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**Re: Call for Investigation of Domestic Activities of Affiliates of Certain Designated Foreign Terror Organizations**

Dear Attorney General Sessions, Associate Attorney General Panuccio, and Assistant Attorney General Benczkowski,

After proceedings that spanned most of the first part of this century, in a case known as the Holy Land Foundation prosecution the United States government obtained guilty verdicts against a number of individuals for providing material support to Hamas, a designated foreign terror organization. Just as those convicted in that prosecution were starting their jail sentences, new and different, but affiliated, organizations were acting to fill the void left by the Holy Land Foundation. These organizations have an even more aggressive agenda than the Holy Land Foundation, are supported by many of the same individuals and entities that supported the Holy Land Foundation and, in many cases, are led by a number of individuals who were instrumental in funding and operating the now-defunct Holy Land Foundation. And as with the Holy Land Foundation, these entities have been organized to operate in the United States to provide material support to designated foreign terror organizations. Indeed, one of these interrelated entities overtly proclaimed that it would be active in advocating activities that exist on “the fine line between legal activism and material support for terrorism”. Ample evidence exists to demonstrate that this line has been decisively and repeatedly crossed.

The undersigned respectfully calls for the Department of Justice (the “DOJ”) to consider an investigation into the domestic criminal activities of affiliates of certain foreign terror organizations (as determined under 8 U.S. Code § 1189), including, but not limited to, Hamas, the Popular Front for the Liberation of Palestine and Palestine Islamic Jihad (collectively, the “**Designated Terror Organizations**”). The criminal acts occur as part of an organized campaign conducted by parent organizations that include American Muslims for Palestine (and its affiliated entity, Americans for Justice in Palestine Educational Foundation), Dream Defenders, the Muslim Students Association and Students for Justice in Palestine (collectively, the “**Domestic Terror Affiliates**”).

As a result of extensive research and investigation, we have what we believe is clear and convincing evidence of ties between the Designated Terror Organizations and the Domestic Terror Affiliates. One organization in particular evinces these ties: Samidoun, a foreign organization that is supported by the Domestic Terror Affiliates, is an alter ego of at least one of the Designated Terror Organizations.

This letter will first describe each of the Domestic Terror Affiliates, including summaries of operatives of each organization and their ties to terror organizations, and each of the Designated Terror Organizations. Full reports on each Domestic Terror Affiliate, as well as a chart and report titled “**Connections**” that illustrate the relationships between and among the Domestic Terror Affiliates and the Designated Terror Affiliates, are available for download from a secure online repository. To obtain a link for access to the repository please email [info@zachorlegal.org](mailto:info@zachorlegal.org). Next, this letter will provide an overview of relevant provisions of 18 U.S. Code §§1961-1968 (the “**RICO Statute**”). Finally, this letter will present legal arguments in support of the request that the Domestic Terror Affiliates be prosecuted under the RICO Statute based on Material Support to Terrorism<sup>1</sup> predicates.

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<sup>1</sup> 18 U.S. Code §§ 2339A & B.

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### Chart

<i>Connections</i> .....	<i>Connections Between and among the Domestic Terror Affiliates and the Designated Terror Organizations</i>
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<b>Exhibit B</b> .....	Report: <i>Dream Defenders</i>
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<b>Exhibit G</b> .....	Chart Presented by Dr. Jonathan Schanzer for Congress Regarding Connections Between Certain BDS Supporters and Holy Land Foundation Defendants
<b>Exhibit H</b> .....	Report: <i>CodePink</i>

## **The Domestic Terror Affiliates**

The Domestic Terror Affiliates, like many well-known foreign terrorist organizations, are structured as networked cells that often have limited visible connections yet operate in coordination with one another to carry out common organizational goals. The United States military has described this type of structure in the following manner:

*Terrorists are increasingly using a broader system of networks than previously experienced. Groups based on religious or single issue motives may lack a specific political or nationalistic agenda. They have less need for a hierarchical structure to coordinate plans and actions. Instead, they can depend and even thrive on loose affiliation with groups or individuals from a variety of locations. General goals and targets are announced, and individuals or cells are expected to use flexibility and initiative to conduct action in support of these guidelines.<sup>2</sup>*

