

FROM THE OFFICE OF Linda I. Parsons, Q.C.
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FILE NUMBER 23182-36230

November 29, 2010

PRIVILEGED AND CONFIDENTIAL

UBC Alma Mater Society
University of British Columbia
266E - 6138 Student Union Blvd.
Vancouver, BC V6T 1Z1

Attention: Bijan Ahmadian, 101st President

Dear Bijan:

Re: Alma Mater Society (the "Society") - Social Justice Centre Request for Transfer of Funds

We understand that the Social Justice Centre (the "**SJC**"), a Society Resource Group, submitted a journal voucher dated November 16, 2010 to the Society's VP Finance (previously known as the Director of Finance) requesting the transfer of \$700.00 from the SJC's account with the Society to the Society account of the Solidarity for Palestinian Human Rights (the "**Club**"), a Society Club. The stated purpose of this transfer of funds is to assist with funding the flotilla as part of the Canadian boat to Gaza ("**Boat to Gaza Initiative**"). After consulting with other executives, the VP Finance decided not to sign off on the Journal Voucher but rather to seek approval of this transfer directly from the Council.

You have asked us to consider the process for approving or denying such a request for a transfer of funds under the Society Bylaws ("**Bylaws**") and Code of Procedure ("**Code**") and to comment specifically on whether the VP Finance has the jurisdiction to deny or approve such a request for a transfer of funds by such a Resource Group.

We have set out our conclusions below.

1. What authority does the VP Finance have to authorize a transfer of funds from the SJC to the Club?

It is our understanding that the VP Finance is a signing authority under bylaw 8 of the Bylaws and that it was in this capacity that he was asked to "sign off" on the request in the Journal Voucher to transfer the funds from the SJC to the Club.

There is nothing specifically set out in the Code or Bylaws that gives the VP Finance the responsibility or authority to approve or not approve proposed expenditures by a Resource Group. Resource Groups were created in 1994 and as a result are not dealt with in the Bylaws and are only addressed in the Code. The Code provisions dealing with Resource Groups contemplate Resource Groups receiving lump sum funding as determined by the Resource Group Allocation Committee (“RGAC”) and submitting a budget for how these funds will be used. There is nothing in the Code that contemplates the VP Finance or other Society executive approving each expenditure made by a Resource Group, assuming of course that the expenditure falls within the approved budget.

However, as you know, the VP Finance is given relatively broad powers and duties with respect to Society funds under bylaw 3(d) of the Bylaws, among other sections, including to “be responsible for all monies received and disbursed by the Society”. The VP Finance is also responsible for “monitoring the financial affairs of the Society, branch societies and subsidiary organizations.” Further, as a signing authority, the VP Finance is required to follow particular procedures prior to authorizing any withdrawals from Society accounts or transferring funds between accounts pursuant to journal vouchers. Although we have not reviewed any specific internal procedures or policies that may exist concerning journal vouchers, we assume that the signing authority is required to satisfy himself that the transfer request is legitimate and within the budgets and purposes of each entity at issue.

In our view, the VP Finance has the authority and the responsibility to ensure that a transfer of funds requested in a journal voucher is legitimate and should be authorized. Although the approval or sign off on a journal voucher may generally be a routine or perfunctory matter, the fact that a designated signing authority reviews and signs off on these journal vouchers is a clear indication that there is some level of review or analysis that should be undertaken before a proposed transfer is authorized. Of course, in most cases a requested transfer will be clearly within the mandate and processes of the requesting body and the review process will be cursory and the sign-off reasonably ‘automatic’. However, in a case such as this one, where the request is not routine because of the circumstances under which the transfer request was made by the SJC and when the subject matter of the transfer is controversial and raises issues of risk to the Society, it would be unreasonable to suggest that the signing authority should sign off on the transfer without further analysis just because this is what is ‘generally done’.

