

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PALESTINE INFORMATION OFFICE

818 18th Street, N.W.
Washington, D.C. 20006
(202) 466-3348

HASAN ABDEL RAHMAN

1171 Huntover Court
McLean, VA 22102
(703) 821-0656

Plaintiffs,

v.

GEORGE P. SHULTZ

Secretary of State
Department of State
Washington, D.C. 20520
(202) 647-4000

JOHN C. WHITEHEAD

Deputy Secretary of State
Department of State
Washington, D.C. 20520
(202) 647-4000

JAMES E. NOLAN, Jr.

Director, Office of Foreign
Missions
Department of State
Washington, D.C. 20520
(202) 647-4000

Defendants.

Office file
AMENDED
COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF

(Violation of Statutory
and First Amendment Rights)

CIVIL ACTION
NO. 87-3085 (CRR)

RECEIVED
DEC 1 9 34 AM '87
JAMES F. DAVEY, CLERK
U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

PRELIMINARY STATEMENT

1. The Palestine Information Office (PIO), an unincorporated association, is a private, non-governmental organization in Washington, D.C., whose sole purpose and function is to disseminate information to the American people concerning Palestinian issues. Its director and only paid professional is

an American citizen. This action challenges, on statutory and constitutional grounds, the decision of the United States government to close the PIO after unilaterally declaring it a foreign "mission" on the purported authority of the Foreign Missions Act, 22 U.S.C. §§4301-4314.

JURISDICTION AND VENUE

2. Jurisdiction is properly vested in this Court pursuant to 28 U.S.C. §§1331 and 1361, 5 U.S.C. §702, and the First and Fifth Amendments to the United States.

3. Venue properly lies in this district pursuant to 28 U.S.C. §1391(e).

PLAINTIFFS

4. The Palestine Information Office, an unincorporated association, is a private, non-governmental organization located in Washington, D.C., whose sole purpose and function is to disseminate information to the American public concerning Palestinian issues.

5. Hasan Abdel Rahman is a naturalized American citizen who has directed the PIO in Washington, D.C. since 1982. He is the only paid professional on the PIO staff and conducts all of its informational and advocacy activities.

DEFENDANTS

6. George P. Shultz is the Secretary of State of the United States and the executive head of the Department of State. In

that capacity and through his agents, he is responsible for administering the Foreign Missions Act.

7. John C. Whitehead is the Deputy Secretary of State of the United States. In that capacity, he unilaterally designated the PIO as a foreign mission and ordered it to cease and desist from all operations within the United States.

8. James E. Nolan, Jr. is the Director of the Office of Foreign Missions of the Department of State. In that capacity, he officially notified the PIO that it had been designated as a foreign mission and, pursuant to the State Department's order, must cease and desist all operations in the United States.

STATEMENT OF THE CASE

9. The PIO began operations in Washington, D.C. in 1978. It responds to inquiries from the American public concerning Palestinian issues. Many of the inquiries come from students, academics and American religious organizations.

10. Hasan Abdel Rahman became director of the PIO in 1982. He is a citizen of the United States and is the only professional employed by the PIO. The other employees of the PIO, all of whom provide support services for Mr. Rahman, are either United States citizens or lawful permanent residents.

11. As director of the PIO, Mr. Rahman conducts all of its informational and advocacy activities. These activities take a variety of forms. For example, Rahman regularly answers telephone and letter inquiries from American citizens. He is often invited to speak on Palestinian questions.

12. Since it first opened, the PIO has registered with the Department of Justice as an agent of the Palestine Liberation Organization under the Foreign Agents Registration Act, 22 U.S.C. §§611-621. The PIO has fully complied with the reporting and disclosure provisions of that Act.

13. As recently as May 13, 1987, the State Department's public position was that it lacked authority to close the PIO. In response to an inquiry from the National Association of Arab-Americans, the State Department wrote:

The continued existence of the PLO Information Office [sic] in Washington neither reflects nor requires the approval of the United States Government. The PLO Information Office [sic] is registered under the Foreign Agents Registration Act of 1938, as amended, with the Department of Justice and is subject to the provisions of that legislation. The Department of Justice has informed us that so long as that office regularly files reports with the Department of Justice on its activities as an agent of a foreign organization, complies with all other relevant U.S. laws, and is staffed by Americans or legal resident aliens, it is entitled to operate under the protection provided by the First Amendment of the Constitution.

14. On September 15, 1987, the PIO was informed by letter from the State Department that it had been designated as a "foreign mission" under the Foreign Missions Act. The letter further informed the PIO that it must "cease" operations by October 14, 1987. A copy of that letter is attached to this complaint as Exhibit A.

