jersey Avenue, S.E., Washington, D.C., within a twenty minute drive of the United States Capitol building, the United States Supreme Court, the FBI headquarters, the White House, the Bureau of Alcohol, Tobacco and Firearms, the Pentagon, and the Central Intelligence Agency. In the 11 years of CAIR’s existence, none of the foregoing agencies have accused CAIR of supporting terrorism, seeking to overthrow the government of the United States, or engaging in any other illegal activity.

Andrew Whitehead, however, thinks CAIR is a national security threat. Andrew Whitehead is a retired U.S. Navy petty officer employed in a juvenile detention and rehabilitation

² When one “Googles” the term “CAIR,” Whitehead’s website *Anti-CAIR* is prominently displayed along with the official websites of CAIR and its regional chapters.

center in California.³ Whitehead attacks CAIR regularly on his so-called “*Anti-CAIR*” website. On July 4, 2003 and August 13, 2003, Whitehead published the two statements alleged in this suit to have been defamatory: *to wit*, that “CAIR is a terrorist supporting . . . organization . . .,” which “seeks to overthrow constitutional government in the United States. . . .” AmMFJ, para. 4.

In a bootstrap effort to establish the defense of “truth,” Whitehead seeks to justify unusually onerous discovery by creating the false impression that CAIR is a shadowy, subversive organization, only masquerading as a mainstream public internet group in the tradition of the NAACP, ACLU, ADL, et al. CAIR’s public record totally belies Mr. Whitehead’s implication, and makes clear that Mr. Whitehead should not be accorded the extraordinarily wide and intrusive discovery he seeks.

A. CAIR’s Standing as a Mainstream Washington Advocacy Group

CAIR has achieved a status of enviable prestige within highest echelons of the “Washington establishment.” CAIR officers are regularly consulted and otherwise honored by top level United States government officials, specifically involved with national security responsibilities. For example, a few days after September 11, 2001, CAIR’s Executive Director, Nihad Awad was invited by the White House to stand next to President George W. Bush at the President’s press conference at the Islamic Center of Washington, the purpose of which was to demonstrate that the government did not consider organizations like CAIR, or the constituencies they represent, to be terrorist supporters or sympathizers.

In the aftermath of the Oklahoma City bombing in 1995, Mr. Awad flew to Oklahoma to

³ Whitehead resided in Virginia Beach when he made the allegedly defamatory statements and when suit was filed.

aid the relief effort and met personally with Governor Frank Keating and presented him with a check for \$21,000 for the victim's fund on behalf of the American Muslim community.

As recently as June 17, 2004, CAIR representatives met with Secretary of State Colin L. Powell to discuss foreign policy. In attendance as well were Assistant Secretary for Public Affairs, Richard Boucher, and Assistant Secretary of State William Burns.⁴

On December 12, 2002, CAIR Executive Director Nihad Awad met with FBI Director Robert S. Mueller III, to discuss issues of concern to the Islamic community.⁵

In October of 2002, CAIR's Executive Director, Nihad Awad, was invited to testify before a congressional sub-committee concerning the State Department's Annual Report on International Religious Freedom.⁶

On November 29, 2001, Secretary of State Colin L. Powell hosted a Ramadan dinner with representatives of the American Muslim community, including CAIR Communications Director Ibrahim Hooper, who commented on that occasion that, "Secretary Powell was to be congratulated for his efforts to reach out to American Muslims. Muslims have unique perspectives on many important policy issues that need to be considered as the war on terrorism goes forward."⁷

On October 26, 2001, CAIR's Executive Director, Nihad Awad, made a presentation to

⁴ (Exhibit 1, Bate No. 409).

⁵ (Exhibit 2, Bate No. 385).

⁶ (Exhibit 3, Bate No. 390).

⁷ (Exhibit 4, Bate No. 372).

Secretary of Transportation Norman Y. Mineta, outlining cases of airline passenger profiling.⁸

On September 26, 2001 CAIR Board Chairman Omar A. Ahmad was invited to a meeting with President Bush, in which President Bush stated that he was “proud of the Muslim leaders across America who have risen up and who . . . not only insisted that America be strong, but that America keep the values intact that have made it so unique and different. . . .”⁹

On September 14, 2001, CAIR officers, Omar Ahmad and Nihad Awad, Board Chairman and Executive Director, respectively, of CAIR, attended an invitation-only “National Day of Prayer and Remembrance” ceremony at the National Cathedral in Washington D.C., attended by President George W. Bush.¹⁰

On January 11, 2000, CAIR’s National Communications Director, Ibrahim Hooper, attended a White House event hosted by President Clinton, and attended by National Security Advisor Sandy Berger, and Assistant Secretary of State Harold Koh. Recognizing the problems of stereotyping and marginalization faced by American Muslims, President Clinton then observed, “* * * [L]ike other groups past and present in America, Muslim-Americans have also faced from time to time – and continue to face, sadly, from time to time – discrimination, intolerance, and, on occasion, even violence. There are still too many Americans who know too little about Islam. Too often stereotypes fill the vacuum ignorance creates. That kind of bigotry is wrong, [it] has no place in American society.”¹¹ It is such presidentially-acknowledged

⁸ (Exhibit 5, Bate No. 371).

⁹ (Exhibit 6, Bate No. 382) Mr. Ahmad was unable to accept the invitation because of another commitment.

¹⁰ (Exhibit 11, Bate No. 374).

¹¹ (Exhibit 7, Bate No. 377).

discrimination and intolerance that CAIR exists to expose and oppose.

On December 10, 1999, representatives of CAIR met with the United States Attorney General Janet Reno, to discuss airline passenger profiling.¹² On September 16, 1999, CAIR met with Secretary of State Madeleine Albright along with other Muslim groups, and participated in discussions on human and religious rights violations in Turkey and Kashmir, [and] the American Muslim community's role in formulating foreign policy. At that meeting, State Department officials asked American Muslims to apply for positions at all levels of government service.¹³ On March 15, 1999, CAIR participated in a series of round table discussions organized by the Secretary of State's Special Representative for International Religious Freedom, Dr. Robert A. Seiple.¹⁴ In 1997 Mr. Awad was invited to join Vice President Al Gore's Civil Rights Advisory Panel to the White House Commission on Aviation Safety and Security.

B. CAIR's Record of Condemning Terrorism

CAIR does not confine its advocacy efforts to conferences and dinners with high-level government executives. It also stands up for America and speaks out against terrorism in pronouncements to the general public, thereby earning the enmity of the very terrorists Whitehead claims CAIR supports.

On September 11, 2001, within hours of the 9/11 attack, CAIR publically condemned the terrorist hijackers by joining other Muslim organizations represented by the American Muslim Political Coordination Counsel in a statement that, "American Muslims utterly condemn what are

¹² (Exhibit 8, Bate No. 376).

¹³ (Exhibit 9, Bate No. 392).

¹⁴ (Exhibit 10, Bate No. 375).

apparently vicious and cowardly acts of terrorism against innocent civilians. We join all Americans in calling for the swift apprehension and punishment of the perpetrators. No political cause could ever be assisted by such immoral acts.”¹⁵

On September 14, 2001, CAIR stated that American Muslims “utterly condemn the vicious and cowardly acts that transpired Tuesday in our nation’s Capital and in New York City.”

Arsalan T. Iftikhar, “We Condemn This Act,” *The New York Times*, September 14, 2001, at 54.

On September 16, 2001, CAIR published a full page announcement in the *Washington Post* stating as follows:

We at the Council on American-Islamic Relations (CAIR), along with the entire American Muslim community, are deeply saddened by the massive loss of life resulting from the tragic events of September 11.

