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BY ECF & HAND DELIVERY

Honorable Nina Gershon
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: ***Linde v. Arab Bank, PLC, No. CV-04-2799 (NG) (VVP) and related cases***

Dear Judge Gershon:

We write on behalf of Arab Bank plc ("Arab Bank" or the "Bank") to provide supplemental authority in support of its pending motion for summary judgment (*Linde* ECF Nos. 887-97).[1] In *Rothstein v. UBS AG*, No. 11–0211–cv, 2013 WL 535770 (2d Cir. Feb. 14, 2013) ("*Rothstein IV*"), the United States Court of Appeals for the Second Circuit affirmed the dismissal of ATA claims brought against UBS, a Swiss bank alleged to have knowingly provided dollar clearing services to Iran, a state sponsor of terrorism. The court concluded that plaintiffs had failed to plead adequately proximate causation under the requirements imposed by the Anti–Terrorism Act ("ATA") and that there was no statutory basis for their aiding and abetting claims. *Rothstein* fully supports the Bank's pending motion for summary judgment and is wholly consistent with the decisions of Judge Jack B. Weinstein in *Gill* v. *Arab Bank, PLC*, No. 11–CV–3706, 2012 WL 4960358, at *21-27 (E.D.N.Y. Oct. 17, 2012) ("*Gill I*"), dismissing ATA aiding and abetting claims, and *Gill v. Arab Bank, PLC*, No. 11–CV–3706, 2012 WL 5395746 (E.D.N.Y. Nov. 6, 2012) ("*Gill III*"), granting the Bank's motion for summary judgment for failure to establish proximate causation, among other reasons.

I. No Reasonable Juror Could Conclude That The Plaintiffs Have Satisfied Their Burden Of Proof On The Issue Of Proximate Causation Under The Controlling Standards Set Forth In *Rothstein IV*.

The ATA provides that "[a]ny national of the United States injured in his or her person, property, or business *by reason of* an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor . . . ." 18 U.S.C. § 2333(a) (emphasis added). In *Rothstein v. UBS AG*, 647 F. Supp. 2d 292, 295 (S.D.N.Y. 2009), a case upon which Arab Bank relied in its summary judgment briefing, the court held that the ATA's "by reason of" language "has

[1] All ECF numbers specified herein refer to documents found on the docket of *Linde v. Arab Bank, PLC*, No. CV-04-2799 (NG) (VVP).

typically been construed to be synonymous with 'proximate cause'" and "proximate cause *narrowly defined* at that." *See also Rothstein v. UBS AG*, 772 F. Supp. 2d 511, 513 (S.D.N.Y. 2011) (emphasis supplied). Prior to the affirmance of *Rothstein*, the *Linde* Plaintiffs attempted to diminish its significance by characterizing it as "a judicial outlier." Pls.' Mem. of Law in Opp'n to Def. Arab Bank plc's Mot. for Summ. J. (ECF No. 892) at 18, n.31. However, *Rothstein IV* belies Plaintiffs' argument, and its holdings are controlling here. Every ATA plaintiff is now required to prove that a defendant's conduct was the direct and foreseeable cause of his injury. It simply is not sufficient to claim, as Plaintiffs do here, injury allegedly caused by Hamas and the provision by a defendant of financial support to entities and individuals allegedly affiliated with Hamas.

In *Rothstein IV*, the court looked to the plain language of the ATA in concluding that the statute requires the establishment of a causal nexus between a defendant's conduct and a plaintiff's injury before a defendant can be held liable for such injury. "The 'by reason of' language had a well-understood meaning, as Congress had used it in creating private rights of action under RICO and the antitrust laws, and it had historically been interpreted as requiring proof of proximate cause." *Rothstein IV*, 2013 WL 535770, at *12. The court observed that had Congress "intended to allow recovery upon a showing lower than proximate cause, we think it either would have so stated expressly or would at least have chosen language that had not commonly been interpreted to require proximate cause for the prior 100 years." *Id.*, 2013 WL 535770, at *13. This Court, by comparison, rejected these arguments when made by Arab Bank and reached the opposite conclusion: that the ATA's "by reason of" language required only that Plaintiffs "allege that they were injured 'by reason of' a crime that constitutes an act of international terrorism, as so defined" and that "Defendant's argument that plaintiffs must allege that they were injured by reason of Arab Bank's conduct simply misstates the statutory requirement."[2] *Linde v. Arab Bank, PLC*, 384 F. Supp. 2d 571, 580 (E.D.N.Y. 2005) (additionally holding that "there can be no dispute that plaintiffs have [pled] adequately that they were injured by acts of international terrorism.").

