

****Supplemental Testimony****

Of

Nihad Awad

Before the

**Senate Subcommittee on Terrorism, Technology and Homeland
Security**

"Terrorism: Two Years After 9/11, Connecting the Dots"

"American Muslim Community under Siege"

September 17, 2003

Executive Summary

In light of the testimony from Senator Kyl's subcommittee hearing entitled, "Connecting the Dots: Two Years After 9/11," on behalf of the Council on American-Islamic Relations (CAIR) and the American Muslim community, we feel obligated to supplement my previous testimony with additional information.

First of all, it was disheartening to learn that the committee failed to mention why we was unable to attend the hearing on the eve of the September 11 anniversary. The reason that we were unable to attend, and we clearly stated in our submitted testimony, was that CAIR was the organizing sponsor of a multi-group, interfaith September 11 memorial that was held at the Capitol reflecting pool that same day. We feel that Senator Kyl's unintentional oversight in mentioning that fact may have led others to believe that CAIR was somehow reluctant to attend the hearing.

We would also like to state that we believe that this hearing was manipulated by special interest forces who seek to disenfranchise the American Muslim community in order to further their own political agendas. In their attempt at disenfranchisement, they have attacked CAIR because it is the nation's leading American Muslim advocacy group.

Again at the heart of this testimony, are allegations made by Mr. Matthew Epstein of the Investigative Project. The Investigative Project is headed up by noted Islamophobe Steven Emerson, who we have cited in our previous testimony as being the source of most of the allegations against CAIR in Mr. Epstein's testimony.

We will show that Mr. Epstein's relies solely on "guilt by association" and never pointed to any criminal wrongdoing by CAIR. We will offer a rebuttal to each accusation made in his testimony and show that these are baseless and malicious claims made against CAIR in an attempt to alienate the American Muslim community from our neighbors.

CAIR is a mainstream and respected organization. Since our incorporation in 1994, there is no evidence to prove that CAIR fosters extreme or radical views. CAIR's record since our creation is well documented and respected within national and international political and media outlets.

The safety of all Americans is of paramount importance to CAIR and the American Muslim community. Recently, the Federal Bureau of Investigations commended the Florida chapter of CAIR for our cooperation in the search for a potential terrorist suspect.

Although CAIR has more than adequately addressed these frivolous claims throughout the years, the truth does not seem to matter to Mr. Epstein or others who have attacked American Muslim organizations. Their apparent goal is to alienate an entire community to strengthen their political muscle.

When considering those who seek to prevent American Muslims from becoming a piece of America's social fabric, we are reminded of United States Army Chief Counsel Joseph Welch's declaration to Senator Joseph McCarthy during the latter's infamous senatorial hearings:

"Until this moment, Senator, I think I never really gauged your cruelty or your recklessness...Have you no sense of decency sir, at long last? Have you left no sense of decency?"

1. "...CAIR was a creation of the Hamas group in the United States..."⁷³

This is a lie. CAIR is an independent nonprofit 501(c) (4) organization that was created to empower American Muslims in the social, civic and political arenas. Islamophobes use innuendo and "guilt by association" to paint a misleading picture of many American Muslim organizations. There is no evidence offered to substantiate a *prima facie* defamatory statement such as this one.

2. "...Several CAIR officers and employees have been recently indicted on terrorism-related charges..."⁷⁴

To begin with, we would like to make it absolutely clear that, as Americans, we believe that anyone who is found guilty of committing a crime, especially one in the furtherance of terrorist motives, should be punished to the fullest extent of the law. Further, as an American institution, CAIR would never compromise its principles, both American and Islamic, in the furtherance or assistance of any illegal criminal endeavors.

For purposes of this testimony, we offer some historical and legal context to the charges by the witnesses that "...CAIR officers or employees have been recently indicted on terrorism-related charges."⁷⁵ Although these accusations are not true; let it be known that if any person is found guilty of actual "terrorism" related charges, CAIR categorically condemns their illegal actions and disavows any prior relationship to them.

We will address the issues raised in the testimony relating to those people mentioned in Mr. Epstein's testimony who have, at some point in the past, had any association with our national organization. CAIR would like to point out again that our organization has never been an involved party to any of these (or any other) criminal acts relating to "terrorism."