American Muslims unequivocally condemn these vicious and cowardly acts of terrorism.

Our thoughts and prayers are with the families, friends and loved ones of those who have been injured or killed.

We also extend our gratitude to all the heroic fire fighters, police officers, and emergency medical workers who continue to risk their lives in the ongoing rescue and relief efforts.

We join with all Americans in called for the swift apprehension and punishment of the perpetrators of these crimes.

May we all stand together through these difficult times to promote peace and love over violence and hate.¹⁶

Similarly, on March 17, 2002, after a grenade attack on a Pakistani church killing five

¹⁵ (Exhibit 12).

¹⁶ *Washington Post*, September 16, 2001, (Exhibit 13).

people, including two Americans, CAIR issued a press release stating:

We condemn this attack in the strongest possible terms and call for the apprehension of the perpetrators. It is not only an act of terrorism against innocent civilians, but is also an assault on the sanctity of a house of worship. No political or religious cause could justify such horrifying violence.¹⁷

Following a bombing incident at a Passover celebration in the Middle East that left 20 dead and more than 100 wounded, CAIR issued a March 28, 2002 press release condemning the attack as follows:

We condemn this attack and all of their attacks on innocent civilians illegitimate and counterproductive tactics must not be used in the legitimate struggle to end Israel's brutal occupation.

* * *

To break this cycle of violence and counter-violence, all parties must focus on a political solution [of the Palestinian problem] based on justice and equality, not force of arms.¹⁸

On the second anniversary of the 9/11 attack, CAIR hosted an interfaith memorial event at the Capital reflecting CRP in Washington, D.C. , and announced that:

Now more than ever, we must come together as one nation to challenge the voices of division in our society. . . . The threat of terrorism, and our response to it, continues to test our ability to live together in a spirit of interfaith harmony and inclusion. This is a test we must pass if America is maintain the values of religious tolerance we all hold dear.¹⁹

Immediately after the bombing a Jewish Community Center in California, CAIR issued a

¹⁷ CAIR news release of March 17, 2002, (Exhibit 14).

¹⁸ (Exhibit 15).

¹⁹ (Exhibit 16).

news release datelined August 10, 1999 stating as follows:

The Counsel on American-Islamic Relations (CAIR), Washington-based Islamic advocacy group, has issued a statement condemning today's shooting at a California Jewish Community Center.

* * *

The American Muslim community condemns this despicable crime and offers its condolences to the families of those injured in the attack. The perpetrator should be apprehended and prosecuted to the full extent of the law.

Unfortunately, this incident is just the latest entry in a long list of attacks on Jewish, Christian and American Muslim houses of worship and, along with other incidents, must be seen as a product of prejudice and stereotyping.²⁰

These are a sampling of statements by which CAIR and its officers put themselves put themselves front and center amongst those who condemn the terrorists. These highly visible, frontal attacks on terrorists and terrorism represent the legal limit to which non-governmental organizations can go in contributing to the fight against terror, and they utterly belie Whitehead's attempts to cast CAIR as a terrorist supporting or sympathizing organization.

C. CAIR's Educational Work

Under the CAIR Library Project, over 6,893 libraries in America have received educational books, most of which are by non-Muslim academics, educating Americans on Islam.²¹ CAIR's educational efforts include an advertising campaign in *The New York Times*

²⁰ CAIR news release August 10, 1999 (Exhibit 17).

²¹ Ad poster for CAIR library project (Exhibit 18), CAIR library project news release of September 9, 2002 (Exhibit 19).

introducing various individual Muslims to Americans at large.²²

CAIR has also sponsored community service programs to spread tolerance and understanding between Muslims and non-Muslims in the United States.²³ CAIR has engaged in wide ranging peace and justice advocacy to promote the civil rights of Muslims. See news release of March 24, 2003 calling upon law enforcement to investigate and prosecute a bomb attack on Muslim family on March 22, 2003.²⁴ See also CAIR news release of August 1, 2003 describing law enforcement efforts to apprehend and prosecute two teenagers for cross burning outside a Maryland Islamic school and mosque.²⁵

To help educate law enforcement personnel who interface with Muslims in communities across America, CAIR has published and distributed a booklet entitled, *A Law Enforcement Official's Guide to the Muslim Community*, which was the subject of a CAIR news release on May 1, 2003.²⁶ For persons of faith interested in learning about Islam, CAIR publishes an orientation pamphlet for visitors to Mosques (Exhibit 25).

To track the state of Muslim civil rights in America, each year CAIR issues a civil rights report on the status of Muslim civil rights in the United States. Samples of those reports are attached: *The Status of Muslim Civil Rights in the United States 2004*, "Unpatriotic Acts" (Exhibit 26); *Status of Muslim Civil Rights in the United States 2003*, "Guilt by Association"

²² Sample ad from CAIR "Islam and America" campaign in *The New York Times* (Exhibit 20).

²³ CAIR news release of May 28, 2003 (Exhibit 21).

²⁴ CAIR news release of March 24, 2003 (Exhibit 22).

²⁵ CAIR news release of August 1, 2003 (Exhibit 23).

²⁶ CAIR new release of May 1, 2003 (Exhibit 24).

(Exhibit 27); *The Status of Muslim Civil Rights in United States 2002*, “Stereotype and Civil Liberties,” (Exhibit 28); *The Status of Muslim Civil Rights in United States 2001*, “Accommodating Diversity” (Exhibit 29); *The Status of Muslim Civil Rights in United States 1998*, “Patterns of Discrimination” (Exhibit 30); *The Status of Civil Rights in the United States*, “The Price of Ignorance” 1996 Report (Exhibit 31); *The Usual Suspects—Media Coverage of the TWA Flight 800 Crash* (Exhibit 32); *American Muslims One Year after 9/11* (Exhibit 33); *American Muslim Voter Registration Guide Use Your Voice Make Your Choice* (Exhibit 34); *North American Muslim Resource Guide* (Exhibit 35); *Status of Muslim Civil Rights in the United Unveiling Prejudice 1997* (Exhibit 36); *A Rush to Judgment*, April 19, 1995 (Exhibit 37); and *The American Mosque a National Portrait* (Exhibit 38).

D. Whitehead’s Unsubstantiated Allegations are Based on Hearsay Guilt-by-Association Innuendo.

The issue in this case is the truth or falsity of Mr. Whitehead’s statements that “CAIR is a terrorist supporting . . . organization . . .,” which “seeks to overthrow constitutional government in the United States. . . .” AmMFJ, para. 4.²⁷ In support of his motion to compel very expansive and intrusive discovery, Whitehead has submitted *not a single affidavit evidencing payment to a terrorist organization or a single act or statement that anyone could construe as advocating the overthrow of the government*. Instead, Whitehead rests his motion on five references to his own website, three newspaper clippings, fifteen assorted internet sources, one speech, two books, one magazine article, and some ten pleadings, affidavits, depositions, and court opinions *from*

²⁷ Providing material support or resources to a foreign terrorist organization, or attempting or conspiring to do so, within the United States, or areas subject to the jurisdiction of the United States, is felony for which one could be indicted and punished. 18 U.S.C.A. § 2339B(a)(1). As such, Whitehead’s statements are defamatory *per se*.

unrelated cases in which CAIR was not a party.