Ultimately, the Council is responsible for distributing and dealing with Society fees. Given this over-arching responsibility, it is appropriate for the VP Finance to ask Council to ratify and confirm the recommendations that the VP Finance may make in relation to a decision to approve or not to approve a transfer of funds in the given circumstances.

2. Can Council interfere with a decision by a Resource Group to disburse funds and what is the significance of the fact that the funds at issue are ultimately being donated by a Society Club?

As you know, Section XI of the Code deals with Resource Groups. There is nothing in this section of the Code that contemplates constraining the spending or activities of the Resource Groups in any meaningful way except that they must each submit a budget. In fact, the Code makes it quite clear that these are to be relatively autonomous groups with a broad mandate. We have summarized and discussed below the key points from Section XI of the Code in this respect:

- Resource Groups are given a broad mandate to be involved in social issues relevant to society at large. Although we note that the Code does not specifically contemplate Resource Groups donating money to outside causes it does contemplate Resource Groups working with groups outside of the university context;
- The views expressed by Resource Groups do not necessarily reflect the policies of the Society. In other words, in our view, by authorizing this expenditure, the Council is not stating that it supports the cause being funded or that the nature of this cause is in line with Society policies;
- A Resource Group's objectives and activities should not be contrary to the Constitution, Bylaws or Code. However, given that the views expressed by a Resource Group do not need to reflect the policies of the Society, it is difficult to imagine how this expenditure could be viewed as contrary to one of these documents unless there is evidence (or a real suspicion) that it is criminal nature or unless the spending falls outside of the SJC's budget. We note however, that the Constitution does provide that one of the objects of the Society is to promote unity and goodwill amongst its members. As a result, if this donation is sufficiently controversial on campus it is arguable that it is contrary to this provision of the Constitution;
- Resource Groups are given the authority to establish their own rules, regulations and procedures and are provided with lump sum funding as determined by the RGAC. In our view, this signals a willingness to grant the Resource Groups a certain level of financial autonomy;
- The SAC, Finance Commission, Executives and the Executive Committee are all prohibited from interfering with the discharge of duties of the RGAC. Notably, this provision ensures that the RGAC has a level of autonomy in dealing with funding for Resource Groups but this section of the Code does not specifically address the autonomy of Resource Groups.

Although it appears that the intention in the Code is to give a fairly broad mandate to Resource Groups and to allow them to spend within their budgets, there is nothing in this section of the Code that takes away Council's ultimate responsibility for the use and application of Society fees and the use of Society resources. As a result, although in general Resource Groups are likely given leeway to exercise discretion in their spending without a high level of investigation or oversight by Council or executives, in a situation such as this where there are significant concerns about the proposed funding, it seems reasonable that the Council and VP Finance in exercising their duties, could look behind and potentially even interfere with, a decision by a Resource Group to use its funding in a proposed manner.

In this case, as noted, the ultimate donation will be made by the Club. Although Council may not have clearly defined grounds to interfere with an expenditure by a Resource Group that is spending within its budget, Council appears to have been given more power to control the spending of clubs. In particular, bylaw 13 deals with "subsidiary organizations" which include associations and clubs. It makes it clear that although funds received by subsidiary organizations are to be dealt with by the organizations themselves, the Council shall have the power to administer "all funds and assets of the Society as it sees fit". As a result, in our view, given that this will ultimately be a club expenditure, Council is given further justification for looking behind and assessing the proposed donation by the Club.

3. Assuming that the VP Finance/Council has the authority to make a decision relating to approving or not approving the transfer of funds, what factors govern such decision making?

In our view, in considering whether or not to approve the transfer of funds, factors that the Council and/or the VP Finance should consider include the following:

- the SJC's approved budget and whether this expenditure falls within it;
- the general fiduciary duty of Council members, including officers/executives to act in the best interest of the Society in relation to dealing with Society funds;
- the general validity of the request by the SJC for a transfer of funds and whether it is consistent with the purpose and constitution of the SJC and the purpose of the Club;
- the Code provisions discussed above dealing with Clubs and Resource Groups and their relative autonomy with respect to spending;
- concerns with the respect to the legality of the Boat to Gaza initiative (discussed in more detail at section 4 of this letter below);

- concerns with respect to the political and controversial nature of this expenditure, bearing in mind the broad mandate given to Resource Groups to engage in issues of a political or controversial nature.