It is now clear that the "by reason of" language in the ATA does, in fact, require the Plaintiffs to prove, as they cannot, that they were injured by reason of the Bank's conduct and that there is a "direct relation between the injury asserted and the injurious conduct alleged." *Holmes v. Secs. Investor Prot. Corp.*, 503 U.S. 258, 268 (1992). Proof of such a direct relationship requires "a more stringent showing of proximate cause than would be required at common law." *Lerner v. Fleet Bank, N.A.*, 459 F.3d 273, 285, n.5 (2d Cir. 2006). The "central

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[2] *See* Def.'s Mem. of Law in Supp. of its Mot. to Dismiss the First Am. Compl. (ECF No. 53-1) at 17-22; Reply Mem. of Law of Arab Bank plc in Supp. of its Mots. to Dismiss the First Am. Compls. in *Linde et al. v. Arab Bank, PLC* and *Litle et al. v. Arab Bank, PLC* (ECF No. 53-14) at 14-15; Mem. of Law of Def. Arab Bank plc in Supp. of its Mot. for Summ. J. (ECF No. 887-1) at 13-17.

question" in such an inquiry is "whether the alleged violation led *directly* to the plaintiff's injuries." *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 461 (2006) (emphasis supplied). Each Plaintiff must therefore show that his "*direct injury*" was reasonably foreseeable by the Bank and that the Bank's conduct was "a *substantial* factor in the sequence of responsible causation." *Lerner*, 318 F.3d at 120-23 (2d Cir. 2003) (emphasis supplied).[3]

Rothstein IV provides explicit guidance as to how these standards are to be applied. The plaintiffs in that action alleged that UBS had furnished Iran with U.S. currency and thereby helped it fund the terrorist organizations allegedly responsible for their injury. Both the District Court and the Court of Appeals found that such allegations were not sufficient to establish that UBS had proximately caused the injuries at issue:

> The Complaint does not allege that UBS was a participant in the terrorist attacks that injured plaintiffs. It does not allege that UBS provided money to Hizbollah or Hamas. It does not allege that U.S. currency UBS transferred to Iran was given to Hizbollah or Hamas. *And it does not allege that if UBS had not transferred U.S. currency to Iran, Iran, with its billions of dollars in reserve, would not have funded the attacks in which plaintiffs were injured.*

Rothstein IV, 2013 WL 535770, at *14 (emphasis supplied). "Iran is a government," the court stated, "and as such it has many legitimate agencies, operations, and programs to fund. We see no nonconclusory allegation in the Complaint that plausibly shows that the moneys UBS transferred to Iran were in fact sent to Hizbollah or Hamas *or that Iran would have been unable to fund the attacks by Hizbollah and Hamas without the cash provided by UBS.*" *Id.* (emphasis supplied).

The factual analogies between this case and *Rothstein IV* are compelling.[4] Arab Bank, like UBS, is not alleged to be a participant in terrorist attacks. Nor is there any allegation that financial services provided by Arab Bank were used to fund the particular acts of terrorism at issue here. Most notably, there is no allegation, and no proof, that any of the terrorist attacks

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[3] *Holmes*, *Anza*, and *Lerner* were each cited with approval in *Rothstein IV*. *Rothstein IV*, 2013 WL 535770, at *8, *12.

[4] Plaintiffs have argued that in *Rothstein I*, Judge Rakoff "explicitly distinguish[ed] the facts of this case." *See* Pls.' Mem. of Law in Opp'n to Def. Arab Bank plc's Mot. for Summ. J. (ECF No. 892) at 18. While it is true that the *Rothstein* court noted that *Linde* involved *allegations* of "direct involvement between the defendant banks and the terrorist organizations," it is now clear, after years of extensive discovery, that Plaintiffs are unable to prove what they have alleged. Among other deficiencies, they cannot prove that the legitimate charities that received financial services from Arab Bank were alter egos of Hamas, or that transfers to individuals whom they allege to be affiliated with Hamas were commingled with the funds of Hamas itself.

at issue would not have occurred in the absence of the Bank's provision of financial services to the charitable organizations and other entities and individuals named in the complaints. And just as "Iran is a government . . . with many legitimate agencies, operations and programs to fund," so too were the charitable organizations that plaintiffs have accused of "fronting" for Hamas engaged, as Plaintiffs concede, in legitimate charitable activities, in many cases, funded by the United States itself. Under the circumstances, Plaintiffs are incapable of proving that but for the financial services provided to these legitimate charitable organizations, their injuries would never have occurred.

