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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AL-HARAMAIN ISLAMIC FOUNDATION, INC., an Oregon Nonprofit Corporation, WENDELL BELEW, a U.S. Citizen and Attorney at Law, and ASIM GHAFOOR, a U.S. Citizen and Attorney at Law, Plaintiffs, vs. GEORGE W. BUSH, President of the United States; NATIONAL SECURITY AGENCY and KEITH B. ALEXANDER, its Director; OFFICE OF FOREIGN ASSETS CONTROL, an office of the United States Treasury and ROBERT W. WERNER, its Director; FEDERAL BUREAU OF INVESTIGATION and ROBERT S. MUELLER III, its Director, Defendants.	CV '06 274 MO No. _____ COMPLAINT (Violations of Foreign Intelligence Surveillance Act, Separation of Powers, Fourth Amendment, First Amendment, Sixth Amendment, and International Covenant on Civil and Political Rights)

INTRODUCTION

1. This is an action for injunctive relief and for damages seeking an order that would require defendants and their agents to halt an illegal and unconstitutional program of electronic surveillance of United States citizens and entities. This action also seeks to enjoin the use of

evidence obtained through this surveillance in the proceeding in which defendant Office of Foreign Assets Control has designated plaintiff Al-Haramain Islamic Foundation, Inc. ("Al-Haramain Oregon"), as a terrorist organization.

2. Defendants have engaged in electronic surveillance of plaintiffs without court orders, which surveillance is contrary to clear statutory mandates provided in the Foreign Intelligence Surveillance Act, 50 U.S.C. § 1801-62 ("FISA"), and to provisions of the United States Constitution as well as a treaty entered into thereunder.

3. Defendants have used illegal surveillance to harm plaintiffs in manners set forth more specifically in the body of this Complaint.

PARTIES

4. Plaintiff Al-Haramain Oregon is an Oregon nonprofit corporation whose headquarters were established in Ashland, Oregon. Plaintiff currently owns real property in Ashland, Oregon, and in Springfield, Missouri.

5. Plaintiff Wendell Belew is a citizen of the United States and an attorney at law who has had business and other relationships with plaintiff Al-Haramain Oregon.

6. Plaintiff Asim Ghafoor is a citizen of the United States and an attorney at law who has had business and other relationships with plaintiff Al-Haramain Oregon.

7. Defendant George W. Bush is President of the United States.

8. Defendant National Security Agency is an agency of the United States.

9. Defendant Keith B. Alexander is Director of defendant National Security Agency.

10. Defendant Office of Foreign Assets Control is an office of the Department of the Treasury of the United States.

11. Defendant Robert W. Werner is Director of the Office of Foreign Assts Control.

12. Defendant Federal Bureau of Investigation is a federal police and intelligence agency.

13. Defendant Robert S. Mueller III is Director of the Federal Bureau of Investigation.

JURISDICTION AND VENUE

14. This court has jurisdiction under 28 U.S.C. § 1331.

15. The United States District Court for the District of Oregon is a proper venue of this action insofar as one of the plaintiffs is an Oregon corporation that owns real property in this jurisdiction. In addition, defendants' actions caused harm in this District.

STATEMENT OF FACTS

16. In February 2004, defendant Office of Foreign Assets Control froze the assets of plaintiff Al-Haramain Oregon pending an investigation into whether that plaintiff was engaged in activities related to terrorism.

17. At the time of the freezing of the assets, plaintiff Al-Haramain Oregon was affiliated with and supported by Al-Haramain Islamic Foundation (hereafter "Al-Haramain Saudi Arabia"), a charity located in, and controlled by individuals residing in, Saudi Arabia.

18. On information and belief, the decision to freeze plaintiff Al-Haramain Oregon's assets was based upon warrantless electronic surveillance of communications between a director or directors of Al-Haramain Oregon and plaintiffs Belew and Ghafoor.

19. In March and April, 2004, defendant National Security Agency targeted, and engaged in electronic surveillance of communications between, a director or directors of plaintiff Al-Haramain Oregon and plaintiffs Belew and Ghafoor. Defendant National Security Agency did not obtain a court order authorizing such electronic surveillance nor did it otherwise follow the procedures mandated by FISA.

20. In May 2004, defendant National Security Agency turned over to defendant United States Treasury Office of Foreign Assets Control logs of the conversations specified in the preceding paragraph.

21. Defendant Office of Foreign Assets Control relied upon the logs obtained without a warrant in designating plaintiff Al-Haramain Oregon as a "specially designated global terrorist" in September 2004. Al-Haramain Saudi Arabia was not and has never been designated as a terrorist organization.

22. Designation of plaintiff Al-Haramain Oregon as a "specially designated global terrorist" has resulted in severe financial hardship and other harms being visited upon plaintiff.