Finally, we understand that the validity or legality of the SJC's most recent AGM during which the decision to fund the Boat to Gaza Initiative was made, has been called into question. In our view, it would be prudent for the VP Finance and Council to defer a decision on approval of the requested transfer of funds until the SAC has completed its investigation of the irregularities in relation to the AGM, particularly if it is possible that the outcome of this investigation could impact on the SJC's position on this funding or could call into question the validity of the request for the transfer.

4. What is the significance of the fact that there are concerns that the Boat to Gaza Initiative may be linked to terrorism and is there a way of determining if in fact it is?

We have enclosed with this letter a memorandum prepared by Christie Gilmour, articled student of our office, dealing with this issue.

In short, an organization that funds a group or organization linked to terrorism may be held criminally or civilly liable for its actions. Although the organization behind the Boat to Gaza Initiative, Solidarity for Palestinian Human Rights, is not an entity currently recognised by the government of Canada in its list of entities linked to terrorism, given the discretionary process of placing an entity on the "listed entities" registry, and the confidential nature of terrorism investigation this is not determinative of whether the Canadian boat to Gaza could be linked to terrorism. In other words, in the future, it could be. This being said, Solidarity for Palestinian Human Rights is supported by university clubs, students, and individuals across Canada and internationally. It does not appear to ever have been publicly discouraged by the Canadian government, and while there are many people who oppose the movement, it does not appear to ever have been or linked to the support of terrorist activities.

5. Assuming that the Council has the authority to make a decision relating to approving or not approving the transfer of funds, what procedures should be followed in making this decision?

In our view, the VP Finance is entitled to defer to the views of Council on the question of this particular transfer of funds and may properly request that Council respond to his recommendations relating to the transfer by ratify (through a simple majority vote of Council) the recommendation of the VP Finance to either approve or not approve the transfer.

If the VP Finance/Council wishes to ultimately approve the transfer of funds from the SJC to the Club and then from the Club to the Boat to Gaza Initiative we would recommend the following:

- defer a decision on authorizing the initial transfer of funds until the investigation of the SAC into the legality of the SJC AGM has been resolved;
- require the Club to apply to VP Finance for approval to transfer any Society funds from the Club to the Boat to Gaza Initiative;
- make the approval of transfer of funds conditional upon the SJC and the Club providing satisfactory confirmation (in support of the request for approval) of the legality of the Boat to Gaza Initiative (note, the expense and effort involved in meeting this condition will be borne by the SJC and the Club, not by Council);

Appropriate wording for a motion would be as follows:

"Resolved that the recommendation of VP Finance in relation to the request by the Social Justice Centre resource group for approval to transfer \$700 to the Solidarity for Palestinian Human Rights Club be accepted, namely, that the decision to approve the transfer be deferred pending receipt by the VP Finance of confirmation that:

- (i) the request to transfer funds to the Solidarity for Palestinian Human Rights Club was duly authorized by the Social Justice Centre at a duly constituted general meeting;
- (ii) the Social Justice Centre and/or the Solidarity for Palestinian Human Rights Club has determined, following prudent due diligence, that the transfer of funds will not constitute funding an organization linked to terrorism."

We would be pleased to discuss the above with you further prior to your meeting on Wednesday. Please do not hesitate to contact me with questions or concerns.

Yours truly,

DAVIS LLP

Per:



Linda I. Parsons, Q.C.

Encls.

MEMO

TO: Linda Parsons
FROM: Christie Gilmour, Articled Student
DATE: November 29, 2010
FILE NO.: UBC AMS
RE: **UBC AMS - Flotilla to Gaza Liability for Terrorism**

The Alma Matter Society (the “AMS”) has asked us to consider:

1. The significance of the fact that Canadian boat to Gaza may be linked to terrorism; and
2. Whether the Canadian boat to Gaza is linked to terrorism.