⁷³ Testimony of Matthew Epstein before the United States Senate Judiciary Committee: Subcommittee on Terrorism, Technology and Homeland Security, "Saudi Support for Islamic Extremism in the United States," September 10, 2003 at 3.

⁷⁴ *Id.*

⁷⁵ *Id.*

Bassem Khafagi- The major point of clarification in this accusation is that Dr. Khafagi was never an "employee" of CAIR. He was commissioned as an independent contractor for CAIR, effective November 2, 2001⁷⁶.

According to the Associated Press article announcing his plea, federal officials stated that he was charged with writing bad checks in February and June of 2001⁷⁷, before any sort of relationship with CAIR commenced and without any foreknowledge on CAIR's part of any criminal wrongdoing on his part. He had worked for several organizations before doing consultative work with CAIR. According to federal officials, on September 10, 2003, Bassem Khafagi pleaded guilty to charges of bank and visa fraud.⁷⁸ Both of these charges are criminal offenses and not "terrorist" in nature. Surely, if there had been strong evidence of "terrorist" activities, the Justice Department should have vigorously pursued those avenues and not allowed him to plead guilty to lesser and non-terrorism related charges.

As is well known in employment law, an employer is never legally responsible for the acts of an independent contractor and also is not responsible for the actions of an employee outside the scope of his employment. Since Dr. Khafagi did not plead guilty to a "terrorist related" offense, any association of this case to CAIR's activities is both refuted by legal precedent and common sense.

Ismail Royer- Ismail Royer was a former employee of CAIR, other Muslim activist organizations, as well as being a former employee of Starbucks Coffee. He has recently been indicted for violating the seldom-used Neutrality Act of 1794, which makes it unlawful to, "... [to] take part in, any military ...enterprise to be carried on...against the territory or...of any foreign...state ...[with] whom the United States is at peace..."⁷⁹ According to the statute, anyone found guilty of violating the Neutrality Act will be "...fined under this title or imprisoned not more than three years..."⁸⁰

Royer has been indicted because of his links to Lashkar-e-Taiba (hereinafter "LET"), a Kashmiri separatist group designated as a "foreign terrorist organization" pursuant to §219 of the Immigration and Neutrality Act on December 24, 2001.

Although Royer is not being directly charged of "terrorist" activities, Royer's indictment has no connection to CAIR, its mission or its work. CAIR also had no knowledge of any illegal activity and asks for appropriate penalties if found guilty at trial of criminal misconduct.

⁷⁶ Independent contractor "Services Agreement" between Bassem Khafagi and CAIR, dated November 2, 2001. CAIR can provide documentation of this agreement and all subsequent agreements relating to the time of association between Dr. Khafagi and CAIR.

⁷⁷ Associated Press Newswires, September 10, 2003.

⁷⁸ *Id.*

⁷⁹ 18 USC 960

⁸⁰ *Id.*

Ghasan Elashi- Mr. Elashi was never any employee or officer of our corporation. The fact that he was once associated with one of our almost twenty regional chapters has no legal significance to our corporation.

3. "...CAIR has received support from, and lent support to, Hamas financial conduits in the US..."⁸¹

This is a lie. As common practice, CAIR has never donated money to other organizations, let alone to proven "Hamas financial conduits." Aside from duplicitous conjecture, we challenge anyone to bring forth any concrete evidence to substantiate such a spurious claim.

Although the rule of law in our country states that all Americans are presumed innocent until proven guilty, these malicious accusations seek to implicate us in the court of public opinion.

4. "...In 1994, CAIR was founded by two officials from the Islamic Association of Palestine (IAP, a primary U.S. based support organization for Hamas..."⁸²

The Islamic Association of Palestine (IAP) is a grassroots organization which continues to function legally and has only been "linked" through allusion and no charge of criminality has been brought against the organization.

The witnesses also fail to give any chronological context to any of their statements. Hamas was started in 1987 and it was not until January 24, 1995,⁸³ almost eight years later, that it was designated as a terrorist organization, pursuant to Executive Order 12,497.⁸⁴

You will never find a CAIR statement supporting Hamas after the commencement of suicide bombings and United States government's designation of them as a foreign terrorist organization on January 24, 1995.