In short, there is no evidence that the conventional banking services that Arab Bank provided played a direct and substantial role in causing Plaintiffs' injuries, that any of the individuals that committed the acts of violence at issue received financial services from the Bank prior to committing their crimes, or that the incidents that gave rise to these injuries would not have been funded if Arab Bank had not provided the financial services at issue. In fact, as Matthew Levitt, one of Plaintiffs' expert witnesses, has noted, Hamas receives deliveries of weapons and logistical support from Iran, among other sources, and funding through cash couriers that operate outside of the banking system. *See, e.g.*, Matthew Levitt, *Hamas: Politics, Charity, and Terrorism in the Service of Jihad* (2007) at 172 ("Iran directly aids Hamas with money, training camps, and logistical support"), at 176-77 (noting Iran's well-documented provision of weapons to Hamas); Levitt Report (ECF No. 888-9) at 56 (opining that human couriers were used to transfer money, gold and jewelry to Hamas in 2001 and 2002); *see also id.* at 14 (opining that the son of an alleged Hamas operative was caught smuggling £8 million into Gaza from Egypt in 2009). By the admission of Plaintiffs' own expert, the evidentiary record in this case is insufficient to prove that the Bank's financial services were a direct and substantial cause of the Plaintiffs' injuries.

Under *Rothstein IV*, all of Plaintiffs' claims therefore should be dismissed. We address the particular factual elements of these claims in more detail below.

A. Transfers Originated by the Saudi Committee.

Rothstein IV requires Plaintiffs to prove that the Bank's processing of financial transfers originated by the Saudi Committee proximately caused their injuries. They cannot do so.

Plaintiffs have alleged that the Bank administered a bounty program on behalf of the Saudi Committee for the benefit of terrorists and the families of terrorists, so as to reward such conduct and encourage future acts of terrorism. *See Linde* Am. Compl. at ¶ 304. The actual record before this Court supports none of these allegations, however; it reveals only that the Bank processed routine transfer instructions from its correspondent bank in Saudi Arabia in full

compliance with the laws and regulations governing its operations. There is certainly no evidence that the Bank's processing of these transfers constituted a "substantial factor" in any chain of events that led directly to Plaintiffs' injuries, or that such injuries were reasonably foreseeable to the Bank at the time it processed these transactions. *Anza*, 547 U.S. at 461; *Lerner*, 318 F.3d at 120-23.

Application of the *Rothstein IV* analysis reveals the many deficiencies in Plaintiffs' pleadings and proof. Plaintiffs have presented no evidence, for instance, that transfers originated by the Saudi Committee were "given to . . . Hamas" or funded any of the incidents in issue. In addition, just as the *Rothstein* plaintiffs failed to allege that the attacks that injured them would not have been funded absent the cash provided to Iran by UBS, Plaintiffs are unable to show that any of the payments made by the Saudi Committee were directly and causally connected in any way to the incidents responsible for their injuries. This Court, however, has held that the Plaintiffs need not prove that their assailants were even aware of the existence of the Saudi Committee program. *Linde*, 384 F. Supp. 2d at 585 ("[Plaintiffs'] theory is that the death and dismemberment benefit plan, allegedly administered by Arab Bank, creates an incentive for suicide bombings, whether or not it is also a motive in any particular instance. The Bank's active participation in creating such an incentive is a sufficient basis for liability under the broad scope of the ATA."). In fact, Plaintiffs must prove far more to meet their burden under *Rothstein IV*; yet there is no way that Plaintiffs can prove that the Saudi Committee program was a substantial cause of their injuries without demonstrating that their assailants received funds from the Saudi Committee program and were knowingly incentivized by it to act.