Short Answer:

1. An organization that funds a group or organization linked to terrorism may be held criminally and/or civilly liable for its actions.
2. The organization behind the Canadian boat to Gaza, Solidarity for Palestinian Human Rights, is not an entity recognised by the government of Canada in its list of entities linked to terrorism. However, given the discretionary process of placing an entity on the “listed entities” registry, and the confidential nature of terrorism investigation this is not determinative of whether the Canadian boat to Gaza could be linked to terrorism. In other words, in the future, it could be. This being said, Solidarity for Palestinian Human Rights is supported by university clubs, students, and individuals across Canada and internationally. It does not appear to ever have been publicly discouraged by the Canadian government, and while there are many people who oppose the movement, it does not appear to ever have been or linked to the support of terrorist activities.

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Analysis:

1. The significance of the fact that Canadian boat to Gaza may be linked to terrorism

Funding an organization linked to terrorism is a criminal offense and an organization (such as the AMS) who engages in it is criminally liable. Involvement with terrorism could also cause civil liability.

Section 83.02(a) of the *Criminal Code*,¹ states that anyone who directly or indirectly wilfully and without lawful excuse provides or collects property intending or knowing that it will be used to carry out an act or omission constituting a terrorist activity is guilty of an indictable criminal offence and liable to imprisonment for up to 10 years. In other words anyone who knowingly finances a terrorist activity can be found guilty of a criminal offense.

Section 83.19 states that everyone who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for up to 14 years, and s. 83.19(2) states that a terrorist activity is facilitated whether or not the facilitator knew the terrorist activity was facilitated. In other words, s. 83.19(2) broadens the liability of donors for facilitating criminal activity as the donor (facilitator) does not actually have to know that it was facilitating the terrorist activity to be found guilty of the offense.

Due to s.83.19(2) the AMS could be found liable for facilitating terrorist activities even if it did not know that the organization was linked to terrorism.

With regards to possible defences to these sections of the *Criminal Code*, commentary has suggested that due diligence is not a defence to these crimes.² This can also be inferred by the wording of some of the sections. For instance s. 83.19(2) removes the knowledge component of the offense, which limits due diligence of investigation as a defence to the offense. However, other sections of the *Criminal Code* relating to terrorism explicitly state that taking reasonable care may limit civil liability for certain actions or inactions taken by a group.³ Civil liability is therefore also a concern regarding terrorism and funding terrorism. The *Criminal Code* does not specifically address civil liability other than as mentioned above.

¹ R.S., 1985, c. C-46, all provisions referenced are attached at Schedule A

² Carter, Terrance, "Charities and Compliance with Anti-Terrorism Legislation in Canada: The Shadow of the Law," *The International Journal of Not-for Profit Law*, vol. 6, issue 3, June 2004.

³ Section 83.08(1) of the *Criminal Code* states that no person shall deal with property owned by a terrorist group, and section 83.02(2) states that a person who acts reasonably in attempting to comply with 83.08 shall not be civilly liable.

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Other acts including (the “Acts”): the *Anti-Terrorism Act*, the *Official Secrets Act*, *Canada Evidence Act*, the *Proceeds of Crime (Money Laundering) Act*, and the *Charities Registration (Security Information) Act* reference terrorism. However, these Acts do not specifically address funding for terrorism criminally or civilly.

2. Whether the Canadian boat to Gaza is linked to terrorism.

The government has created a list of entities (groups) associated with terrorism.⁴ These “listed entities” are published by Public Safety Canada, and the list does not include Solidarity for Palestinian Human Rights, the group behind the Canadian flotilla to Gaza.⁵

However, amendments can be made to this list without notification or juridical review. This is illustrated by the process for adding a party to the list, which is that a report is made to the Minister of Public safety who evaluates whether there are “reasonable grounds to believe that the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity, or the entity is knowingly acting on behalf of, at the discretion of or in association with, an entity involved in a terrorist activity.” If the Minister of Public Safety believes there are grounds, the Minister may recommend placing the organization on the list, and the Governor in Council has the discretion to add the organization to the list.

