

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| MARK I. SOKOLOW, <i>et al.</i> | : | |
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| Plaintiffs, | : | |
| | : | 04 Civ. 397 (GBD) (RLE) |
| v. | : | |
| | : | ECF Case |
| PALESTINE LIBERATION | : | |
| ORGANIZATION, <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |
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STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA

The United States submits this Statement of Interest, pursuant to 28 U.S.C. § 517,¹ to apprise the Court of its interests as they relate to the Rule 62 Motion to Stay Execution of the Judgment and to Waive the Bond Requirement (ECF No. 897) filed by defendants Palestinian Authority and Palestine Liberation Organization.

In deciding whether to stay execution of a judgment without a supersedeas bond or to reduce the bond amount, courts may consider a number of factors, including the public interest. *See In re Nassau Cnty. Strip Search Cases*, 783 F.3d 414, 417-18 (2d Cir. 2015) (providing a list of “non-exclusive factors that a district court may consider” in assessing a Rule 62 motion); *Morgan Guar. Trust Co. v. Republic of Palau*, 702 F. Supp. 60, 65-66 (S.D.N.Y. 1988) (considering the public interest in ruling on a Rule 62 motion). This Statement of Interest, including the attached declaration from Deputy Secretary of State Antony J. Blinken addresses critical national security and foreign policy interests of the United States that should be considered as the Court determines whether to impose

¹ 28 U.S.C. § 517 provides that: “The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”

a bond requirement in this case and, if so, in what amount. The United States strongly supports the rights of victims of terrorism to vindicate their interests in federal court and to receive just compensation for their injuries. *See* 18 U.S.C. § 2333 (providing U.S. national victims of international terrorism with a cause of action, with treble damages and attorney fees, against terrorists and those who actively support terrorism that harms Americans abroad); Attached Declaration of Deputy Secretary of State Antony J. Blinken ¶¶ 3-6, 12 (Aug. 10, 2015); *see also, e.g., Brabson v. The Friendship House of West. New York, Inc.*, 2000 WL 1335745, at *2 (W.D.N.Y. Sept. 6, 2000); *Harris v. Butler*, 961 F. Supp. 61, 63 (S.D.N.Y. 1997). At the same time, the declaration notes that the United States has significant concerns about the harms that could arise if the Court were to impose a bond that severely compromised the Palestinian Authority's ("PA") ability to operate as a governmental authority. *See* Attached Declaration of Deputy Secretary of State Antony J. Blinken ¶¶ 7-11; *see, e.g., Morgan Guar.*, 702 F. Supp. at 66; *Teachers Ins. & Annuity Ass'n v. Ormesa Geothermal*, 1991 WL 254573, at *4 (S.D.N.Y. Nov. 21, 1991).

The United States respectfully urges the Court to take into account these factors as it considers the evidence regarding the PA's financial situation. The Court and the parties made clear at the July 28, 2015 hearing that they are aware of the issues regarding the PA's financial stability, and the need to have some mechanism for plaintiffs to secure payment if the Court's judgment is affirmed.

The United States does not herein express a view on the ultimate merits of defendants' Rule 62 motion (or any other issue in the case). The United States files this Statement of Interest solely to inform the Court of its interests as the Court considers where the public interest lies in ruling on defendants' Rule 62 motion.

Respectfully submitted this 10th day of August, 2015.

/s/ Kathleen R. Hartnett
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CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Kathleen R. Hartnett
KATHLEEN R. HARTNETT

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARK I. SOKOLOW, *et al.*

Plaintiffs

v.

PALESTINE LIBERATION
ORGANIZATION, *et al.*,

Defendants.

Civil Action No.

1: 04 Civ. 397 (GBD) (RLE)

DECLARATION OF ANTONY J. BLINKEN

I, Antony J. Blinken, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am the Deputy Secretary of State. I make this declaration based on my personal knowledge and on information I have received in my official capacity. I have served as Deputy Secretary of State since January 9, 2015. In my capacity as Deputy Secretary of State, I serve as principal adviser to the Secretary of State and assist the Secretary in the formulation and conduct of U.S. foreign policy and in giving general supervision and direction to all elements of the Department.

2. This declaration addresses critical national security and foreign policy interests of the United States that should be considered as the Court determines whether to impose a bond requirement in this case and, if so, in what amount. It does not address the judgment on the merits that was entered in favor of the plaintiffs or any issues that may be raised by the parties on appeal. As detailed below, the United States strongly supports the rights of victims of terrorism to vindicate their interests in federal court and to receive just compensation for their injuries. At the same time, the United States has significant concerns about the harms that could arise if the Court were to impose a bond that severely compromised the Palestinian Authority's ("PA") ability to operate as a governmental authority.

U.S. Commitment to Victims of Terrorism

3. The United States strongly supports U.S. victims' efforts to seek and receive just compensation from the terrorists and sponsors of terrorism responsible for attacks that kill and injure Americans abroad. In enacting the Antiterrorism Act ("ATA"), 18 U.S.C. § 2333, Congress provided U.S. citizen victims of international terrorism with a cause of action against terrorists and those who actively support terrorism that harms Americans outside of the United States.

4. The ATA promotes the public interest in providing just compensation to terrorism victims, and limiting recovery without due cause would undermine a central purpose of the law. While no amount of money can truly compensate terrorism victims for what they have suffered, obtaining financial recompense for terrorism victims in civil litigation is part of the process of achieving justice.