The ATA's "by reason of" language also requires that Plaintiffs show that their injuries were a "reasonably foreseeable" consequence of the Bank's actions. *Lerner*, 318 F.3d at 120-23 (2d Cir. 2003). Here, the record establishes that the Saudi Committee was publicly endorsed and encouraged both by prominent international aid organizations as well as by the U.S. government. Under such circumstances, no reasonable juror could find that it was reasonably foreseeable that the Bank's processing of transfers originating from the Saudi Committee would facilitate acts of terrorism. *Lerner*, 318 F.3d at 120-23; Def. Arab Bank plc's Stm't of Mat'l Facts as to Which There is no Genuine Dispute Pursuant to Local Civ. R. 56.1 ("56.1 Stm't") at ¶¶ 324-47. In fact, Judge Weinstein noted that there was "no evidence of any substantial probative force suggesting that the Bank's provision of banking services to the Saudi Committee was a willful attempt *to aid the terrorist* . . . who injured the plaintiff."[5] *Gill III*, 2012 WL 5395746, at *15.

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[5] In light of the many infirmities that prevent Plaintiffs from connecting their injuries to the Bank's processing of financial transfers originated by the Saudi Committee, there can be little doubt that Judge Weinstein was correct in concluding that the alleged "[c]onnections between Hamas, the Bank, and third parties such as the

B. Transfers to Palestinian Charities

It is equally clear that Plaintiffs cannot establish that the Bank's provision of financial services to certain Palestinian charities, which they allege to be "front organizations" for Hamas, proximately caused their injuries, as *Rothstein IV* requires. Plaintiffs have failed to allege, or prove, even the slightest causal connection between these charities and the terrorist attacks at issue in this case, other than to conclusorily allege, in a manner that *Rothstein IV* forbids, that the charities in question were alter egos of Hamas and that Hamas caused their injuries. The Plaintiffs have not been able to identify, for instance, a single dollar that was used by the charities to fund any acts of Hamas terrorism, let alone any of the 24 incidents at issue here. On the record before this Court, no reasonable juror could conclude that if the Bank had not provided financial services to the charities in question, the incidents that allegedly injured the Plaintiffs would not have been funded.

Rothstein IV held that the plaintiffs had not adequately alleged proximate causation because, among other reasons, the monies that UBS provided to Iran could have been used for many legitimate purposes. Plaintiffs' allegations here are similarly deficient, since there is no proof whatsoever that the charities at issue that received financial services from the Bank—all of which were considered by the United States at the time to be lawful and legitimate—were involved in anything other than legitimate charitable activity. In fact, Plaintiffs concede that these charities were vetted by the United States and provided significant and legitimate humanitarian aid to a needy population, and they also concede their inability to prove that any of these charities funded a single act of terrorism. 56.1 Stm't at ¶¶ 392-401, 450-53. It is therefore clear that the provision of financial resources to these charities was not, and cannot be considered to be, a substantial cause of the terrorist attacks at issue. Nor is there any evidence that any of these charities received funds through the Bank's provision of routine financial services that were then provided to Hamas.[6]

Nor could any reasonable juror conclude, as required by *Rothstein IV*, that Plaintiffs have established that it was reasonably foreseeable to the Bank that the provision of

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Saudi Committee . . . have little force" in establishing proximate causation. *Gill III*, 2012 WL 5395746, at *27. Notably, Judge Weinstein found that the banking services the plaintiff had placed in issue as evidence of material support—the very same services as are at issue here—were "*de minimis*," *id.* at *15, and represented "just a fraction of the transactions automatically processed by the Bank" at the time, a conclusion that is equally applicable here.

[6] As set out fully in the Bank's Motion for Summary Judgment, no reasonable juror could conclude that the charities at issue were alter egos of, or controlled by, Hamas, given the lack of evidence pointing to commingling of funds, disregard of corporate formalities, sharing of offices or property, or overlap of ownership, officers, directors and personnel, among other factors, between the charities and Hamas. Mem. of Law of Def. Arab Bank plc in Supp. of its Mot. for Summ. J. (ECF No. 887-1) at 17-21.

financial services to the charities at issue would result in acts of terrorism. As Judge Weinstein found in *Gill III*, on the same record as is before this Court:

> There is no proof that anything but routine financial services to the charities alleged to be front organizations were provided, and none of the charities were designated by the United States as front groups when the charities received services from the Bank. . . . Many of the entities at issue "received grants from the United States Government" when they held accounts with the Bank.

Gill III, 2012 WL 5395746, at *16.