15. On October 2, 1987, an official notice designating the PIO as a "foreign mission" was published in the Federal Register. A copy of that notice is attached to this complaint as Exhibit B.

16. The designation states, in substance, that the PIO has been classified as a foreign mission because "it is substantially owned and/or effectively controlled by the PLO." The designation does not state, as required by statute, that the PIO is "substantially owned or effectively controlled by . . . an organization representing a territory or political entity . . ."

17. The Foreign Missions Act does not contain any definition of the terms "substantially owned" or "effectively controlled," nor are there any clarifying regulations issued by the State Department.

18. Funding for the PIO comes from several sources. Mr. Rahman's salary is paid in its entirety by the League of Arab States. Operating expenses for the office are supplied by the Palestine National Fund, which finances many Palestinian-related activities.

19. Neither the office space nor the office equipment used by the PIO is "owned" by the PLO; the PIO is free to dispose of it as it sees fit. It is unclear what else the State Department means by the assertion that the PIO is "substantially owned" by the PLO.

20. Similarly, the PIO is not "effectively controlled" by the PLO within the meaning of the statute. Mr. Rahman does not clear his speeches with the PLO. He does not submit his written statements to the PLO for advance approval. He hires and fires his office staff without the consent of the PLO.

21. There is no administrative procedure under the Foreign Missions Act to contest the validity of the factual assertions that form the predicate for the government's action in this case.

22. Upon information and belief, defendants' decision to close the PIO was motivated, in part, by disagreement with the political message advocated by the PIO.

23. Despite its designation as a "foreign mission" the PIO does not receive, and never has received, any diplomatic privileges from the United States government. Likewise, Mr. Rahman is not entitled to any diplomatic status or immunity under United States law.

24. Neither the PIO nor any of its employees, including Mr. Rahman, has ever been accused of any unlawful conduct by the United States government. Indeed, during its official announcement of the decision to close the PIO, the State Department specifically disclaimed "[a]ny evidence that any of the people at [the PIO] did anything apart from what their stated purpose was which was to disseminate information and opinion about the Palestinian issue."

25. Upon information and belief, the Foreign Missions Act has never been used under similar circumstances to close a domestic office operated by American citizens for the purpose of disseminating information to the American public.

26. Following receipt of the State Department's closure order, the PIO, through its representatives, began a series of discussions with State Department officials to determine

precisely what activities triggered its designation under the Foreign Missions Act and what activities the PIO or a successor office would be allowed to carry on in the United States. Other than repeating that the present office must close as ordered, the State Department has not articulated any guidelines that could serve as a benchmark for future conduct.

27. The order directing the PIO to close by October 14, 1987, also established October 14th as a deadline by which the PIO was required to dispose of all of its property, and to discontinue the purchase or provision of any services in this country.

28. Aside from plaintiffs' fundamental legal objections to the closure order, the 30 day deadline posed numerous practical hardships. For example, the PIO has a signed lease for its office space that does not expire until January 31, 1987. The PIO has contractual obligations with its various employees. And plaintiff Rahman has already agreed to future speaking engagements on behalf of the PIO.

29. Citing these practical hardships, the PIO requested an extension from the State Department, which was granted in a letter dated October 13, 1987. Under the terms of that extension, the PIO must now close by December 1, 1987. Nevertheless, the PIO will still suffer the hardships noted in ¶28 if it is required to close on that date.

30. If required to close on December 1, 1987, or at any time thereafter, plaintiffs will suffer irreparable injury to

their ability to communicate their political message to the American people, and to the PIO's essential organizational purpose.

CAUSES OF ACTION

31. Defendants' actions, as described herein, were not authorized by Congress in the Foreign Missions Act and are, therefore, arbitrary and capricious under the Administrative Procedure Act, 5 U.S.C. §706.

32. The Foreign Missions Act, as applied in this case, violates plaintiffs' First Amendment rights of free speech and association.

33. The Foreign Missions Act, as applied in this case, is unconstitutionally vague in violation of plaintiffs' due process rights under the Fifth Amendment.

34. The Foreign Missions Act, as applied in this case, violates plaintiffs' due process rights under the Fifth Amendment by failing to provide plaintiffs with any hearing at which they might contest the asserted factual basis for the government's designation of the PIO as a "foreign mission."

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request the following relief against the defendants, their successors and subordinates:

a. A declaration that defendants' order closing the Palestine Information Office is not authorized by the Foreign

Missions Act and, if authorized, violates plaintiffs' constitutional rights under the First and Fifth Amendments;

b. A preliminary and permanent injunction prohibiting defendants from closing the Palestine Information Office under the purported authority of the Foreign Missions Act, or based on the PIO's advocacy of unpopular political ideas;

c. Such other and further relief as this Court deems just and proper; and

d. The costs and attorneys' fees incurred in this action.