23. Al-Haramain Saudi Arabia was dissolved by order of the Kingdom of Saudi Arabia in the winter or spring of 2004 and has not carried out activities since that date.

24. As a result of defendants' actions, plaintiff Al-Haramain Oregon has been irreparably damaged insofar as its assets have been frozen, preventing it from engaging in the charitable and humanitarian efforts for which it was organized.

25. As a result of defendants' actions, plaintiffs Belew and Ghafoor have been irreparably damaged insofar as their abilities to represent their clients have been hindered and interfered with, and have been chilled, by defendants' illegal and unconstitutional actions.

FIRST CLAIM FOR RELIEF

(Foreign Intelligence Surveillance Act)

26. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

27. Defendants' engagement in electronic surveillance to monitor conversations between and among plaintiffs as targeted persons without obtaining prior court authorization, and defendants' subsequent use of the information obtained against plaintiffs, is in violation of

the civil and criminal provisions of FISA. As a result, all evidence obtained by this illegal surveillance must be suppressed pursuant to 50 USC § 1806(g). Further, plaintiffs are entitled to liquidated and punitive damages pursuant to 50 USC § 1810.

SECOND CLAIM FOR RELIEF

(Separation of Powers)

28. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

29. By carrying out their program of unlawful warrantless surveillance, defendants have acted in excess of the President's Article II authority (i) by failing to take care to execute the laws, and instead have violated those laws, (ii) by acting in contravention of clear statutory dictates in an area in which Congress has Article I authority to regulate, and (iii) by engaging in the conduct described above where Congress has specifically prohibited the President and other defendants from engaging in such conduct.

THIRD CLAIM FOR RELIEF

(Fourth Amendment Violations)

30. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

31. Defendants have carried out unreasonable surveillance of plaintiffs' private telephone, email, and other electronic communications without probable cause or warrants in violation of the Fourth Amendment to the United States Constitution.

FOURTH CLAIM FOR RELIEF

(First Amendment Violations)

32. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

33. Defendants, by carrying out and/or asserting the right to carry out their program of unlawful warrantless surveillance, have impaired plaintiff Al-Haramain Oregon's ability to obtain legal advice, to join together for the purpose of legal and religious activity, to freely form attorney-client relationships, and to petition the government of the United States for redress of grievances, all of which are modes of expression and association protected under the First Amendment of the United States Constitution.

FIFTH CLAIM FOR RELIEF

(Sixth Amendment Violations)

34. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

35. Defendants have impaired plaintiffs' ability to obtain and provide legal advice by carrying out unreasonable surveillance of plaintiffs' private telephone, email, and other electronic communications without probable cause or warrants in violation of the Sixth Amendment to the United States Constitution.

SIXTH CLAIM FOR RELIEF

(Violation of International Covenant on Civil and Political Rights)

36. Plaintiffs incorporate by reference each and every allegation in the preceding paragraphs as if set forth fully herein.

37. On June 25, 2002, the United States Congress ratified the International Convention for the Suppression of the Financing of Terrorism ("Convention"). Article 17 of the

Convention requires the United States to comply with international human rights law in "any measures" taken pursuant to the Convention. One of the measures pursuant to the Convention is the International Covenant on Civil and Political Rights ("International Covenant") which guarantees the right to privacy. Article 17 of the International Covenant provides:

> 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
>
> 2. Everyone has the right to the protection of the law against such interference or attacks.

PRAYER FOR RELIEF

Plaintiffs respectfully request that the Court:

1. Declare that defendants' warrantless surveillance of plaintiffs is unlawful and unconstitutional, and enjoin any such warrantless surveillance;

2. Order defendants to disclose to plaintiffs all unlawful surveillance of plaintiffs' communications carried out pursuant to the illegal program;

3. Order defendants to turn over to plaintiffs all information and records in their possession relating to plaintiffs that were acquired through the warrantless surveillance program or were the fruit of surveillance under the program, and subsequently destroy and make no further use of any such information and records in defendants' possession;

4. Order defendant Office of Foreign Assets Control to purge all information acquired from such program from its files, as well as all fruits of such information and make no further use of any such information;

5. Award plaintiffs individually liquidated damages of $1,000 or $100 per day for each violation as specified in the Foreign Intelligence Surveillance Act;

6. Award plaintiffs individually punitive damages of $1,000,000;

7. Award costs, including an award of attorneys' fees under the Foreign Intelligence Surveillance Act;

8. Award costs, including an award of attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A);

9. Award such other relief as the Court may deem just and proper.

DATED: February 28, 2006

Respectfully submitted,

Steven Goldberg by THN
Steven Goldberg, OSB 75134

Thomas H. Nelson, OSB 78315
Zaha S. Hassan, OSB 97032