C. Transfers to Alleged Members of Hamas

The *Linde* Plaintiffs have not proven, and cannot prove, as *Rothstein IV* requires, that their injuries were proximately caused by the Bank's provision of banking services to individuals allegedly affiliated with Hamas. Plaintiffs contend that, due to "fungibility of terrorist funds," proximate causation is satisfied so long as they can "establish that the Bank provided *some* assistance to HAMAS," and they claim to have satisfied this invented standard by presenting evidence of financial services provided by the Bank to individuals whom they allege were affiliated with Hamas. *See* Pls.' Mem. of Law in Opp'n to Def. Arab Bank plc's Mot. for Summ. J. (ECF No. 892) at 12-18 (citing *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705, 2725 (2010)). This is not the law as articulated in *Rothstein IV*, however. There, the court clearly ruled that a theory of liability premised on the fungibility of assets is not sufficient to meet the requirement that a defendant proximately caused a plaintiff's injury. *Rothstein IV*, 2013 WL 535770, at *6, *8, *14 ("The district court noted the Supreme Court's comment in *Humanitarian Law Project* that '[m]oney is fungible' . . . . But the district court [correctly] concluded that that comment did not justify a conclusion that 'the most remote and tenuous connections . . . could subject potential defendants to ATA liability."); *see also Rothstein*, 772 F. Supp. 2d at 516 ("*Humanitarian Law Project* does not address Section 2333(a)'s proximate causation requirement"). No reasonable juror could conclude, as *Rothstein IV* requires, that in the absence of the financial services that the Bank provided to individuals alleged to be affiliated with Hamas, none of the incidents at issue would have been funded.

As in *Rothstein IV*, Plaintiffs do not allege, and cannot prove, that the Bank provided funds directly to Hamas itself. Instead, they contend that transfers to individuals whom they allege to be affiliated with Hamas are sufficient. Yet they present no evidence whatsoever to indicate that funds transferred to these individuals were commingled with those of Hamas itself, or that the funds of particular individuals were used to finance acts of terror. Judge Weinstein in *Gill III* held that such a lack of evidence was fatal. *Gill III*, 2012 WL 5395746, at

*27 ("Insufficient evidence is adduced to tie the personal bank accounts of individuals who may be affiliated with Hamas to Hamas itself. More is required to establish liability of the Bank.").

II. Plaintiffs' Aiding and Abetting Claims Must Be Dismissed

In *Rothstein IV*, the Court of Appeals held that the ATA does not permit a private right of action under an aiding and abetting theory of liability. Plaintiffs' aiding and abetting claims therefore must be dismissed.

Quoting from *Central Bank of Denver v. First Interstate Bank of Denver*, 511 U.S. 164, 182, 185 (1994), the Second Circuit noted that "there is no general presumption that the plaintiff may also sue aiders and abettors" and "an implicit congressional intent to impose . . . aiding and abetting liability" could not plausibly be inferred from "statutory silence." *Rothstein*, 2013 WL 535770, at *14-15. The fact that "§ 2333 [of the ATA] is silent as to the permissibility of aiding and abetting liability" is thus conclusive that none exists. *Id.*, 2013 WL 535770, at *15. This conclusion was further bolstered, the court found, by the fact that a number of the ATA's criminal provisions specifically authorize aiding and abetting claims. *Id.* ("We doubt that Congress, having included in the ATA several express provisions with respect to aiding and abetting in connection with the criminal provisions, can have intended § 2333 to authorize civil liability for aiding and abetting through its silence.").[7]

The Bank made these arguments in its prior submissions to this Court, which rejected them. Def.'s Mem. of Law in Supp. of its Mot. to Dismiss the First Am. Compl. (ECF No. 53-1) at 48-50; Mem. of Law of Def. Arab Bank plc in Supp. of its Mot. for Summ. J. (ECF No. 887-1) at 21-22. *See Linde,* 384 F. Supp. 2d at 583 ("For the reasons set forth comprehensively by the Court . . . in *Boim*, I conclude that aiding and abetting liability is available under the ATA."). *Rothstein IV* now represents the law of the Circuit. Accordingly, Plaintiffs' secondary liability claims must be dismissed.