The list is not definitive and given the discretionary nature of placing an entity on the “listed entities” registry, there is little certainty as to whether an organization may eventually be listed as an organization linked to terrorism. Moreover, given the confidential nature of terrorism investigation there is little transparency as to whether an organization may be under investigated in regards to terrorism. Further, section 83.01 of the *Criminal Code* defines terrorist activity broadly⁶ and this broad definition further limits our certainty with regards to whether an entity may be linked to terrorism. All of this being said, Solidarity for Palestinian Human Rights is a movement that is recognised by university clubs, students, and individuals across Canada,⁷ as

⁴ as allowed by the *Criminal Code*, s. 83.05

⁵ Please see attached list at Schedule B, or <http://www.publicsafety.gc.ca/prg/ns/le/cle-eng.aspx>

⁶ to include both doing or omitting to do in or outside of Canada an act which is specifically prohibited or an act which is committed for a political/religious/ideological purpose, objective or cause and to intimidate the public or force someone/thing from doing or not doing a particular act that intentionally endangers a persons life, causes death/serious harm, serious risk to the health and safety of the public, substantial property damage, or sometimes serious disruption with an essential service

⁷ The movement has been promoted by individuals and groups including student clubs at Concordia University, McGill University, Université de Montréal, UQAM, University of Ottawa, Carleton University, Queen's University, University of Toronto, University of Toronto at Mississauga, McMaster University, University of British Columbia,

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well as being recognised internationally. It has many private donors, and has not been publicly discouraged by the Canadian government, and while there are many people who oppose the movement, I did not uncover any involvement by Solidarity for Palestinian Human Rights in terrorist activity.

and University of Calgary, publicly speaking out, publishing papers, writing blogs, creating awareness through fundraising, starting social networking groups such as a facebook group dedicated to the movement and more.

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SCHEDULE A

TERRORISM

Definitions

83.01 (1) The following definitions apply in this Part.

"Canadian"

« ***Canadien*** »

"Canadian" means a Canadian citizen, a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act* or a body corporate incorporated and continued under the laws of Canada or a province.

"entity"

« ***entité*** »

"entity" means a person, group, trust, partnership or fund or an unincorporated association or organization.

"listed entity"

« ***entité inscrite*** »

"listed entity" means an entity on a list established by the Governor in Council under section 83.05.

"terrorist activity"

« ***activité terroriste*** »

"terrorist activity" means

(a) an act or omission that is committed in or outside Canada and that, if committed in Canada, is one of the following offences:

(i) the offences referred to in subsection 7(2) that implement the *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at The Hague on December 16, 1970,

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- (ii) the offences referred to in subsection 7(2) that implement the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on September 23, 1971,
 - (iii) the offences referred to in subsection 7(3) that implement the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents*, adopted by the General Assembly of the United Nations on December 14, 1973,
 - (iv) the offences referred to in subsection 7(3.1) that implement the *International Convention against the Taking of Hostages*, adopted by the General Assembly of the United Nations on December 17, 1979,
 - (v) the offences referred to in subsection 7(3.4) or (3.6) that implement the *Convention on the Physical Protection of Nuclear Material*, done at Vienna and New York on March 3, 1980,
 - (vi) the offences referred to in subsection 7(2) that implement the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, supplementary to the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, signed at Montreal on February 24, 1988,
 - (vii) the offences referred to in subsection 7(2.1) that implement the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, done at Rome on March 10, 1988,
 - (viii) the offences referred to in subsection 7(2.1) or (2.2) that implement the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*, done at Rome on March 10, 1988,
 - (ix) the offences referred to in subsection 7(3.72) that implement the *International Convention for the Suppression of Terrorist Bombings*, adopted by the General Assembly of the United Nations on December 15, 1997, and
 - (x) the offences referred to in subsection 7(3.73) that implement the *International Convention for the Suppression of the Financing of ← Terrorism →*, adopted by the General Assembly of the United Nations on December 9, 1999, or
- (b) an act or omission, in or outside Canada,
- (i) that is committed
 - (A) in whole or in part for a political, religious or ideological purpose, objective or cause, and
 - (B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