In fact, what you will find are dozens of condemnations made by CAIR condemning suicide bombings by Hamas and other acts of terrorism. For example, after the heinous Passover massacre on March 20, 2002, CAIR immediately issued a press release entitled "CAIR condemns attacks on civilians" which emphasized that,

⁸¹ *Supra* note 73.

⁸² *Supra* note 73 at 10.

⁸³ Steven Greenhouse, *U.S. Hints at Better Ties if Syria Signs Peace Pact With Israel*, The New York Times, Oct. 25, 1994, at A8. The other eleven groups were Palestinian Islamic Jihad, Hezbollah, Abu Nidal Organization, Democratic Front for the Liberation of Palestine, Islamic Gama'at, [Ar: which one?] Jihad, Kach, Kahane Chai, Palestine Liberation Front--Abu Abbas faction, Popular Front for the Liberation of Palestine, and Popular Front for the Liberation of Palestine--General Command.

⁸⁴ *Id.*

"...This attack is of particular concern coming as it did during a religious observance in which the focus is remembrance of God."⁸⁵

More recently, what you will find is more categorical condemnations, including the recent bombing and assassination of Shi'ite cleric Ayatollah Mohammed Baqir al-Hakim. In the statement, CAIR said in unequivocal terms: "This unspeakable crime could only have been perpetrated by those who have no regard for moral or religious values."⁸⁶

Yet another example is a CAIR release from December 2, 2001, where CAIR condemned bomb attacks on civilians in Jerusalem and Haifa that killed at least 25 people and left more than 200 wounded. In its statement on the bombings, CAIR said: "We condemn in this weekend's attacks on innocent civilians in Jerusalem and Haifa. No cause, however legitimate, is ever advanced by killing civilians. Attacks on civilians violate Islamic guidelines..."⁸⁷

Again, the truth seems to escape the likes of Mr. Epstein and those who use preposterous allegations to further their own political agendas.

5. "...CAIR received a \$5000 initial disbursement from HLF in 1994..."⁸⁸

This statement is a variation of a claim made by Investigative Project executive director Steven Emerson that CAIR received "...seed money from Holy Land Foundation..."⁸⁹

CAIR is a nonprofit, grassroots organization. Our only source of income is through donations and the amount in question was a donation like any other. HLF was not indicted for any criminal activity at the time of its donation in 1994 and its assets were frozen by the Justice Department seven years later in December 2001.

We can only posit that Mr. Epstein seeks to imply yet another mysterious "terrorist" connection with this relatively small donation seven years before any wrongdoing was attributed to Holy Land Foundation. Mr. Epstein must also think that United States District Judge Gladys Kessler backs terrorism when she said in an April 23, 2002 *Washington Post* article about the Holy Land Foundation case: "It seems the government's approach [to the Holy Land case] is too simplistic" and that the case raised "significant and distressing allegations" about government actions in its war on terror.

⁸⁵ CAIR Press Release, "CAIR condemns attacks on civilians," March 28, 2002. See also Testimony of Nihad Awad before the Senate Judiciary Committee Subcommittee on Terrorism, Technology and Homeland Security, "Connecting the Dots: Two Years After 9/11," September 10, 2003 at Appendix F.

⁸⁶ CAIR Press Release, "CAIR condemns Najaf bombing," August 30, 2003

⁸⁷ CAIR Press Release, "CAIR condemns bombings in Jerusalem and Haifa," December 2, 2001.

⁸⁸ *Supra* note 73 at 12.

⁸⁹ *Supra* note 70.

As Americans, all that we ask for is due process and evidentiary proceedings for all Americans, even Muslims, to rebut the "presumption of innocence" hallmark that our legal system is solidly based.

It is ridiculous to think that CAIR can be liable for a relatively marginal donation nine years ago when there was no criminal charge pending against the donor in question.

6. "...In a March 1994 speech at Barry University, future CAIR Executive Director Nihad Awad announced '...after I researched the situation inside and outside Palestine, I am in support of the Hamas movement....'"¹⁵²⁹⁰

Like most of the other accusations made against CAIR, no historical or political context was given to this accusation.