Whitehead thereby seeks to “link” CAIR to an assortment of individuals, whose only connection to CAIR is the fact that they are Muslims or, in a couple of cases, had, at some point remote in time, some tangential, temporary dealings either with CAIR or, more likely, a CAIR chapter over which CAIR itself exercises no legal control. Thus, Whitehead attempts to trump up a nefarious connection between CAIR and Bossem Khafagi, (Defendant’s Memorandum of Law in Support of Motion to Compel Answers to Interrogatories, p. 12), asserting that Khafagi pled guilty in September 2003 to certain crimes, and that, years earlier, Khafagi had been an organizer and officer of an obscure group calling itself the Islamic Assembly of North America. Khafagi was never an employee of CAIR. He was, briefly, an independent contractor for CAIR in 2001. CAIR was not then aware of any wrongdoing by Khafagi. CAIR has been charged by no law enforcement authority with involvement in any misconduct by Khafagi. Khafagi ultimately pled guilty to charges of bank and Visa fraud, not a terrorism crime.

Noting that CAIR once employed one Randall Ismail Royer, who Whitehead claims pled guilty to an unspecified crime after having been charged with conspiring with Al Qaida and Taliban members, Royer actually was indicted under the seldom used Neutrality Act of 1794, 18 U.S.C. 1960, which makes it unlawful to “take part in, any military . . . enterprise to be carried on against the territory . . . of any foreign . . . state . . . [with] whom the United States is at peace. . . .” Whatever the merits of the case against Royer, CAIR stated in written submission to the United States Senate Subcommittee on Terrorism that appropriate criminal penalties should be imposed, should Royer be found guilty of any kind of criminal conduct. CAIR has never been implicated by any law enforcement agency in any of Royer’s legal problems.

Similarly, Whitehead faults CAIR because one Ghassan Elashi was a founder of a Texas CAIR chapter. Elashi did help form a CAIR chapter in 1998, and he was ultimately convicted of crimes involving conspiracy to violate export regulations and Libyan Sanctions Regulations. CAIR was charged with nothing in the Elashi case. CAIR cannot be expected to anticipate the future criminal conduct of every person associated with every Muslim group seeking to be designated as a CAIR chapter. Regional chapters are freestanding corporations over which CAIR exercises no legal control. CAIR cannot be accountable for the conduct of every member of, or contributor to, CAIR or its local chapters.

Whitehead asserts that CAIR is “the child” of the Islamic Association for Palestine (IAP), (Defendant’s Memorandum of Law in Support of Motion to Compel Answers to Interrogatories, p. 4) and that the IAP was created by Musa Abu Marzook, who Whitehead says is a “key operative” of Hamas. Defendant’s Memorandum of Law in Support of Motion to Compel Answers to Interrogatories, p. 14. What Mr. Whitehead means by the term “child” in this context is unclear, but it is clear that the IAP is a grassroots organization which functions legally in the United States; that no criminal charges have ever been brought against it; and that there is no connection whatever between CAIR and Marzook.

Whitehead makes much of CAIR statements about Hamas more than a decade ago. Hamas had not been declared a terrorist organization at the time of those statements. Hamas was placed on the terrorist list by Executive Order 12947 on January 25, 1995 (Exhibit 39). Prior to that time, Hamas was generally believed to perform humanitarian relief work, and many legitimate organizations then maintained some level of contact with it. CAIR never made a statement supporting Hamas after its commencement of suicide bombings or its later designation

as a foreign terrorist organization.

II.

BASIS OF CAIR'S OBJECTIONS AND MOTION FOR PROTECTIVE ORDER

Whitehead's discovery is not reasonably calculated to locate admissible evidence. Most of the discovery either relates to third parties, is remote in time, is proprietary, or is very personal. For example, many discovery items seek information about "cousins" of in-laws of CAIR or CAIR chapter employees, both past and present.²⁸ Whitehead's discovery does not focus on facts alone. It also seeks declarations of position on pure abstractions, such as whether CAIR does or does not "agree with" what various terrorists or terror organizations believe in, whether CAIR "believes" Zionism is a good thing, and whether more Americans should convert to Islam.²⁹

A. Objections to Interrogatories

1. CAIR's Objections to Whitehead's *Nine Pages* of Instructions and Definitions.

Whitehead's interrogatories are prefaced by *nine pages* of definitions and instructions, the effect of which is to multiply the 25 numbered interrogatories manifold, greatly exceeding the numerosity limitations set forth in Virginia Supreme Court Rule 4:8(g). By way of example only, Definition No. 3 defines "CAIR" so as to include not only the Plaintiff but all of its present and past officers, directors, advisory board members, agents, attorneys, representatives, chapters, and chapter members, past and present. Because most discovery requests mention CAIR, most

²⁸ See Request for Production Definition No. 22 which defines the term "persons associated with" as including "(a) spouse, (b) children, (c) siblings, (d) aunts and uncles, (e) grandparents, (f) first and second cousins, (g) *in-laws, including in-laws, to the level of first cousins.*" (Emphasis added.)

²⁹ See Request for Admission Nos. 109-114; Interrogatory Nos. 20, 21, and 22.

discovery requests are directed to every CAIR (and CAIR chapter) agent of any kind over a 16 year period, even though the defamatory statements at issue were published in the present tense in July and August of 2003.

Definition No. 19 defines “named persons,” inquired about in numerous discovery requests³⁰, as any of 22 organizations, and in some cases affiliates of organizations, most of which are located in foreign countries, many of which have several names, and which include anyone identified in some 14 documents authored by disparate third-parties having nothing whatever to do with CAIR, Mr. Whitehead, or the statements at issue in this litigation. Discovery related to Whitehead’s expansive list of “named persons” is not reasonably calculated to lead to evidence of whether CAIR was supporting terrorism or seeking to overthrow the government in 2003. CAIR therefore has objected to the nine pages of instructions and definitions that accompanied Whitehead’s discovery.

2. Objections to Specific Interrogatories.

INTERROGATORY 1. Identify the person(s) who provided information used in answering these interrogatories. Please specify the interrogatory answered for each person identified.

Original Answer/Objection: Objection. Attorney client privilege; work product doctrine.

Basis of Motion to Compel: Identity of persons answering interrogatories is not privileged.

Plaintiff’s Response to Motion to Compel: This interrogatory seeks to obtain, *via the*

³⁰ Eg., Interrogatory Nos. 7, 8, 10, and 11.

side door, pure work product information about the preparation of the plaintiff's case, through disclosure of the identity of persons who CAIR and its counsel consulted in formulating its objections and responses to interrogatories. Trial preparation information is not discoverable, ever, absent a showing of substantial need. That showing has not been made. Moreover, mental impressions, conclusions, opinions, and legal theories of counsel and representatives of a party are not discoverable ever, even upon a showing of substantial need. Va. Supreme Court Rule 1:(b)(3).

INTERROGATORY 5. Identify each and every trip taken *by a person identified in Interrogatory No. 4*, for any reason, to a Suspect Territory. For each such trip please identify: (a) the Suspect Territory entered, (b) persons met, and (c) duration. (Emphasis added.)

Original Answer/Objection: Objection: overbroad, unduly burdensome, not reasonably calculated to lead to the discovery as admissible evidence. Without waiving its objection, no CAIR officer, director, or employee, acting in his or her capacity as a CAIR agent, or in any other capacity, is known to have ever traveled outside the borders of the United States to meet with any agent of any state or organization designated by the United States Department of State as a terrorist state or terrorist organization.

Basis of Motion to Compel: Whitehead suspects that CAIR officials have been to countries that harbor terrorists.