Respectfully submitted,

Steven R. Shapiro

Steven R. Shapiro
John A. Powell
Helen Hershkoff
American Civil Liberties Union
Foundation
132 West 43 Street
New York, New York 10036
(212) 944-9800

Arthur B. Spitzer
D.C. Bar No. 235960
Elizabeth Symonds
D.C. Bar No. 358931
American Civil Liberties Union
Fund of the National Capital Area
1400 20th Street, N.W.
Washington, D.C. 20036
(202) 457-0800

Hope Nakamura
American Civil Liberties Union
Foundation
122 Maryland Avenue, N.E.
Washington, D.C. 20002
(202) 544-1681

Dated: November 30, 1987

DESIGNATION OF PALESTINE INFORMATION OFFICE
AS A FOREIGN MISSION

Paragraph 1 of the Act, 22 U.S.C. § 4414-4415, hereinafter referred to as "the Act," hereby designates the Palestine Information Office ("PIO") as a "foreign mission" within the meaning of section 203 (a)(1) of the Act, 22 U.S.C. § 4414-4415, in that the Palestine Information Office is a foreign mission as defined by that section.

Designation of the Palestine Information Office as a foreign mission is based on the following:

--it is an entity.

--it is substantially owned and/or effectively controlled by the PLO.

--the PIO conducts its functions on behalf of an organization which has received privileges and immunities under US law. The PIO is accorded certain privileges and immunities by virtue of its status as an observer to the United Nations. Further, the PIO clearly **EXHIBIT A** "some aspect of the conduct of international affairs," as evidenced by, for example, its membership in the League of Arab States and its status at the United Nations.

--it is involved in "other activities." The PIO registered on statement under the Foreign Agents Registration Act indicates that the PIO engages in political activity and political propaganda on behalf of the PLO.

4/15/87
Date

John C. Whitcomb
Deputy Secretary of State

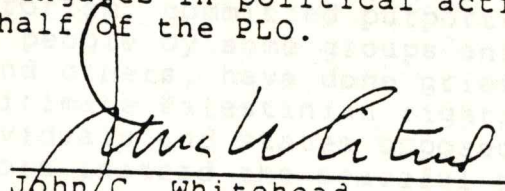
DESIGNATION OF PALESTINE INFORMATION OFFICE
AS A FOREIGN MISSION

Pursuant to the authority vested in me by the Foreign Missions Act, 22 U.S.C. §§ 4301-4314 (hereinafter referred to as "the Act"), I hereby designate the Palestine Information Office ("PIO") as a "foreign mission" within the meaning of section 202 (a)(4) of the Act (22 U.S.C. § 4302(a)(4)), in that the Palestine Information Office is a foreign mission as defined by that section.

Designation of the Palestine Information Office as a foreign mission is based on the following:

- it is an entity.
- it is substantially owned and/or effectively controlled by the PLO.
- the PIO conducts its functions on behalf of an organization which has received privileges and immunities under US law. The PLO is accorded certain privileges and immunities by virtue of its status as an observer to the United Nations. Further, the PLO clearly engages in "some aspect of the conduct of international affairs," as evidenced by, for example, its membership in the League of Arab States and its status at the United Nations.
- it is involved in "other activities." The PIO registration statement under the Foreign Agents Registration Act indicates that the PIO engages in political activity and political propaganda on behalf of the PLO.

9/15/87
Date



John C. Whitehead
Deputy Secretary of State

DETERMINATION AND
DESIGNATION OF BENEFITS

Pursuant to the authority of the President of the United States to conduct foreign affairs under Article II of the United States Constitution, including his authority to receive ambassadors, and the authority vested in me by the Foreign Missions Act, 22 U.S.C. §§ 4301-4314 (hereinafter referred to as "the Act"), I hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office cease operation as a mission representing the Palestine Liberation Organization.