Not only was CAIR not formed as an organization at the time the statement was made in 1994, but Hamas was not designated as a "terrorist organization" at that time either.

Even by Mr. Epstein's own account in his testimony, this statement in March 1994 should be given little political weight. As mentioned earlier, Hamas was designated a "foreign terrorist organization" on January 24, 1995. As Mr. Epstein states in one of his accusations, Hamas did not commit their first wave of suicide bombings until October 1994.⁹¹ Since the Barry University statements were made in March 1994, they were made both before any "terrorist" designation or campaign of suicide bombings began.

Only if CAIR voiced support for them after that date could any support for the group be deemed to possibly be "support for terrorism." Any other conclusions are sophomoric and malicious in nature.

7. "...On FBI wiretaps recorded in 1993, future CAIR board chairman Omar Ahmad is overheard professing his support of Hamas: 'Another member [Ahmed] said we (the Union [IAP]) can't, as an American organization say we represent Samah (pronouncing Hamas from the rear to the front). Can we go to the Congressman and tell him, I am Omar Yehva [Ahmed], Chairman of the Union [IAP], Yassir Arafat doesn't represent me, but Ahmad Yasin does?'"⁹²

⁹⁰ *Supra* note 73 at 12.

⁹¹ *Id.* at 5. "...was asked his views on Hamas less than four weeks after the group took responsibility for a suicide bus bombing (emphasis added)..." Epstein is quoting a *60 Minutes* interview which aired on November 13, 1994, which means that he is saying that Hamas first claimed responsibility for a suicide bombing around October 1994. The statements at Barry University were made in March 1994, thus before any designation as a "terrorist organization" and the commencement of suicide bombings.

⁹² *Id.*

As usual, Mr. Epstein uses choicely selected excerpts from ominous "FBI wiretaps" to insinuate a murky endorsement of Hamas by CAIR chairman, Omar Ahmad. Historical context aside for now, Mr. Ahmad is asking a question, not making a statement, at the end of his statement⁹³. Mr. Ahmad was questioning whether a group like Hamas should be allowed to dictate who speaks for the Palestinian cause.

Aside from that, these "statements" were made in 1993, and thus, before any designation of Hamas as a "terrorist" entity. Again, only on January 25, 1994, when it was designated a "foreign terrorist organization," could any support for it be deemed "support" for a "terrorist organization."

As stated before, any other conclusions are blatantly sophomoric and malicious in nature and we challenge anyone to show CAIR's documented support for Hamas after its designation on January 25, 1994.

8. "...CAIR actively raised money for HLF via their mailing list CAIR-NET..."⁹⁴

It is easy to refute such a disingenuous claim by Mr. Epstein. Like so many other relief groups, the Holy Land Foundation was a Muslim relief organization and CAIR's mission was to disseminate information to the American Muslim population about relief efforts worldwide.

For example, when a natural disaster strikes in any region of the world, CAIR may issue a press release as to where people can donate to help victims. For example, on August 18, 1999, after the massive Turkish earthquake in Izmit which took more than 10,000 lives, CAIR issued action alert #214, which listed the Turkish Relief Association as the primary relief outlet to aid the victims of the earthquake.⁹⁵

Similarly, a May 5, 1999 press release about the situation in Kosovo mentioned the contact information for the United States Agency for International Development (USAID) and Kosovo Task Force.⁹⁶

Although Mr. Epstein disingenuously implies that we somehow were "fundraisers" for HLF; to the contrary, all CAIR did was occasionally list HLF, among others, as relief organizations where people could donate in order to aid victims around the world.

9. In reference to the Sami al-Arian case, CAIR Chairman Omar Ahmad stated that. "...we are very concerned that the government would bring charges after investigating an individual for many years without offering any evidence of criminal

⁹³ *Supra* note 92. "...and Sheikh Yasin does?... (emphasis added on ?)"

⁹⁴ *Id.* at 14.

⁹⁵ CAIR Action Alert #214, "American Muslims Asked to Assist Earthquake Victims in Turkey," August 18, 1999.