As with other terror-affiliated networks, the Domestic Terror Affiliates operate in the United States through a number of opaque, affiliated groups, frequently changing names but ultimately having ties to the same parent organizations. In fact, it is common for individual members of one Domestic Terror Affiliate to also be members of another Domestic Terror Affiliate or to operate as an enterprise in connection with other organizations. For example, an organization named “The US Campaign to End the Israeli Occupation”, which claims to be the parent of over 100 member groups,<sup>3</sup> recently changed its name to “US Campaign for Palestinian Rights” (“USCPR”).<sup>4</sup> Though its name has changed, the substance of this organization’s work, and the entities that it operates through (including, but not limited to, the Domestic Terror Affiliates), all remain committed to the underlying objective of providing material support to the Designated Terror Organizations in the United States. The member organizations of the USCPR have a common nexus to and act to provide material support to the Designated Terror Organizations through the Domestic Terror Affiliates.

**In fact, our research shows that the USCPR is a fiscal sponsor of the governing body of the foreign organization at the heart of the RICO enterprise.<sup>5</sup>**

The Domestic Terror Affiliates learned an important lesson from the Holy Land Foundation prosecution and have endeavored to conceal their activities and coordination from the public domain. There is no single “smoking gun” piece of evidence discoverable in public records.<sup>6</sup> Nonetheless, through our review of publicly available information we have assembled a vast mosaic of seemingly discrete disclosures (included as Exhibits to this letter) that, when viewed as a whole, supports our contention that the Domestic Terror Affiliates are operating in support of the Designated Terror Organizations. By way of example, the section on the Muslim Students Association, below, chronicles the numerous and high level ties between leaders of the Muslim Student Association and terrorist networks.

Further, recent expert testimony before Congress has documented that one of the oldest Palestinian terror organizations controls important elements of the international operations of the unincorporated entity (the BDS movement) under which the Domestic Terror Affiliates operate.<sup>7</sup>

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<sup>2</sup> See, generally, U.S. Army Training and General Command TRADOC G2, “A Military Guide to Terrorism in the Twenty-First Century” (Aug. 15, 2007) at Chapter 3, page 7 “Networked Structure”, available at <https://fas.org/irp/threat/terrorism/guide.pdf>.

<sup>3</sup> US Campaign for Palestinian Rights website, available at <http://uscpr.org/membership/membership-groups/#1474306748588-0d602878-b650>.

<sup>4</sup> NGO Monitor website, available at <http://www.ngo-monitor.org/ngos/us-campaign-to-end-israeli-occupation/>.

<sup>5</sup> As part of our research we went to the BDS movement’s website, [www.BDSMovement.net](http://www.BDSMovement.net) and made a token charitable donation to see which entity provided the tax information. The receipt, which is available upon request, states the following: “For your records, the Palestinian BDS National Committee is fiscally sponsored by Education for Just Peace in the Middle East, which is registered as a 501(c)3 charitable organization.” Education for Just Peace in the Middle East is a trade name of the USCPR. [https://opencorporates.com/companies/us\\_dc/EXTUID\\_2680059](https://opencorporates.com/companies/us_dc/EXTUID_2680059).

<sup>6</sup> The absence of publicly available evidence constituting a “smoking gun” is typical with modern racketeering organizations. We are confident that evidence that would support bringing a case and obtaining convictions can be obtained through the government’s expansive power to collect evidence, a power that is not available to private non-profit legal foundations such as Zachor Legal Institute.

<sup>7</sup> *Israel, the Palestinians and the United Nations: Challenges for the New Administration*, Before H. Foreign Affairs Comm., Subcomm. on the Middle East and North Africa and Africa, Global Health,

We have compiled detailed reports on each of the Domestic Terror Affiliates and have attached them as **Exhibits A-H** to this letter and have summarized, below, the contents of these reports for each such entity.

The following organizations comprise the Domestic Terror Affiliates:

- American Muslims for Palestine (“AMP”);
- Dream Defenders, Inc. (“DDP”);
- Muslim Students Association (“MSA”); and
- Students for Justice in Palestine (“SJP”);

In addition to the four Domestic Terror Affiliates, there are numerous lower level organizations that provide funding and other support to enable the activities of the Domestic Terror Affiliates. These organizations are described in the section titled “Supporters of the Domestic Terror Affiliates”, below. Furthermore, in addition to working towards the common goal of providing material support to the Designated Terror Organizations, the Domestic Terror Affiliates operate as an enterprise in the United States under the umbrella of a purported rights movement known as the BDS Movement (“**BDS Movement**”), discussed at in its own section, below. Ties between the two most prominent Domestic Terror Affiliates, AMP and SJP, and their connections to Designated Terror Organizations are discussed in detail in the report titled “The Connection between the United States BDS Network and US-Designated Terror Organizations” (the “**BDS Terror Report**”) at **Exhibit A** to this letter.