The Palestine Information Office is being required to cease operation as a mission representing the PLO because of U.S. concern over terrorism committed and supported by individuals and organizations affiliated with the PLO, and as an expression of our overall policy condemning terrorism. The organizations and individuals associated with the PLO who support terrorism include, among others, Abu Al-Abbas, recently retained as a member of the PLO Executive Committee, who was responsible for the Achille Lauro hijacking, which included the murder of an American citizen, Leon Klinghoffer. At the Palestine National Congress meeting in April, 1987, other groups which have been responsible for terrorist acts in recent years against many peoples, including Palestinians, were reunited with the PLO. The United States supports the legitimate rights of the Palestinian people. It acknowledges and respects the right of the Palestinian people to achieve their legitimate rights through a process of peaceful negotiations designed to achieve a resolution of the Arab-Israeli conflict and the Palestinian issue. It is important that Palestinian representatives participate in all stages of that process. However, the U.S. believes that acts of terrorism, committed purportedly on behalf of the Palestinian people by some groups and individuals associated with the PLO and others, have done grievous damage to the achievement of legitimate Palestinian rights which are broadly supported by individuals and states opposed to terrorism, but which support instead the peaceful settlement of disputes. Terrorism by this minority of Palestinians and their supporters has been a serious obstacle to the realization of a peaceful settlement of the Arab-Israeli conflict, and an accommodation between Israelis and Palestinians.

In order to achieve the objective of terminating operation of the Palestine Information Office as a foreign mission, I hereby also determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office divest itself of all real property

which it currently occupies or in which it has a real property interest (through ownership, lease or otherwise) in the United States, pursuant to 22 U.S.C. § 4305(b)(3). I also hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office and its employees and agents acting on its behalf acquire and dispose of real property (by purchase, lease, exchange, construction or otherwise) from or through the Office of Foreign Missions under such terms and conditions as may be established by the Director of the Office of Foreign Missions, pursuant to 22 U.S.C. § 4304(b). In addition, and for the same purpose, under the authority of section 4304(b)(2) to protect the interests of the United States, I hereby designate as benefits for the purposes of the Act the acquisition from any person or entity subject to the jurisdiction of the United States or use in the United States by the Palestine Information Office and its agents or employees acting on its behalf of the following services and goods:

Services

- (1) public utilities and services, including telephone and telegraph, mail, public transportation and sanitation services; and
- (2) personal services of individuals engaged within the United States for whatever purpose, whether on a temporary or regular basis. Such personal services include:
 - a) services relating to public relations, information, publishing, printing, advertising, distribution of literature, or mailing;
 - (b) plumbing, electrical, construction, maintenance, engineering, architectural or related services;
 - (c) packing, shipping, cartage and related services, including provision of packing materials; and
 - (d) financial services.

Goods

- (1) motor vehicles;
- (2) construction equipment and materials;
- (3) equipment and materials for the maintenance of the mission, including typewriters, telephones, xerox machines and related materials;

- (4) computers and automated data processing equipment; and
- (5) furnishings for offices.

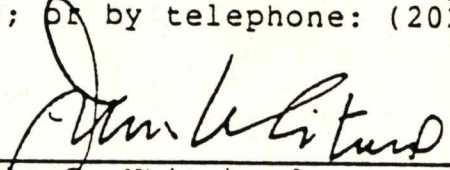
I hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office and its agents or employees acting on its behalf discontinue use and dispose of all benefits defined in the Act and this Determination and Designation of Benefits which it currently owns or uses. I also hereby require that the Palestine Information Office and its employees and agents acting on its behalf acquire and dispose of all benefits defined in the Act or this Determination and Designation of Benefits from or through the Office of Foreign Missions under such terms and conditions as the Director of the Office of Foreign Missions may specify. 22 U.S.C. § 4304(b).

The Palestine Information Office must comply with the terms of this Determination and Designation of Benefits within thirty days, unless further time is extended upon a showing of good cause.

It shall be unlawful for any person subject to the jurisdiction of the United States directly to supply, or contract to supply, the aforementioned benefits to the Palestine Information Office, or to any agent or employee thereof acting on its behalf, other than in accordance with section 4311(a) of the Act, this determination and any subsequent determination.

Persons wishing clarification as to the applicability of this determination or information on subsequent determinations may contact the Office of Foreign Missions, U.S. Department of State, Washington, D.C. 20520; or by telephone: (202) 647-3416.

4/15/87
Date



John C. Whitehead
Deputy Secretary of State

this rate will be eight and one-half (1½) percent.

Edwin T. Holloway,

Associate Administrator for Finance and Investment

[FR Doc. 87-22738 Filed 10-1-87; 8:45 am]

BILLING CODE 3025-01-M

DEPARTMENT OF STATE

[Public Notice 1029]

Designation of Palestine Information Office as a Foreign Mission

Pursuant to the authority vested in me by the Foreign Missions Act, 22 U.S.C. 4301-4314 (hereinafter referred to as "the Act"), I hereby designate the Palestine Information Office ("PIO") as a "foreign mission" within the meaning of section 202 (a)(4) of the Act (22 U.S.C. 4302(a)(4)), in that the Palestine Information Office is a foreign mission as defined by that section.