Plaintiff's Response to Motion to Compel: This interrogatory seeks to require CAIR to identify *every CAIR associate without limitation* who from 1994 to the present was "agent of CAIR, or any CAIR-affiliated organization (including political action committees)," who has ever been to United Kingdom, France, Germany, Egypt, Italy, or fourteen other named countries.

The issues in this case are whether, *in July and August of 2003*, CAIR was a front for terrorism or sought to overthrow the United States government. Whether CAIR members visited *England, France, Germany, Morocco, etc.*, during the preceding *13 years* is not reasonably calculated to adduce proof on those issues. The interrogatory also is overbroad, because it applies not just to current CAIR officials, but to all past CAIR officials, members and associates of any kind, including associates of CAIR chapters which are separate legal entities over which CAIR exercises no legal authority. The interrogatory is clearly overbroad both in subject matter and time.

INTERROGATORY NO. 6. Identify each Major Donor or Contributor to CAIR, Ahmad, Awad, Jaber, Hooper, and/or *any past* or present CAIR officers, directors, or agents.

Original Answer/Objection: Plaintiff objects on ground of relevance, because the issue in this case is what entities CAIR has supplied financial support to, not what entities have supplied financial support to CAIR (or its officers, etc.). See Motion for Judgment, para. 5.

Basis of Motion to Compel: Whitehead asserts that CAIR is receiving funding from Saudi Arabians and others, who Whitehead asserts support terrorism or “fundamentalist Islam.”

Plaintiff's Response to Motion to Compel: The real objective of this interrogatory is to interrupt CAIR's fund raising activities. This interrogatory is grossly overbroad because it seeks the identity of contributors not only to CAIR *and its chapters*, but also *individuals “associated with”* CAIR, and because the issue is who CAIR supported in 2003, not who supported CAIR at any time ever.

Disclosure of CAIR's contributor list would seriously impair CAIR's fund raising efforts. Whitehead has specifically issued a call to unspecified, but clearly extra-legal, action against

Muslims exhorting his readers to “act now” and “rise up,” to “march on Washington,” and to cause our elected leaders to “get out of the way of those who are not only talking about doing *the right thing*, but are willing to *turn talk into action*.” See August 7, 2005 posting by Whitehead’s *Anti-CAIR* website, Exhibit 40. The author of such thinly veiled call to vigilantism should not be given access to the names and addresses of the contributors to an eleemosynary organization he hates.

It matters not whether Whitehead’s statement that CAIR receives contributions from believers in “fundamentalist Islam” is true. Arguably, Pat Robertson and Jerry Falwell seek contribution from believers in fundamentalist Protestantism, the Roman Catholic Bishop for the Diocese of Richmond passes the collection plate to fundamentalist Catholics, and Jewish organizations seek to spread and support Zionism. For better or worse, fundamentalism in religion is an American tradition, and a Constitutionally protected one, which has prevailed since the Puritans landed on Plymouth Rock. Fundamentalism, in and of itself, is not a basis for unduly intrusive discovery.

INTERROGATORY NO. 7. Identify each *Named Person* with whom CAIR, Ahmad, Awad, Jaber, Hooper, and/or any CAIR officer, director, or agent has had a communication between 1990 and the present. For each communication, specify time, date, location, purpose, and duration.

Original Answer/Objection: Objection: overbroad, unduly burdensome, not reasonably calculated to lead to the discovery as admissible evidence. Without waiving such objection, CAIR has communicated with numerous foreign ambassadors and dignitaries, including but not limited to, the Spanish Ambassador to the United States, the Hon. Javier Ruperez, the Hon. Jean-

David Levitte (French Ambassador to the United States), the Hon. Fraens van Daele (Ambassador of Belgium to the United States), and the Hon. George Savvaides (Ambassador of Greece to the United States).

Basis of Motion to Compel: Whitehead says this interrogatory is relevant because it seeks CAIR comminations with persons Whitehead has “named” as having been convicted of, admitted to, or indicted for, “ties” with terrorism.

Plaintiff's Response to Motion to Compel: The interrogatory is overbroad because, as defined by Whitehead,³¹ the term “named persons” includes not just persons who have been convicted of, admitted to, or indicted for, “ties”³² with terrorism, but also: (1) President Bush; (2) Attorney General Ashcroft; (3) Phyllis Ray, a Kansas City tourism official; (4) South Carolina Professor Peter Sederberg; (5) Steven Emerson, a self-acclaimed, but widely discredited, terrorism “expert;” (6) Chip Berlet, of the Massachusetts-based Political Research Associates; (7) Richard Mellon Scaife, an ultra-conservative publicist; (8) Tim Daniel, Missouri’s homeland security advisor; (9) Sheema Khan, CAIR-Canada board member; (10) Tom Ridge, Secretary of Homeland Security; (11) Dianne Feinstein, U.S. Senator; (12) Margaret Thatcher, former Prime Minister; (13) Richard Cheney, U.S. Vice-President; (14) Charles Schumer, U.S. Senator; (15) Bernard Lewis, author; (16) Larry Mefford, FBI Assistant Director; (17) David Aufhauser, General Counsel of the Department of Treasury; (18) Dr. Alexiev, Center for Security Policy; (19) Steffen Schwartz, Foundation for the Defense of Democracies; (20) Simon Henderson, journalist; (21) Resa F. Safa, author; (22) Peter Beinart, Editor, The New Republic; (23) John

³¹ Explain why definition include all of the above.

³² No statute criminalizes “ties” with terrorism. The term is vague to the point of meaningless in the context used.

Pistole, FBI Assistant Director; (24) Charles Abell, Principal Deputy under Secretary of Defense for Personnel and Readiness; (25) Harley Lappin, Director of the Bureau of Prisons; (26) Dr. Michael Waller, Annenberg Professor of International Communication at The Institute of World Politics; (27) Warren Rudman, former U.S. Senator; (28) Dick Clarke, Senior Advisor to the Counsel on Foreign Relations; (29) Christopher Cox, U.S. Congressman, and Chair of the House Select Committee on Homeland Security; (30) Asa Hitchinson, Under Secretary for Border and Transportation Safety at the Department of Homeland Security; (31) Nancy Kinsbury, Managing Director of Applied Research and Methods at the General Accounting Office; (32) Jeanne J. Kirkpatrick, former Secretary of State and Senior Fellow in National Security Studies at the Counsel on Foreign Relations; (33) Deborah McCarthy, Department of State Bureau for International Narcotics and Law Enforcement Affairs; (34) David McIntyre, President and CEO of Tri West Healthcare Alliance; (35) Mark MacCarthy, Senior Vice President of Public Policy for the *Visa* U.S.A. Credit Card Company; (36) Evan Hendricks, Editor, Privacy Times; (37) Dennis Lormel, Chief of the FBI Terrorist Financial Review Group; (38) Robert Cramer, Managing Director of GAO; (39) Robert Mueller, FBI Director; (40) Robert Mooney, Director of Entry/Exit Program, Bureau of Immigration and Customs Enforcement; (41) Woody Hall, Assistant Commissioner, Office of Information and Technology; (42) Stephen W. Casteel, Assistant Administrator for Intelligence, DEA; (43) Steve McCraw, Assistant Director, Office for Intelligence, FBI; (44) Rensselaer W. Lee III, President Global Advisory Services; (45) Jim Turner, member, House of Representatives; (46) Paul Rogers, President, American Correctional Chaplains Association (47) A.J. Sabree, Treasurer, American Correctional Chaplains Association; (48) all persons identified in the 39 page Indictment in the case of *United States of*

America v. Holy Land Foundation for Relief and Development, et. al., filed in the United States District Court for the Northern District of Texas Dallas Division; (49) various persons mentioned in CAIR website articles; (50) David Kane, Senior Special Agent with The United States Custom Service, Baltimore, Maryland; and (51) all persons mentioned in 99 page Affidavit of David Kane, Senior Special Agent, U.S. Customs Serviced, filed in unrelated case.