Indeed, it is becoming increasingly common for the Domestic Terror Affiliates to infiltrate active and popular American rights movements, such as Black Lives Matter and the women’s rights movement, to spread the radical ideology of the Designated Terror Organizations and recruit new supporters for those entities. For example, Linda Sarsour, who is on the advisory board of Dream Defenders and who is an officer of the Women’s March organization,<sup>8</sup> recently spoke about her women’s rights activities before an organization affiliated with Hamas and the Muslim Brotherhood (a subsidiary of the organization, Islamic Society of North America, shared a bank account with the Holy Land Foundation), urging jihad against the President of the United States.<sup>9</sup>

In another example of how BDS infiltrates purported rights groups, the “Interfaith Peace Builders” (“**IPB**”), an organization with executive interlocks to US CPR, in conjunction with AMP and other BDS related groups recently brought a delegation of Americans to the Palestinian Territories to meet with representatives of Designated Terror Organizations (the “**PFLP/BDS Meeting**”). Members of this delegation were hosted at the home of a prominent member of the Popular Front for the Liberation of Palestine.<sup>10</sup>

The evidence we have obtained supports a prosecution of the Domestic Terror Affiliates under a Material Support to Terrorism RICO predicate.

The activities of the Domestic Terror Affiliates that constitute material support to the Designated Terror Organizations consist of providing expert advice and assistance to the Designated Terror Organizations in the areas of social media outreach, political advocacy, recruiting, public and legislative relations as well as a wide variety of services that include providing domestic distribution of materials originating with the Designated Terror Organizations and facilitating meetings and cooperation between representatives of the Designated Terror Organizations and American citizens.<sup>11</sup> See the section of this letter titled “RICO Prosecution with a Material Support Statute Predicate”, below, for a detailed discussion of the predicate.

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*Global Human Rights, and International Organizations*, 115th Cong., 1st Sess. (Feb. 2, 2017) (statement of Jonathan Schanzer, Senior Vice President for Research, Foundation for Defense of Democracies), <http://docs.house.gov/meetings/FA/FA13/20170202/105508/HHRG-115-FA13-Wstate-SchanzerJ-20170202.pdf> (hereinafter, “Schanzer PLO Testimony”) at text accompanying footnote 37 thereof.

<sup>8</sup> <https://www.womensmarch.com/team/>. Sarsour is listed as the Treasurer of the Women’s March organization.

<sup>9</sup> Kyle Shideler, “Linda Sarsour’s ‘jihad against Donald Trump’ is what it sounds like”, Wash. Examiner (July 7, 2017), available at <http://www.washingtonexaminer.com/linda-sarsours-jihad-against-donald-trump-is-what-it-sounds-like/article/2628033>. See, also, David French, “Media, Tell the Truth: The Women’s March and Black Lives Matter Embrace Terrorists”, National Review Online (July 19, 2017), available at <http://www.nationalreview.com/article/449654/black-lives-matter-womens-march-embrace-terrorists-media-stays-silent>.

<sup>10</sup> See Exhibit E, “Report on 2017 Meetings Between Designated Terror Organizations and BDS Affiliates”.

<sup>11</sup> See, e.g., the indictment of Amer Sinan Alhaggagi on July, 20, 2017 in the United States District Court for the Northern District of California, available at <https://www.justice.gov/usao-ndca/press-release/file/984311/download>. The United States charged that Mr. Alhaggagi provided

## American Muslims for Palestine

AMP provides significant levels of support for MSA<sup>12</sup> and SJP and has extensive ties with former backers and officials of the now-defunct Holy Land Foundation for Relief and Development (“**HLF**”), an entity controlled by individuals who were convicted of providing material support to Hamas—a designated foreign terrorist organization.<sup>13</sup> AMP functions both as a direct promoter of BDS activity in the United States and as a quasi-parent organization to other BDS promoters. AMP participated in the PFLP/BDS Meeting in 2017, as described in **Exhibit E** hereto.