Designation of the Palestine Information Office as a foreign mission is based on the following:

- It is an entity.
- It is substantially owned and/or effectively controlled by the PLO.
- The PIO conducts its functions on behalf of an organization which has received privileges and immunities under U.S. law. The PLO is accorded certain privileges and immunities by virtue of its status as an observer to the United Nations. Further, the PLO clearly engages in "some aspect of the conduct of international affairs," as evidenced by, for example, its membership in the League of Arab States and its status at the United Nations.
- It is involved in "other activities." The PIO registration statement under the Foreign Agents Registration Act indicates that the PIO engages in political activity and political propaganda on behalf of the PLO.

Dated: September 15, 1987.

John C. Whitehead,

Deputy Secretary of State

[FR Doc. 87-22781 Filed 10-1-87; 8:45 am]

BILLING CODE 4710-05-M

[Public Notice 1029]

Determination and Designation of Benefits Concerning Palestine Information Office

Pursuant to the authority of the President of the United States to conduct foreign affairs under Article II of the United States Constitution, including his authority to receive

ambassadors, and the authority vested in me by the Foreign Missions Act, 22 U.S.C. 4301-4314 (hereinafter referred to as "the Act"), I hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office cease operation as a mission representing the Palestine Liberation Organization.

The Palestine Information Office is being required to cease operation as a mission representing the PLO because of U.S. concern over terrorism committed and supported by individuals and organizations affiliated with the PLO, and as an expression of our overall policy condemning terrorism. The organizations and individuals associated with the PLO who support terrorism include, among others, Abu Al-Abbas, recently retained as a member of the PLO Executive Committee, who was responsible for the Achille Lauro hijacking, which included the murder of an American citizen, Leon Klinghoffer. At the Palestine National Congress meeting in April, 1987 other groups which have been responsible for terrorist acts in recent years against many peoples, including Palestinians, were reunited with the PLO. The United States supports the legitimate rights of the Palestinian people. It acknowledges and respects the right of the Palestinian people to achieve their legitimate rights through a process of peaceful negotiations designed to achieve a resolution of the Arab-Israeli conflict and the Palestinian issue. It is important that Palestinian representatives participate in all stages of that process. However, the U.S. believes that acts of terrorism, committed purportedly on behalf of the Palestinian people by some groups and individuals associated with the PLO and others, have done grievous damage to the achievement of legitimate Palestinian rights which are broadly supported by individuals and states opposed to terrorism, but which support instead the peaceful settlement of disputes. Terrorism by this minority of Palestinians and their supporters has been a serious obstacle to the realization of a peaceful settlement of the Arab-Israeli conflict, and an accommodation between Israelis and Palestinians.

In order to achieve the objective of terminating operation of the Palestine Information Office as a foreign mission, I hereby also determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office divest itself of all real property which it currently occupies or in which it has a real property interest (through

ownership, lease or otherwise) in the United States, pursuant to 22 U.S.C. 4305(b)(3). I also hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office and its employees and agents acting on its behalf acquire and dispose of real property (by purchase, lease, exchange, construction or otherwise) from or through the Office of Foreign Missions under such terms and conditions as may be established by the Director of the Office of Foreign Missions, pursuant to 22 U.S.C. 4304(b). In addition, and for the same purpose, under the authority of section 4303(b)(2) to protect the interests of the United States, I hereby designate as benefits for the purposes of the Act the acquisition from any person or entity subject to the jurisdiction of the United States or use in the United States by the Palestine Information Office and its agents or employees acting on its behalf of the following services and goods:

Services

(1) Public utilities and services, including telephone and telegraph, mail, public transportation and sanitation services; and

(2) Personal services of individuals engaged within the United States for whatever purposes, whether on a temporary or regular basis. Such personal services include:

(a) Services relating to public relations, information, publishing, printing, advertising, distribution of literature, or mailing;

(b) Plumbing, electrical, construction, maintenance, engineering, architectural or related services;

(c) Packing, shipping, cartage and related services, including provision of packing materials; and

(d) Financial services.

Goods

(1) Motor vehicles;

(2) Construction equipment and materials;

(3) Equipment and materials for the maintenance of the mission, including typewriters, telephones, xerox machines and related materials;

(4) Computers and automated data processing equipment; and

(5) Furnishings for offices.

I hereby determine that it is reasonably necessary to protect the interests of the United States to require that the Palestine Information Office and its agents or employees acting on its behalf discontinue use and dispose of all benefits defined in the Act and this Determination and Designation of Benefits which it currently owns or uses.