5. The ability of victims to recover under the ATA also advances U.S. national security interests. The law reflects our nation's compelling interest in combatting and deterring terrorism at every level, including by eliminating sources of terrorist funding and holding sponsors of terrorism accountable for their actions. Imposing civil liability on those who commit or sponsor acts of terrorism is an important means of deterring and defeating terrorist activity. Further, compensation of victims at the expense of those who have committed or supported terrorist acts contributes to U.S. efforts to disrupt the financing of terrorism and to impede the flow of funds or other support to terrorist activity.

6. The United States is also committed to using a variety of law enforcement tools to bring those who have engaged in acts of terror to justice. The cooperation of victims of terror is crucial to U.S. efforts to prosecute perpetrators of terror, particularly in cases of international terrorism. Their cooperation with the United States in these matters often comes at substantial personal cost, financial and otherwise. These burdens may be ameliorated to some extent through mechanisms like the ATA, easing the burden of cooperation and thereby enhancing the law enforcement interests of the United States.

U.S. Foreign Policy and National Security Interests in Continued PA Governance

7. On the limited issue of setting a bond amount in this case, the United States respectfully urges the Court to carefully consider the impact of its decision on the continued viability of the PA in light of the evidence about its financial situation. In furtherance of U.S. foreign policy interests, the United States has provided billions of dollars in assistance to strengthen Palestinian institutions, promote security in the West Bank, expand Palestinian economic growth and help create the conditions for peace. An event that deprives the PA of a significant portion of its revenues would likely severely compromise the PA's ability to operate as a governmental authority. As I explain below, the collapse of the PA would undermine several decades of U.S. foreign policy and add a new destabilizing factor to the region, compromising national security. Senior U.S. officials have made clear to other governments that if the PA were to collapse, we would be faced with a crisis that would not only impact the security of Israelis and Palestinians, but would potentially have ripple effects elsewhere in the region.

8. Impact on Efforts to Achieve Peace: A PA insolvency and collapse would harm current and future U.S.-led efforts to achieve a two-state solution to the Israeli-Palestinian conflict. If the PA were to collapse, the Palestinian leadership would find itself without an institutional vehicle with which to govern, maintain order, and provide basic services for the Palestinian people in the West Bank. The current Palestinian leadership would likely find its legitimacy and authority undermined. The vacuum in governance and security could be filled by violent Palestinian groups that seek Israel's destruction and reject the goal of a two-state solution. The instability and violence that would result from the loss of the PA's governing authority would likely fuel anger and frustration, and could lead to widespread violence in the West Bank. In such a political environment, it would be extremely difficult for any Palestinian leader to marshal domestic political support to enter into and sustain peace negotiations.

9. Impact on Stability and Security in the Region: The PA and Israel currently have mechanisms and channels for security coordination, helping to maintain security for Palestinians and Israelis living in the West Bank, and identifying and thwarting potential terrorist attacks in Israel. The collapse of the PA would break this channel of coordination. Economic insecurity and instability in the West Bank also risks seeping into neighboring Jordan, a country with a

significant Palestinian refugee population and its own acute economic and social problems, compounded by the Syrian refugee crisis and the international effort to counter the Islamic State. The combination of a security vacuum, economic downturn, unemployment, and social frustration could create a dangerous atmosphere that could make the West Bank fertile ground for terrorist and extremist recruitment. At a time when the United States is leading international efforts to counter extremism and degrade and defeat the Islamic State, the collapse of the PA could potentially create a new vulnerability for terrorists to exploit. A worsening of the security situation in the West Bank could also have negative implications for the security situation of neighboring Israel, Jordan, and Egypt—key U.S. allies in the Middle East.

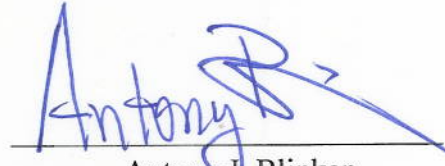
10. Humanitarian Crisis: The PA is in the midst of a deteriorating economic and political environment, generating a slow-onset humanitarian crisis in the West Bank that threatens to unravel the economic, security, and humanitarian gains of the past ten years. In Gaza, where the situation is far more dire, a worsening economic situation could be exploited by Hamas to create an atmosphere for violent conflict. Further, the collapse or near-collapse of the PA would plunge the Palestinian economy into a deep recession including a sudden dramatic increase in the already high unemployment rate, and failure of critical social services.

11. In sum, the continued viability of the PA is essential to key U.S. security and diplomatic interests, including advancing peace between Israel and the Palestinians, supporting the security of U.S. allies such as Israel, Jordan, and Egypt, combatting extremism and terrorism, and promoting good governance. In furtherance of U.S. foreign policy interests, the United States has provided billions of dollars in assistance to strengthen Palestinian institutions, promote security in the West Bank, expand Palestinian economic growth and help create the conditions for peace.

12. In making this declaration, I would like to stress that the Department of State shares in the grief and outrage over all terrorist attacks, including the grievous injuries and losses suffered by the American victims of the attacks at the heart of this case. Indeed, as discussed above, I believe it is in our national security interest to support fair compensation for American victims of terrorism from those responsible for their losses.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: August 10, 2015



Antony J. Blinken