"terrorist group"
« **groupe terroriste** »

"terrorist group" means

- (a) an entity that has as one of its purposes or activities facilitating or carrying out any terrorist activity, or
- (b) a listed entity,

and includes an association of such entities.

For greater certainty

(1.1) For greater certainty, the expression of a political, religious or ideological thought, belief or opinion does not come within paragraph (b) of the definition "terrorist activity" in subsection (1) unless it constitutes an act or omission that satisfies the criteria of that paragraph.

Facilitation

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(2) For the purposes of this Part, facilitation shall be construed in accordance with subsection 83.19(2).

2001, c. 41, ss. 4, 126.

(a) FINANCING OF **TERRORISM**

Providing or collecting property for certain activities

83.02 Every one who, directly or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, in order to carry out

(a) an act or omission that constitutes an offence referred to in subparagraphs (a)(i) to (ix) of the definition of "terrorist activity" in subsection 83.01(1), or

(b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act,

is guilty of an indictable offence and is liable to imprisonment for a term of not more than 10 years.

2001, c. 41, s. 4.

(b) LIST OF ENTITIES

Establishment of list

83.05 (1) The Governor in Council may, by regulation, establish a list on which the Governor in Council may place any entity if, on the recommendation of the Minister of Public Safety and Emergency Preparedness, the Governor in Council is satisfied that there are reasonable grounds to believe that

(a) the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or

(b) the entity is knowingly acting on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

Recommendation

(1.1) The Minister may make a recommendation referred to in subsection (1) only if he or she has reasonable grounds to believe that the entity to which the recommendation relates is an entity referred to in paragraph (1)(a) or (b).

Application to Minister

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(2) On application in writing by a listed entity, the Minister shall decide whether there are reasonable grounds to recommend to the Governor in Council that the applicant no longer be a listed entity.

Deeming

(3) If the Minister does not make a decision on the application referred to in subsection (2) within 60 days after receipt of the application, he or she is deemed to have decided to recommend that the applicant remain a listed entity.

Notice of the decision to the applicant

(4) The Minister shall give notice without delay to the applicant of any decision taken or deemed to have been taken respecting the application referred to in subsection (2).

Judicial review

(5) Within 60 days after the receipt of the notice of the decision referred to in subsection (4), the applicant may apply to a judge for judicial review of the decision.

Reference

(6) When an application is made under subsection (5), the judge shall, without delay

- (a) examine, in private, any security or criminal intelligence reports considered in listing the applicant and hear any other evidence or information that may be presented by or on behalf of the Minister and may, at his or her request, hear all or part of that evidence or information in the absence of the applicant and any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would injure national security or endanger the safety of any person;
- (b) provide the applicant with a statement summarizing the information available to the judge so as to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information the disclosure of which would, in the judge's opinion, injure national security or endanger the safety of any person;
- (c) provide the applicant with a reasonable opportunity to be heard; and
- (d) determine whether the decision is reasonable on the basis of the information available to the judge and, if found not to be reasonable, order that the applicant no longer be a listed entity.

Evidence

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(6.1) The judge may receive into evidence anything that, in the opinion of the judge, is reliable and appropriate, even if it would not otherwise be admissible under Canadian law, and may base his or her decision on that evidence.

Publication

(7) The Minister shall cause to be published, without delay, in the *Canada Gazette* notice of a final order of a court that the applicant no longer be a listed entity.