In a 2013 report, the Anti-Defamation League chronicled the numerous ties between former HLF officials and the founding members of AMP, noting

*AMP has its organizational roots in the now-defunct Islamic Association of Palestine (“IAP”), an anti-Semitic group that served as the main propaganda arm for Hamas in the United States. AMP’s inaugural conference in November 2006, titled, “Palestine – A Just Cause,” in Rosemont, Illinois, featured several former IAP leaders, including **Rafeeq Jaber**, a former IAP president; **Kifa Mustapha**, a former IAP board member and head of the Holy Land Foundation’s Chicago office; **Osama Abu Irshaid**, an AMP board member and former editor of IAP’s official newspaper; **Nihad Awad**, former IAP public relations director and current executive director of the Council on American – Islamic Relations (“CAIR”); and **Raed Tayeh**, a former IAP member; all of whom have also worked for the United Association for Studies and Research.<sup>14</sup>*

IAP was prosecuted alongside the Holy Land Foundation and was ultimately convicted of aiding and abetting Hamas. The leadership of AMP has been identified as:

- **Hatem Bazian**, a professor of Near Eastern Studies at the University of California, Berkeley, is an ardent promoter of Hezbollah and Hamas and is one of the founders and the current chairman of AMP. Bazian, who established the nation’s first SJP organization often delivers anti-Israel lectures on university campuses and has become a fixture at anti-Israel rallies in the Bay Area. In his speeches, Bazian has often accused Israel of committing ethnic cleansing and war crimes against the Palestinians and has been a vocal proponent of anti-Israel boycott campaigns. In one session at the 2010 MAS-ICNA convention, Bazian endorsed a total boycott of Israeli products, academics and sports. In a November 19, 2012, radio interview about the renewed military escalation between Israel and Hamas militants in Gaza, Bazian advanced the conspiratorial claim that AIPAC wields undue influence in pressuring in the U.S. to back Israel, while claiming that Hamas has the right to resist Israel by resorting to violence against “the colonizer.”

Speaking at a January 2, 2009, rally in San Francisco protesting Israel’s Operation Cast Lead against Hamas in Gaza, Bazian called for resistance against what he termed as the “American-Israeli and Arab elite agenda,” adding “there are only a few people that are resisting this program, some in Palestine and some in south Lebanon,” a thinly veiled reference to Hezbollah and Hamas.

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material support to the designated terror organization “ISIS” in violation of the Section 2339A of the Material Support Statute by, *inter alia*, opening social media accounts on the behalf of ISIS.

<sup>12</sup> AMP website, archived at <https://web.archive.org/web/20151119231525/http://www.ampal.org/index.php/about-amp/amp-faq/215-what-does-amp-do>

<sup>13</sup> *Israel Imperiled: Threats to the Jewish State, Joint Hearing Before H. Foreign Affairs Comm., Subcomm. on Terrorism, Nonproliferation, and Trade and the Subcomm. on the Middle East and North Africa*, 114th Cong., 2d Sess. (Apr. 19, 2016) (statement of Jonathan Schanzer, Vice President of Research Foundation for Defense of Democracies), <http://docs.house.gov/meetings/FA/FA18/20160419/104817/HHRG-114-FA18-Wstate-SchanzerJ-20160419.pdf> (hereinafter “Schanzer Testimony”) at 2.

<sup>14</sup> Anti-Defamation League publication, “Profile: American Muslims for Palestine” (2013) at 3, available at <https://www.adl.org/sites/default/files/documents/assets/pdf/israel-international/american-muslims-for-palestine-2013-03-29-v1.pdf>. *See, also*,

At a 2010 lecture series hosted by the Muslim Student Union at the University of California, Irvine, during Israeli Apartheid Week, Bazian gave a speech titled "Roots of the Conflict." Bazian portrayed Israel as a foreign colonial power and rejected the legitimacy of Jewish claims in the Middle East. He characterized the Jewish presence in the Middle East in Biblical times as "occupation," which he said was similar to the "occupation in the present context."

- **Munjed Ahmad**, is AMP's Vice Chairman and has ties to the Mosque Foundation.
- **Osama Abu Irshaid** is an AMP board member and current editor and publisher of Al Meezan, a Virginia based community newspaper. For many years, Irshaid served as the editor of Al Zaytounah, the official newspaper of the IAP, an organization described by the U.S. government as part of " Hamas' propaganda apparatus."
- **Taher Herzallah** is AMP's National Campus Coordinator. Herzallah is charged with coordinating and speaking at anti-Israel events on university campuses across the nation. Before he was hired in 2011, Herzallah was a student at the University of California, Riverside, and was involved in a campus protest against Israeli Ambassador Michael Oren. He was subsequently one of the 11 students arrested for disrupting a speech by the Ambassador at the University of California, Irvine.
- **Rafeeq Jaber**, a co-founder of the CAIR and former president of the Islamic Association of Palestine (IAP), is a frequent speaker at AMP conferences.
- **Salah Sarsour** is a Milwaukee-based member of AMP's board of directors, and was reportedly implicated in Hamas activity in the West Bank in the 1990s. According to statements given to Israeli investigators by his brother Jamil, Sarsour was personally involved in fundraising for Hamas.