III. Plaintiffs' Attempt To Distinguish *Rothstein IV* By Citing A Non-Controlling District Court Decision Is Unpersuasive

In an attempt to diminish the plain importance of *Rothstein IV*, Plaintiffs have relied on an opinion recently issued by Judge Dora Irizarry in *Strauss v. Credit Lyonnais, S.A.*, Nos. 06-CV-702, 07-CV-914, 2013 WL 751283 (E.D.N.Y. Feb. 28, 2013) ("*Strauss*"), denying, in substantial part, Credit Lyonnais's motion for summary judgment on ATA claims. *Strauss* is

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[7] Other courts have also reached this same conclusion. *Boim v. Holy Land Found. for Relief and Dev.*, 549 F.3d 685, 689 (7th Cir.2008) (en banc) ("statutory silence on the subject of secondary liability means there is none; and section 2333(a) . . . . does not mention aiders and abettors or other secondary actors"); *Gill I*, 2012 WL 4960358, at *21-27 ("Congress knew how to provide for liability of that sort if it wanted to do so").

not, of course, binding on this Court; in fact, it departs from several of this Court's recent holdings. *See, e.g.*, *Strauss*, 2013 WL 751283, at *25-28, *30 (excluding, in substantial part, the identical expert testimony offered by plaintiffs' experts Evan Kohlmann and Ronnie Shaked on the issue of attribution that this Court has admitted, and dismissing certain ATA claims because plaintiffs could not prove that Hamas committed an attack on September 24, 2004).

Strauss also departs from recent holdings of Judge Weinstein with respect, *inter alia*, to whether the record contains evidence of sufficient probative force to prove that the charities at issue were alter egos of Hamas. Whereas Judge Weinstein found that the evidence "fails to provide sufficient information to establish . . . that the charities were alter egos of Hamas," Judge Irizarry failed to assess the probative force of plaintiffs' evidence and concluded that by virtue of "a few examples" of information that might satisfy an element of the alter ego test, "a reasonable jury could find that the 13 Charities are operating as Hamas front groups." *Compare Gill III*, 2012 WL 5395746, at *27, *with Strauss*, 2013 WL 751283, at *17-18. Judge Irizarry's failure to consider all of the elements that must be satisfied to establish an alter ego relationship was clear error. *MAG Portfolio Consult, GMBH v. Merlin Biomed Grp. LLC*, 268 F.3d 58, 63 (2d Cir. 2001) (refusing to uphold district court's determination that one entity completely dominated another where the factual record did not contain facts addressing the "multitude of factors" that must be considered in such an analysis).

The courts of this district are, therefore, in substantial disagreement with respect to the handling of ATA claims, including, in many cases, how to decide identical motions. *See, e.g.*, Ltr. from K. Walsh, Esq. to Hon. Nina Gershon, dated Nov. 26, 2012 (ECF No. 908) (asking this Court to reconsider evidentiary rulings in light of Judge Weinstein's decision to admit the "critical" testimony of the Bank's foreign banking witnesses that this Court previously excluded). This substantial discord requires this Court to closely follow the mandates of *Rothstein IV*.

The *Strauss* court attempted to distinguish *Rothstein IV* and, in doing so, dismissed this landmark holding because the *Strauss* plaintiffs had contended that "the money from Defendant was purportedly going directly to Hamas front-groups, rather than to a [designated state sponsor of terrorism] that performed myriad legitimate functions in addition to allegedly funding terrorism." *Strauss*, 2013 WL 751283, at *14. Yet the *Strauss* court failed to assess whether the financial services provided to the alleged "front-groups" were sufficient as a matter of law to establish proximate causation under *Rothstein IV*, nor did the record before it contain evidence sufficient to suggest that the charities at issue were, in fact, "front-groups" under the controlling alter ego test set forth in *MAG Portfolio*. In committing these errors, the *Strauss* court failed to adequately apply controlling precedent and its decision therefore has no persuasive value here. Moreover, unlike the designated state sponsor of terrorism at issue in

Rothstein IV, none of the entities that allegedly received services from the Bank were designated Foreign Terrorist Organizations during the relevant time period, and only one of the Palestinian charities at issue was ever designated as a Specially Designated Global Terrorist, and that was not until years after this litigation was filed.

For the reasons set forth above and in the motion papers already submitted, the Bank's motion for summary judgment on all claims should be granted.

Respectfully submitted,

Kevin Walsh

cc: Magistrate Judge Viktor V. Pohorelsky (by hand delivery)
All Counsel (by email)