By this interrogatory, CAIR is asked to produce a 15 year history of communications with the individuals listed above and to state the time, date, location, purpose, and duration of those communications. The interrogatory is burdensome, overbroad, and not reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 8. Identify each Named Person who has paid Ahmad, Awad, Jaber, Hooper, and/or any past or present CAIR officer, director, employee with a salary, stipend, *per diem*, board fee, personal service fee, speaking fee, royalties, lecture fees, or compensation of any kind from 1990 to the present.

Original Answer/Objection: See response to Interrogatory No. 6 above (overbroad, unduly burdensome, not reasonably calculated to lead to the discovery as admissible evidence).

Basis of Motion to Compel: That the financial relationships of a front group are “relevant.”

Plaintiff's Response to Motion to Compel: The interrogatory asks CAIR to identify each of the following persons who have paid compensation of any kind to any CAIR employee in the last 15 years: (1) President Bush; (2) Attorney General John Ashcroft; (3) Phyllis Ray, a Kansas City tourism official; (4) Peter Sederberg, South Carolina Professor; (5) Steven Emerson, a self-acclaimed, but widely discredited terrorism “expert;” (6) Chip Berlet, of the

Massachusetts-based Political Research Associates; (7) Richard Mellon Scaife, an ultra-conservative publicist; (8) Tim Daniel, Missouri's homeland security advisor; (9) Sheema Khan, CAIR-Canada board member; (10) Tom Ridge, Secretary of Homeland Security; (11) Dianne Feinstein, U.S. Senator; (12) Margaret Thatcher, former Prime Minister ; (13) Richard Cheney, U.S. Vice-President; (14) Charles Schumer, U.S. Senator; (15) Bernard Lewis, author; (16) Larry Mefford, FBI Assistant Director; (17) David Aufhauser, General Counsel of the Department of Treasury; (18) Dr. Alexiev, Center for Security Policy; (19) Steffen Schwartz, Foundation for the Defense of Democracies; (20) Simon Henderson, journalist; (21) Resa F. Safa, author; (22) Peter Beinart, Editor, The New Republic; (23) John Pistole, FBI Assistant Director; (24) Charles Abell, Principal Deputy under Secretary of Defense for Personnel and Readiness; (25) Harley Lappin, Director of the Bureau of Prisons; (26) Dr. Michael Waller, Annenberg Professor of International Communication at The Institute of World Politics; (27) Warren Rudman, U.S. Senator; (28) Dick Clarke, Senior Advisor to the Counsel on Foreign Relations; (29) Christopher Cox, U.S. Congressman, and Chair of the House Select Committee on Homeland Security; (30) Asa Hutchinson, Under Secretary for Border and Transportation Safety at the Department of Homeland Security; (31) Nancy Kinsbury, Managing Director of Applied Research and Methods at the General Accounting Office; (32) Jeanne J. Kirkpatrick, former Secretary of State and Senior Fellow in National Security Studies at the Counsel on Foreign Relations; (33) Deborah McCarthy, Department of State Bureau for International Narcotics and Law Enforcement Affairs; (34) David McIntyre, President and CEO of Tri West Healthcare Alliance; (35) Mark MacCarthy, Senior Vice President of Public Policy for the Visa U.S.A. Credit Card Company; (36) Evan Hendricks, Editor, Privacy Times; (37) Dennis Lormel, Chief of the FBI

Terrorist Financial Review Group; (38) Robert Cramer, Managing Director of GAO; (39) Robert Mueller, FBI Director; (40) Robert Mooney, Director of Entry/Exit Program, Bureau of Immigration and Customs Enforcement; (41) Woody Hall, Assistant Commissioner, Office of Information and Technology; (42) Stephen W. Casteel, Assistant Administrator for Intelligence, DEA; (43) Steve McCraw, Assistant Director, Office for Intelligence, FBI; (44) Rensselaer W. Lee III, President Global Advisory Services; (45) Jim Turner, member, House of Representatives; (46) Paul Rogers, President, American Correctional Chaplains Association (47) A.J. Sabree, Treasurer, American Correctional Chaplains Association; (48) all persons identified in the 39 page Indictment in the case of *United States of America v. Holy Land Foundation for Relief and Development, et. al.*, filed in the United States District Court for the Northern District of Texas Dallas Division; (49) various persons mentioned in CAIR website articles; (50) David Kane, Senior Special Agent with The United States Custom Service, Baltimore, Maryland; and (51) all persons mentioned in 99 page Affidavit of David Kane, Senior Special Agent, U.S. Customs Serviced, filed in unrelated case.

By this interrogatory, CAIR is asked to produce a 15 year history of payments from the individuals listed above providing salary, stipend, per diem, board fee, personal service fee, speaking fee, royalties, lecture fees, or compensation of any kind from 1990 to the present. In many cases the named persons are not specifically identified. The interrogatory is burdensome, overbroad, and not reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 9. Identify each legal person who Ahmad, Awad, Jaber Hooper, and/or any past or present CAIR officer, director, employee with more than six consecutive months service, or agent, is a “person associated,” as defined in these Interrogatories.

Original Answer/Objection: Objected to as vague. If interrogatory is intend to elicit identities of all CAIR employees' relatives, it is also objectionable on grounds of relevance and burdensomeness.

Basis of Motion to Compel: Unknown.

Plaintiff's Response to Motion to Compel: The plaintiff simply cannot understand this interrogatory or the explanation supporting his motion to compel.

INTERROGATORY NO. 10: Has CAIR, Ahman, Awad, Jaber, Hooper, and/or any past or present CAIR officer, director, or agent solicited, requested encouraged, advertised for, or facilitated donations or contributions, from 1990 to the present, to, for, or on behalf of, any of the following: (a) Named Persons, (b) Al-Awda, (c) Arab Muslim American Federation, (d) American Muslims for Jerusalem, (e) Canada-Palestine Association, (f) International Solidarity Movement, (g) International ANSWER, (h) CAIR-PAC, (i) Right of Return Congress, (j) Al-Qalam Institute, (k) Arab Cause Solidarity Committee, (l) Islamic Political Party of America, (m) Ramzi Yousef, a.k.a. Abdul Basit Karim, (n) El Saylid Nosair, (o) Emad Salem, (p) Mohammed Salameh, (q) Musab Yasin, (r) Abdul Rahman Yasini, (s) Nidal Ayyad, (t) Mahmud Abu Halima Eyyad Ismail, (u) persons with offices or operations in Suspect Territories, (v) Saudi Funding Sources, (w) persons representative of, or affiliated with, Saudi NGOs, or (x) the Saudi Government? If so, identify the person for whom donations or contributions were requested.

Original Answer/Objection: Objection: overbroad, vague, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, as well as calling for proprietary information. Without waiving its objection, CAIR acknowledges mentioning diverse, domestic, and international relief organizations, such as the Red Cross, in press releases

following various tragedies and natural disasters, including the September 11, 2001 attacks. See also objection to Interrogatory No. 6.

Basis of Motion to Compel: The interrogatory seeks information about any CAIR efforts to raise money for Islamic fundamentalists, terrorists, or terrorists supporters.