According to a November 2001 FBI memorandum, Jamil Sarsour was arrested in 1998 for funding Hamas and told Israeli investigators that Salah Sarsour was involved in funding Hamas through his fundraising for the Holy Land Foundation (HLF).

In 1995, Salah Sarsour was arrested and imprisoned by Israel for eight months for supporting Hamas. According to his brother, while in prison, Salah became close to the West Bank commander of Hamas's Izzedeen al-Qassam Brigades, the armed military wing of Hamas.

In addition to his position with AMP, Salah Sarsour is also the Milwaukee representative of the Muslim American Society (MAS).<sup>15</sup> AMP and its affiliated entity Americans for Justice in Palestine Educational Foundation are described in the BDS Terror Report at **Exhibit A** hereto. See, also the report on meetings with Designated Terror Organizations sponsored by AMP at **Exhibit E** hereto.

NGO Monitor has also investigated AMP and described its activities as follows<sup>16</sup>

- Supports BDS, accuses Israel of "apartheid," and advocates for a "right of return" and the elimination of Israel: "Palestinians are more determined than ever to fight on until total liberation, until every refugee can return, until the land of Palestine is free from the river to the sea!"
- Panels at AMP's 2014 annual conference discussed how the "Zionist network in the United States stifles criticism of Israeli policies by smearing activists as anti-Semites"; various "tools

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<sup>15</sup> *Id.* at 5-8 (edited for brevity and context) and additional sources including the AMP website.

<sup>16</sup> NGO Monitor website, available at <http://www.ngo-monitor.org/ngos/american-muslims-for-palestine-amp/> (edited for brevity). See, also, "American Muslims for Palestine's Web of Hamas Support", The Investigative Project on Terrorism (Dec. 14, 2011), available at <http://www.investigativeproject.org/3346/american-muslims-for-palestine-web-of-hamas#>.

to try to end US military aid to Israel”; “everything you need to know to get busy with your own successful BDS effort.”

- AMP also produces media and activism guidebooks, such as campus activism resources including fact-sheets, anti-normalization material, and Power Point presentations that parrot the Hamas narrative of the 2014 Israeli-Hamas conflict in Gaza, claiming that “Palestinian resistance was born out of the occupation and the siege, plain and simple.”
- AMP offers significant support to SJP chapters by speaking at SJP campus events, reposting SJP statements on its website, organizing conferences and seminars for SJP chapters, and facilitating the SJP National Convention.
- AMP’s own 2010 conference featured two “SJP workshops” titled “Israeli PR and Rebranding Campaign” and “The Normalization of Zionism on Campuses.”
- Partners with Jewish Voice for Peace, a leader of anti-Israel BDS campaigns, which claims to be the Jewish wing of the Palestinian solidarity movement and seeks to “drive a wedge” within the American Jewish community over support for Israel.

## Dream Defenders

DDP was formed by a trio of campus radicals to engage in civil disobedience in Florida after the shooting of Trayvon Martin. The three founders were Ahmad Abuznaid, Philip Agnew and Gabriel Pendas.<sup>17</sup> Abuznaid, a Palestinian-Arab, is the son of Nabil Abuznaid, a former advisor to Yasser Arafat.<sup>18</sup>

While the original focus of DDP was domestic racial agitation in the United States, DDP pivoted to a focus on anti-Israel activities in 2015 and quickly endorsed BDS while sending delegations to Israel<sup>19</sup> to meet with, among others, affiliates of the PFLP and the co-founder of the BDS Movement.<sup>20</sup> Linda Sarsour and Angela Davis are two of DDP’s Advisory Board members. Much of the current focus of DDP is spreading radical, revolution-focused ideology, including promoting the PFLP in American educational institutions, and spreading BDS activity in urban American communities. For a report on DDP, please see **Exhibit B** hereto.