New application

(8) A listed entity may not make another application under subsection (2), except if there has been a material change in its circumstances since the time when the entity made its last application or if the Minister has completed the review under subsection (9).

Review of list

(9) Two years after the establishment of the list referred to in subsection (1), and every two years after that, the Minister shall review the list to determine whether there are still reasonable grounds, as set out in subsection (1), for an entity to be a listed entity and make a recommendation to the Governor in Council as to whether the entity should remain a listed entity. The review does not affect the validity of the list.

Completion of review

(10) The Minister shall complete the review as soon as possible and in any event, no later than 120 days after its commencement. After completing the review, he or she shall cause to be published, without delay, in the *Canada Gazette* notice that the review has been completed.

Definition of "judge"

(11) In this section, "judge" means the Chief Justice of the Federal Court or a judge of that Court designated by the Chief Justice.

2001, c. 41, ss. 4, 143; 2005, c. 10, ss. 18, 34.

Freezing of property

83.08 (1) No person in Canada and no Canadian outside Canada shall knowingly

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- (a) deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;
- (b) enter into or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or
- (c) provide any financial or other related services in respect of property referred to in paragraph (a) to, for the benefit of or at the direction of a terrorist group.

No civil liability

(2) A person who acts reasonably in taking, or omitting to take, measures to comply with subsection (1) shall not be liable in any civil action arising from having taken or omitted to take the measures, if the person took all reasonable steps to satisfy themselves that the relevant property was owned or controlled by or on behalf of a terrorist group.

2001, c. 41, s. 4.

Facilitating terrorist activity

83.19 (1) Every one who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Facilitation

- (2) For the purposes of this Part, a terrorist activity is facilitated whether or not
- (a) the facilitator knows that a particular terrorist activity is facilitated;
 - (b) any particular terrorist activity was foreseen or planned at the time it was facilitated; or
 - (c) any terrorist activity was actually carried out.

2001, c. 41, s. 4.

SCHEDULE B

- Abu Nidal Organization (ANO)
- Abu Sayyaf Group (ASG)
- Al Jihad (AJ)
- Al Qaida
- Al Shabaab
- Al-Aqsa Martyrs' Brigade (AAMB)
- Al-Gama'a al-Islamiyya (AGAI)
- Al-Ittihad Al-Islam (AIAI)
- Ansar al-Islam (AI)
- Armed Islamic Group (GIA)
- Asbat Al-Ansar ("The League of Partisans")
- Aum Shinrikyo
- Autodefensas Unidas de Colombia (AUC)
- Babbar Khalsa (BK)
- Babbar Khalsa International (BKI)
- Ejército de Liberación Nacional (ELN)
- Euskadi Ta Askatasuna (ETA)
- Fuerzas Armadas Revolucionarias de Colombia (FARC)
- Gulbuddin Hekmatyar
- Hamas (Harakat Al-Muqawama Al-Islamiya) ("Islamic Resistance Movement")
- Harakat ul-Mudjahidin (HuM)
- Hezb-e Islami Gulbuddin (HIG)
- Hizballah
- International Sikh Youth Federation (ISYF)
- Islamic Army of Aden (IAA)
- Islamic Movement of Uzbekistan (IMU)
- Jaish-e-Mohammed (JeM)
- Jemaah Islamiyyah (JI)
- Kahane Chai (KACH)
- Kurdistan Workers Party (PKK)
- Lashkar-e-Jhangvi (LJ)
- Lashkar-e-Tayyiba (LeT)
- Liberation Tigers of Tamil Eelam (LTTE)
- Mujahedin e Khalq (MEK)
- Palestine Liberation Front (PLF)
- Palestinian Islamic Jihad (PIJ)
- Popular Front for the Liberation of Palestine - General Command (PFLP-GC)
- Popular Front for the Liberation of Palestine (PFLP)
- Salafist Group for Call and Combat (GSPC)
- Sendero Luminoso (SL)
- Vanguardians of Conquest (VOC)
- World Tamil Movement (WTM)

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