Plaintiff's Response to Motion to Compel: Read in the context of the definitions accompanying the interrogatories, the interrogatory seeks not only information concerning CAIR solicitations, but also solicitations by third-party corporations over which CAIR has no legal control. The request is not limited in time, covering the last 15 years. The request is directed at "named persons," defined by Whitehead as including an indeterminate number of third parties..

The interrogatory is burdensome and not reasonably calculated to lead to admissible evidence.

INTERROGATORY NO. 11. Identify each donation or contribution made by CAIR, Ahmad, Awad, Jaber, Hooper, and/or any CAIR past or present officer, director, or agent, to any of the persons listed in Interrogatory 10.

Original Answer/Objection: CAIR has made no donations or contributions to any of the persons or entities listed in Interrogatory No. 10, *supra*. CAIR objects to itemizing donations and contributions made by the listed individuals on the grounds of relevance.

Basis of Motion to Compel: Whitehead claims the personal contributions and beliefs of what he calls CAIR's "control group" is relevant to determine CAIR's involvement in terrorism.

Plaintiff's Response to Motion to Compel: First, the interrogatory is not limited to the so-called control group, but includes every person who has ever been a member of CAIR or any

of its affiliate chapters since 1994. As such, the request is overbroad, burdensome and not reasonably calculated to lead to discoverable evidence. Second, this suit is brought by CAIR because of defamatory statements directed at CAIR, not at its present or former members. Payments to its present and former members are neither readily ascertainable, nor reasonably related to any issue in the case.

INTERROGATORY NO. 12. Identify the person(s) who directed that your legal counsel file the Motion for Judgment in this case.

Original Answer/Objection: Objection: attorney-client privilege and attorney work product doctrine; not reasonable calculated to lead to the discovery of admissible evidence.

Basis of Motion to Compel: Whitehead claims this suit might be part of a larger strategy to advance CAIR's "Islamic agenda."

Plaintiff's Response to Motion to Compel: CAIR is a legal entity that has a right to file a lawsuit for defamation. CAIR's decision to sue for defamation was a decision made in anticipation of litigation. The term "Islamic agenda" is as devoid of meaning as would be a reference to a Catholic, Protestant, Jewish, or Hindu agenda. Propagation of one's faith is both protected expression and free exercise of religion under the First Amendment is not grounds for overriding the attorney-client privilege or attorney work product doctrine.

INTERROGATORY NO. 14. Identify any person listed in Interrogatory 10 with whom CAIR, Ahmad, Awad, Japer, Hooper, and/or any past or present CAIR officer, director, or agent has had communications.

Original Answer/Objection: See response to Interrogatory No. 10.

Basis of Motion to Compel: Interrogatory relates to CAIR's alleged support of terrorists.

Plaintiff's Response to Motion to Compel: Whitehead states that the interrogatory concerns CAIR solicitations for terrorists, however, the interrogatory is not limited to communications concerning solicitations or communications with terrorists. This interrogatory would require CAIR to identify every CAIR "agent" over and a 11 year period and identify every "named person" with whom any CAIR agent has had communications at any time in the last 11 years, because Whitehead defines "named persons" as including a vast, unidentifiable array of persons.

See also response to Interrogatory No. 10, *supra*.

INTERROGATORY NO. 15. Identify all persons with whom CAIR, Awad, Jaber, Hooper, and/or past or present CAIR officer, director, or agent, has had communications with or relating to HLF from 1990 to the present.

Original Answer/Objection: CAIR has communicated with various members of the United States Senate concerning HLF. Pursuant to Virginia Supreme Court Rule 4:8(f), see Senate testimony **attached** hereto Bate No. 370 *et seq.*, previously supplied., and other documents being supplied. CAIR objects to further answer to this interrogatory on grounds of overbreath, subject to any narrowing of the interrogatory Defendant may provide.

Basis of Motion to Compel: Whitehead states the request is not vague or burdensome.

Plaintiff's Response to Motion to Compel: The request is certainly burdensome because it asks that CAIR identify any person in the world with whom any CAIR agent (including CAIR chapters) has had any communication relating to the HLF during the past 15 years.

INTERROGATORY NO. 16. Identify all persons with whom CAIR, Awad, Jaber, Hooper, and/or any past or present CAIR officer, director, or agent has had communications

relating to GRF from 1994 to the present.

Original Answer/Objection: CAIR has communicated with various member of the United States Senate concerning GRF. Pursuant to Virginia Supreme Court Rule 4:8(f), see senate testimony **attached** hereto Bate No. 370 *et seq.*, previously supplied., and other documents being supplied. CAIR objects to further answer to this interrogatory on grounds of overbreath, subject to any narrowing of the interrogatory Defendant may provide.

Basis of Motion to Compel: Whitehead states the request is not vague or burdensome.

Plaintiff's Response to Motion to Compel: The request is certainly burdensome because it asks that CAIR identify any person in the world with whom any CAIR agent (including CAIR chapters) has had any communication relating to the GRF during the past 11 years.

INTERROGATORY NO. 18. Identify all persons against whom CAIR has threatened legal action for any reason or purpose.

Original Answer/Objection: Objection: not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, CAIR sent a letter advising Andrew Whitehead that he would be sued if he persisted in publishing defamatory material about CAIR. CAIR also advised Frontpagemag.com of possible legal action concerning a doctored photograph it employed to illustrate an article authored by Mr. Whitehead.

Basis of Motion to Compel: Whitehead asserts that CAIR's use of legal process is consistent with the activities of a front group and may be part of a strategy to advance an Islamic agenda.

Plaintiff's Response to Motion to Compel: The interrogatory has been answered. Whitehead's assertion that threatening legal action is "consistent with the activities of a front

group” and “may be part of a strategy to advance an Islamic agenda” is, on its face, erroneous, groundless speculation. Legal action in any event is not a typical terrorist tactic. The interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 19. Does CAIR support the goals of Hamas, as set forth in the Hamas Charter?

Original Answer/Objection: Object on the grounds of vagueness. The goals CAIR does support are those of presenting the Islamic perspective on issues of importance to the American public and seeking to educate the Muslim community in America through fully transparent, conventional, political involvement at the grass roots level.

Basis of Motion to Compel: Whitehead provides alternative definitions of the term “support.”

Plaintiff’s Response to Motion to Compel: In the context of Whitehead’s defamatory statement, Whitehead’s use of the term “support” implied CAIR provided money, material, or manpower to terrorists. Whitehead is not being sued for what he says he thinks CAIR thinks. He is being sued for accusing CAIR of felonious activity. This interrogatory calls upon CAIR to comment on another organization’s stated goals as a corporate entity.

INTERROGATORY NO. 20. Does CAIR believe Christians and Jews in the United States should convert to Islam?

Original Answer/Objection: Plaintiff objects on grounds of vagueness and because a corporation is not capable of a belief.

Basis of Motion to Compel: CAIR’s web postings contain the phrase “CAIR believes. . . .”

Plaintiff's Response to Motion to Compel: Language used in press releases is not interchangeable with sworn interrogatory answers. Further, whether CAIR members believe that Christians and Jews should convert to Islam is not reasonably calculated to lead to evidence about whether CAIR supports terrorist or seeks to overthrow the government of the United States.

INTERROGATORY NO. 21. Does CAIR believe Israel has the right to exist as a Jewish state?

Original Answer/Objection: See response to Interrogatory No. 20.

Basis of Motion to Compel: See Interrogatory No. 20 above.

Plaintiff's Response to Motion to Compel: See Interrogatory No. 20 above.