⁹⁶ "CAIR Kosovo Update," May 5, 1999.

activity. This action could leave the impression that [Sami] Al-Arian's arrest is based on political considerations, not legitimate national security concerns."

Thomas Jefferson once said, "Dissent is the greatest form of patriotism."

We stand by this statement. It is both legal and our absolute right as Americans to scrutinize our government's actions and even challenge our foreign policy initiatives.

There are many areas where Americans of all faiths have disagreed with President Bush's "war on terrorism." Although we would all like to see terrorism eradicated in all of its forms, by no means does that imply that we will sit idly by and complacently allow our constitutional rights to be infringed.

10. "...a Los Angeles television station posted a billboard advertisement featuring a picture of Osama bin Laden billboard with the headline "the sworn enemy". CAIR issued a press release protesting that the billboard was 'offensive to Muslims.'"⁹⁷

Again, the sheer absurdity of these claims is evident.

It is directly consistent with CAIR's mission to dispel stereotypes of Islam and Muslims in American popular culture. Whether that be the constant portrayal of Arab villains in Hollywood or offensive advertising campaigns, CAIR has always established a principled approach to addressing issues we believe can be deemed offensive to our community.

In this particular situation, CAIR asked that the billboard with the image of bin Laden and the headline "Our Sworn Enemy" be taken down several years ago because we believed that the general public would not see it as an indictment of Osama bin Laden (who was not identified by name on the billboard and at the time in 1998, was also not the most recognized face in the world); but would instead view it as a stereotypical statement against all Muslims.

We were fighting against the stereotypical image portrayed of a bearded Arab. We were attempting to prove that Islam is not a monolithic entity and that it be taken down to *prevent* Muslims from being associated with Osama bin Laden.

It cannot be stressed enough that CAIR has condemned Osama bin Laden's acts and rhetoric, unequivocally and by name on numerous occasions.⁹⁸

11. Statement of Nihad Awad at a Johns Hopkins University Symposium on May 13, 2003

⁹⁷ *Id.* at 19.

⁹⁸ CAIR Press Release, "Video shows bin Laden complicity in 9-11 attacks," December 13, 2001.

Mr. Epstein quotes Mr. Awad as saying during this symposium:

"Some of these relief organizations, serious charges against them were plea-bargained [referring to Benevolence International Foundation ("BIF")]. And they ended up just charging one of the officials of [BIF] in Chicago of giving boots to Bosnian soldiers at the time when the US government was helping the Bosnian people. ... I am sure if we...put under the microscope, every major civic or political organization in this country, including the Red Cross, you will see that some few dollars went here and there in some country, but we don't shut down the entire operation of the Red Cross because it hurts millions of people."⁹⁹

Although it is admittedly redundant, the allusions of Mr. Epstein and the legal facts are completely contradictory. Again, he would like readers of his testimony to insinuate that somehow the reference to Benevolence International Foundation (hereinafter "BIF") was supportive of "terrorist" activities.

On February 10, 2003, Enaam Arnout, executive director of BIF, pleaded guilty to racketeering charges, a far cry from "terrorism" charges. Arnout admitted to using the proceeds of his charity, Benevolence International Foundation, to supply fighters in Bosnia with boots, tents and uniforms without donors' knowledge. Conceding Arnout's acts were criminal, he was aiding Bosnian soldiers at the same time that our own government supported the plight of the Bosnians and sent forces to the region.

Nowhere in his entire testimony does Mr. Epstein mention the fact that Arnout did not plead guilty to any "terrorist" activities. However, Mr. Epstein himself concedes in an article for *National Review*, "...in order to reach the [Arnout] deal, prosecutors were forced to drop the charge that Arnout aided Osama bin Laden or al Qaeda."¹⁰⁰

If this is indeed true and the charges that Mr. Epstein asserted in his testimony linking Arnout to "terrorist" activities are solid, we are infuriated that the Justice Department would allow, let alone be satisfied with, Arnout to plead guilty to an ordinary charge of "racketeering."

If not made abundantly clear earlier, we would like to state again, for the record; Arnout was guilty of a criminal act and should be punished accordingly for his felonious, not "terrorist", actions.