INTERROGATORY NO. 22. Does CAIR believe societies and nations governed by Islamic law are peaceful?

Original Answer/Objection: See response to Interrogatory No. 20.

Basis of Motion to Compel: See Interrogatory No. 20 above.

Plaintiff's Response to Motion to Compel: See Interrogatory No. 20 above.

INTERROGATORY NO. 23. Identify each legal person for which Ahmad, Awad, Jaber, Hooper, and/or any present or former CAIR officer, director, or agent, is or was an officer director, employee, agent, or adviser.

Original Answer/Objection: Objected to on grounds of vagueness and because not reasonably calculated to lead to the discovery of admissible evidence.

Basis of Motion to Compel: Whitehead alleges that CAIR's "control group" historically has worked with and for terrorist supporters.

Plaintiff's Response to Motion to Compel: CAIR does not object to identifying the offices and board positions held by officers or directors of CAIR in 2003 and for several years prior. However, the interrogatory is overbroad because it seeks every corporate affiliation of every member at any time in the lifetime of any CAIR member. The interrogatory needs to be narrowed in scope and time.

INTERROGATORY NO. 24. Does CAIR support the statements made by the Islamic Association for Palestine on its website at www.iap.org/islamiccause.htm, attached as Exhibit 15, under the headings, "The Real Nature of the Conflict" and "Islam is the Solution."

Original Answer/Objection: Object on the grounds of vagueness. The goals CAIR does support are those of presenting the Islamic perspective on issues of importance to the American public and seeking to educate the Muslim community in America through fully transparent, conventional, political involvement at the grass roots level.

Basis of Motion to Compel: See Interrogatory No. 20 above.

Plaintiff's Response to Motion to Compel: See Interrogatory No. 20 above.

B. Objections to Request for Admissions

1. General Objections to Request for Admissions Based on Numerosity, Availability from Other Sources, and Definitions and Instructions.

Whitehead's Request for Admissions were prefaced by eight pages of definitions and instructions, the effect of which was to multiply the 327 numbered request for admissions manifold, greatly exceeding the numerosity limitations set forth in Virginia Supreme Court Rule 4:8(g). By way of example only, Definition No. 3 defines "CAIR" so as to include not only the Plaintiff but all of its present and past officers, directors, advisory board members, agents, attorneys, representatives, chapters, and chapter members, past and present. Because most

discovery requests mention CAIR, most discovery requests are directed to every CAIR and CAIR chapter agent of any kind over a 16 year period, even though the defamatory statements were stated in the present tense in July and August of 2003.

Definition No. 19 defines “named persons” as any of 22 organizations, and in some cases affiliates of organizations, most of which are located in foreign countries, many of which have several names, and which include anyone identified in some 14 documents authored by diverse third-parties having nothing whatever to do with CAIR, Mr. Whitehead, or the statements at issue in this litigation. Discovery related to Whitehead’s expansive list of “named persons” are not reasonably calculated to lead to evidence of whether CAIR was supporting terrorism or seeking to overthrow the government in 2003. CAIR therefore has objected to the eight pages of instructions and definitions that accompanied Whitehead’s discovery.

On or about January 26, 2005, the Defendant served 327 requests for admissions on the Plaintiff. On February 9, 2005, the Plaintiff filed a Motion for Protective Order protecting it from all 327 requests for admissions on grounds of burdensomeness arising from the sheer number, cumulative, and duplicative nature of the requests for admissions, and also objecting in addition to specific requests for admissions on substantive grounds.

The information sought *via* these requests are largely available from other sources that are more convenient, less burdensome and less expensive. Virginia Supreme Court Rule 4:1(c) empowers the Court to issue a protective order for good cause shown to protect the party or person from annoyance, embarrassment, oppression, or undue burden or expense , and the Court exercises that authority here. Specific objections are discussed below.

2. Objections to Specific Requests for Admissions.

Request Nos. 1 through 14. These requests call upon the plaintiff to verify the authenticity of documents authored by third parties. While the documents appear regular on their face, the plaintiff has no practical means of verifying their actual authenticity or accuracy. The burden of this authentication process should fall on the proponent of the materials, not the defendant. Through these requests, for example, Whitehead asks the plaintiff to authenticate pleadings from other cases to which CAIR was not a party. The appropriate means to authenticate public records is for the defendant to obtain certified copies of same from the custodian.

Request Nos. 15 through 21. These requests call upon CAIR to authenticate web postings by CAIR and independent CAIR chapters. CAIR will conduct reasonable inquiry to determine whether its own archived postings are retrievable and will make a good faith effort to answer requests relating to the authenticity of its own requests. CAIR should not be burdened with attempting to authenticate web postings by independent corporations in other states, even if they are CAIR chapters.

Request Nos. 22 through 25. These requests call upon CAIR to authenticate an unfamiliar web postings, the text of a *Washington Post* article, and the Hamas charter. CAIR has no way to authenticate these documents. CAIR also objects on grounds that these documents are not reasonably calculated to lead to the discovery of admissible evidence.

Request Nos. 26 and 27. See response to Request Nos. 15 through 27.

Request Nos. 28 through 39. See response to Request Nos. 1 through 27 above.

Plaintiff withdraws the objection to Request for Admission No. 39 and will respond to same

within 21 days.

Request No. 40. Objection withdrawn and will be answered within 21 days.

Request No. 41. Request No. 41 asks CAIR to admit the accuracy of the deposition transcript of Rafeeq Jaber taken in the case of *Bym v. Quranic Literacy Institute*. CAIR was not represented at that deposition and is therefore not in any position to admit or deny the accuracy of the transcript and therefore denies same.

Request No. 42. Request No. 42 asks CAIR to admit that Exhibit 42 is a complete and/or true copy of a newspaper article. CAIR objects on the grounds that the article is not reasonably calculated to lead to the discovery of admissible evidence and because it is without knowledge as to the accuracy of the printout and has no readily available means to determine accuracy.

Request No. 43. Asks CAIR to admit that Exhibit 43 is a complete and/or true copy of a web page posted by a third party. CAIR objects on the grounds that the request is not reasonably calculated to lead to the discovery of admissible evidence and also because CAIR is without knowledge as to the accuracy of the printout and has no readily available means to determine accuracy.

Request No. 44. Asks CAIR to admit that in or about 1994 CAIR was formed by Ahmad, Awad, and Jaber, among others. CAIR objected on grounds of relevance because the request sought information about CAIR fifteen years prior to the events at issue in the case. The issue in the case is whether Whitehead's statement that CAIR *is* a terrorist supporting front organization and/or *seeks* to overthrow the constitutional government in the United States were truthful statements in August and July respectively of 2003. As such the request seeks

information remote in time and is therefore not reasonably calculated to lead to the discovery of admissible evidence.

Request Nos. 45-46, 53-56, 15-18, 149-150, 154-155, 181-183, and 298. CAIR objected to all of these requests for admissions because they asked whether various individuals were “associated with” various organizations or other individuals. The term “associated with” is an elastic term not susceptible of any clear meaning, particularly given CAIR’s Definitions No. 22 and No. 23 defining “person associated with” as “any past or present . . . (a) spouse, (b) children, (c) siblings, (d) aunts and uncles, (e) grandparents, (f) first and second cousins, (g) in-laws, including former in-laws, to the level of first cousin, and/or “any past or present (a) officers, (b) director, (c) salaried employee, (d) subsidiary, (e) related company, investment organization, trust, or foundation, (f) contractor for more than two consecutive months, (g) advisory board member, (h) partner, (i) co-venturer, (j) lender, or (k) legal person with one or more directors, officers, or employees.