12. Brooklyn College rally in 1998

Another one of Mr. Epstein's assertions is that on May 24, 1998, CAIR co-sponsored a rally at Brooklyn College. One of the featured speakers is proclaimed to have made anti-Semitic remarks and made references to "jihad".

⁹⁹ *Id.* at 18.

¹⁰⁰ Matthew Epstein, "Terrorism trial ends with a whimper," *National Review*, February 11, 2003.

As Executive Director of CAIR, I had never heard of this event, let alone authorize sponsorship for it. I demand evidence of this accusation from Mr. Epstein. The statements that were made during that rally are completely contradictory to Islamic principles of interfaith tolerance and although we vehemently deny sponsoring this event, we also condemn these inflammatory statements categorically and without any reservations.

Most recently, in light of a defamation lawsuit against them, *National Review* issued a retraction stating that "...[we] made a factual error in this piece...executive director of the southern California chapter of the Council on American-Islamic Relations, did not co-host the May 1998 [Brooklyn College] event as described in the piece..."¹⁰¹

13. Waleed bin Talal

Mr. Epstein states that in 2002, "...CAIR received \$500,000 from Prince Alwaleed bin Talal."¹⁰² The purpose of the donation was the Library Project, a program designed to distribute a set of books on Islam, the majority of which are written by non-Muslim academics, to libraries so that people can learn more about Islam.

First, there is nothing criminal in accepting donations from foreign nationals. Second, and more importantly, bin Talal is not a member of the Saudi Arabian government. He is a private entrepreneur and international investor and was named the second most creative and successful business person in the world by *Forbes Magazine*.¹⁰³

However, if CAIR is taken to task for this endowment, then so should FOX Network¹⁰⁴, Citigroup¹⁰⁵, Four Seasons Hotels, AOL, Apple Computers, Amazon.com, Donna Karan International and Motorola¹⁰⁶. Bin Talal owns significant fiduciary interests in each of these American companies. If CAIR is taken to task for his donation to us, so should these companies be taken to task for accepting his money.

We will continue to operate within the legal guidelines set forth by American law.

¹⁰¹ Available at <http://www.nationalreview.com/comment/comment-stcc1061903.asp>

¹⁰² *Supra* note 73 at 21.

¹⁰³ Available at

http://www.forbes.com/finance/lists/10/2001/1_IR.html?passListId=10&passYear=2001&passListType=Person&uniqueId=ORDO&dataType=Person

¹⁰⁴ Available at http://www.newscorp.com/news/news_072.html

¹⁰⁵ *Supra* note 96.

¹⁰⁶ Available at

<http://www.hospitalitynet.org/news/4003127.search?query=prince+alwaleed+bin+talal+bin+abdulaziz+al Saud>

14. Interview with 60 Minutes¹⁰⁷

Mr. Epstein cites a *60 Minutes* interview that I had with Mike Wallace on November 13, 1994. In the small portion of the transcript which he provided, Mr. Epstein attempted to paint a false picture of my complicity with Hamas. Again, no historical context was provided for his allusion.

Aside from the fact that I was considering a lawsuit against Mike Wallace for the personal privacy tort of "false light", which Mr. Wallace and I had discussed after the airing of the interview, Mr. Epstein again shows a set of quotations that were presented out of context and Hamas was ever deemed "a terrorist organization."

Noteworthy is the fact that I did not express vocal support for Hamas in the interview. The extent of my response was quoting United Nations' documents which have concluded time and time again: "...that the Israeli occupation impedes efforts to achieve sustainable development...in the occupied Palestinian territory..."¹⁰⁸

Aside from only stating international legal norms, if that is not sufficient to quench the debate on this accusation, a full transcript of the interview can be made available.

Conclusion

Even though CAIR has had to defend itself and the American Muslim community from false accusations on numerous occasions, we feel as though it is our duty as Americans to help promote a sense of religious and racial harmony.

If the only way to attain that sense of harmony is to continue defending our absolute rights and honestly confront those who seek to unravel the social fabric of America, than so be it.

¹⁰⁷ *Supra* note 73 at 5.

¹⁰⁸ Available at <http://www.un.org/documents/ecosoc/res/1997/eres1997-67.htm>