Request 47-48. This request asks whether other organizations supported, at some unstated time, the “destruction” of the State of Israel. These requests also employ the expansive defined term “persons associated with.” Plaintiff objects on grounds of relevance because not reasonably calculated to lead to the discovery of admissible evidence.

Request 49. Plaintiff objects because the request asks the Plaintiff to admit that Exhibit 37 contains certain text. Exhibit 37 speaks for itself.

Requests 50 through 52. Denied.

Requests 53 through 56. Plaintiff objects on the grounds of vagueness because the term “associated with” has no particular meaning.

Request 57. This request asks CAIR to admit that Hamas is responsible for the murder of innocent civilians. Objection, calls for legal conclusion. The issue in the case is whether CAIR supports terrorist organizations. Hamas has been designated as a terrorist organization by the State Department. Whether Hamas is responsible for murder is merely cumulative and turns on an interpretation of law in foreign jurisdictions. The defendant asserts that the request should be answered notwithstanding that it calls for a legal conclusion, citing Rule 4:11(a) (allowing for admissions as to application of law to fact). However, Rule 4:1(a)(3) holds that “the court shall protect against disclosure of mental impressions, conclusions, opinions, or legal theories of an attorney . . . concerning the litigation.” Accordingly, the request seeks privileged impressions of counsel.

Requests 59, 65, 81, 86, and 99. These requests ask the plaintiff to admit the text of various provisions of the Hamas charter. Plaintiff objects because the Hamas Charter speaks for itself, and the Plaintiff is not in possession of a current copy of the Hamas Charter. Plaintiff has no way to determine whether the copy provided by Mr. Whitehead, or available on the internet, is in fact an accurate copy. The burden on proving the authenticity of the Hamas Charter should rest with the proponent of the Charter.

Requests 60-64, 66-80, 82-85, 87-98, 100-103, 105-108, 119-120, 215, 226, 236, 247, 282, 283-288, 301-309, and 318-324. Plaintiff objects because these Requests for Admission, seeking the abstract beliefs of certain individuals, are not likely to lead to the discovery of admissible evidence, and because the Plaintiff has no way of divining the beliefs of others. Whitehead makes no response to CAIR’s objection that it has no way of divining the beliefs of others.

Requests 109 through 114. To be supplied, subject to Plaintiff's Motion for Protective Order. CAIR has agreed to respond to these requests, calling upon CAIR to admit that Ahmad, Awad, Hooper, and Jaber have had one or more communications with Marzook, provided the response is subject to a Protective Order restricting the response to Whitehead's counsel.

Request 122. See response to Request No. 109 through 114.

Requests 123 through 125. Plaintiff is unable to admit or deny within the time available, and therefore denies same, however, these requests will be supplemented subject to the terms of any protective order entered in this case.

Requests 126 and 127. Plaintiff is without sufficient information to admit or deny. Whether news media accounts reported the President and Secretary of Treasurer as making the statements alleged is not reasonably calculated to lead to the discovery of admissible evidence.

Request 129. Plaintiff is without sufficient information to admit or deny. Whether news media accounts reported the United States Department of Treasury made the statements alleged is not reasonably calculated to lead to the discovery of admissible evidence.

Request 130. Plaintiff objects on grounds of vagueness and because this request is not reasonably calculated to lead to the discovery of admissible evidence, because of the definition of "Saudi funding sources" provided by the defendant includes virtually unlimited numbers of persons. As worded, the request is impossible to answer. Further, the request is not limited and in time, and it calls upon CAIR to respond not only for itself but all employs of CAIR or any chapter thereof. See Whitehead's definition of CAIR, which includes not only past and present officers, but all "agents, attorneys . . . and . . . each and every 'chapter.'"

Requests 131 through 144. Subject to any protective order entered in this case, Plaintiff

will supplement. Neither CAIR itself, nor Ahmad, Awad, or Hooper have received donations or contributions from any of the indicated sources.

Request 145. Plaintiff objects on the grounds that this request is not reasonably calculated to lead to the discovery of admissible evidence, and because the term “Fundamentalist Islam” is vague.

Request 146. Plaintiff lacks the information or knowledge to provide an accurate response to this request within the time allowed, but, subject to any protective order entered in this case, Plaintiff will supplement this response subsequent to a ruling on its Motion for Protective Order.

Requests 147-148, 151-153, 156-158, 163-176, 180, 184-188, 193-196, 225, 227-230, 235, 237-242, 246, 248-277, 289-290, 293-297, 313-317, 325-326. Although timely general objections as to burdensomeness and numerosity were filed with respect to there requests, and although they were also the subject of a timely motion for protective order, particularized objections were inadvertently not timely filed, and counsel for the defendant has agreed to the filing of supplemental objections and responses to same, which objections and responses are being filed at this time.

Request 159. Plaintiff is without sufficient information and cannot reasonably obtain sufficient information to admit or deny this request.

Request 177. Plaintiff objects because Plaintiff is without any means to determine what other persons “desire.” CAIR does not contend that the word “desire” is vague. CAIR’s objection is based on the fact that it cannot tell what somebody desires.

Requests 178-179, 212-214, 223-224, 233-234, and 244-245. It is impossible for CAIR

to know with any certainty who its donors support and what causes they support. Regarding Request No. 214, CAIR is without knowledge as to Sadoun's communications with Marzook and therefore denies same.

Request 189-192, 197-211, and 243. Objected to as not reasonably calculated to lead to the discovery of admissible evidence.

Requests 221 and 222. Objected to as not reasonably calculated to lead to the discovery of admissible evidence.

Requests 231 and 232. Objected to on grounds of vagueness as to the word "affiliated with," which has not particular meaning.

Request 278. Objected to as calling for a legal conclusion. The defendant asserts that the request should be answered notwithstanding that it calls for a legal conclusion, citing Rule 4:11(a) (allowing for admissions as to application of law to fact). However, Rule 4:1(a)(3) holds that "the court shall protect against disclosure of mental impressions, conclusions, opinions, or legal theories of an attorney . . . concerning the litigation." The request seeks privileged information.

Request 279. Objected to as calling for a legal conclusion. The defendant asserts that the request should be answered notwithstanding that it calls for a legal conclusion, citing Rule 4:11(a) (allowing for admissions as to application of law to fact). However, Rule 4:1(a)(3) holds that "the court shall protect against disclosure of mental impressions, conclusions, opinions, or legal theories of an attorney . . . concerning the litigation." The request seeks privileged information.

Requests 283 through 288. Plaintiff objects because these Requests for Admission, seek

the abstract beliefs of certain individuals, and are not likely to lead to the discovery of admissible evidence. Plaintiff also objects on the grounds that the current definition "jihad" is a matter of opinion.

Requests 291 and 292. Objected to as not reasonably calculated to lead to the discovery of admissible evidence. Objected to because the memorandum speaks for itself.

Request 301 (second version) (1994 CAIR press release). Objected to on relevance grounds because inquires about events approximately a decade prior to suit.

C. Objections to Request for Production of Documents

Plaintiff incorporates by reference its previously filed objections to the defendant's Request for Production of Documents.

WHEREFORE, the Plaintiff moves this Court for a Protective Order restricting the scope of the defendant's discovery.

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS, INC.

By: _____

Of Counsel

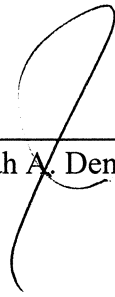
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CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of November 2005 a true copy of the foregoing document was mailed to:

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