## Muslim Students Association

MSA was founded by the Muslim Brotherhood in 1963.<sup>21</sup> MSA has over 600 chapters on North American university campuses and is active in sponsoring conferences, speakers, publications and websites. Included in its primary focus is the promotion of radical Islamic ideology on university campuses.<sup>22</sup> After conducting a thorough investigation, the New York Police Department issued a report that deemed MSA an “incubator” for radical Islamist activity.<sup>23</sup> MSA was involved in the creation of the BDS Movement and acted in connection with the Holy Land Foundation, the Islamic Association for Palestine and CAIR, among others, in establishing BDS in the United States. For a full report on the history and terror connections of MSA, please see **Exhibit C** to this letter.

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<sup>17</sup> Chabeli Herrera, “Who are the Dream Defenders?”, WUFT.org (Oct. 15, 2013), available at <https://www.wuft.org/news/2013/10/15/who-are-the-dream-defenders/>.

<sup>18</sup> See <http://www.palestine-delegation.nl/the-ambassador/>

<sup>19</sup> Alex Kane, “The Growing Ties Between #BlackLivesMatter and Palestine”, Mondoweiss (Jan. 26, 2015), available at <http://mondoweiss.net/2015/01/between-blacklivesmatter-palestine/>.

<sup>20</sup> Ron Kampeas, “In linking Black Lives Matter with Palestinian cause, Miami lawmaker riles pro-Israel activists”, Jewish Telegraphic Agency (Aug. 17, 2016), available at <http://www.jta.org/2016/08/17/news-opinion/politics/in-linking-black-lives-matter-with-palestinian-cause-miami-lawmaker-riles-pro-israel-activists>.

<sup>21</sup> Noreen S. Ahmed-Ullah, Sam Roe and Laurie Cohen, “A rare look at secretive Brotherhood in America”, Chicago Tribune (Sept. 19, 2004), available at <http://www.chicagotribune.com/news/watchdog/chi-0409190261sep19-story.html>.

<sup>22</sup> Muslim Students Association: Dossier, The Investigative Project on Terrorism, available at <https://www.investigativeproject.org/documents/misc/31.pdf>

<sup>23</sup> “Radicalism in the West: The Homegrown Threat”, report from the City of New York Police Department, at Page 68, available at [http://www.judicialwatch.org/wp-content/uploads/2016/01/NYPD\\_Report-Radicalization\\_in\\_the\\_West.pdf](http://www.judicialwatch.org/wp-content/uploads/2016/01/NYPD_Report-Radicalization_in_the_West.pdf). This 2007 report was initially published online, but as a result of political pressure the New York City Police Department agreed to remove the report, though the substance of the report remains unimpeached.



In a 2010 report, Patrick Poole detailed deep ties between the MSA and terror organizations, noting as follows<sup>24</sup>:

- **Tarek Mehanna**, a former MSA official at the Massachusetts College of Pharmacy and Health Science, is currently serving a 17 year sentence for providing material support to terrorists.
- **Omar Hammami**, a top official of the al-Qaeda-linked Somali terrorist group al-Shabaab and an individual named as a “Specially Designated Global Terrorist” by the United States, served as president of the MSA chapter at the University of South Alabama in 2001 and 2002.
- Former Arizona State MSA president **Hassan Alrefae** and vice president **Jaber Al-Thukair** were raided by the FBI in a search for weapons as part of a larger investigation into possible terrorist training by foreign student members of the MSA. The group had been under surveillance by the FBI, who videotaped them engaged in weapons training, with all but Alrefae doing so in violation of their student visas that prohibit handling firearms.
- **Ali Asad Chandia**, who was convicted in June 2006 on terror charges as part of the Northern Virginia jihad network, had previously served as president of the Montgomery College MSA in 1998 and 1999. He was sentenced to 15 years in prison for convictions on three separate counts of conspiracy and material support to the Pakistani Lashkar-e-Taiba terrorist group.
- **Abdurahman Alamoudi**, who served as MSA national president in 1982 and 1983, is currently serving a 23-year prison sentence for his extensive international terrorist activities. Once the most prominent Muslim political activist in the country, and counselor to U.S. presidents and cabinet officials, the U.S. government now claims that he was one of al-Qaeda’s top fundraisers.
- **Aafia Siddiqui** was convicted of attempted murder of a U.S. Army captain while she was incarcerated and being interrogated by authorities at a prison in Afghanistan. According to news reports, she had been captured in 2008 with explosives, deadly chemicals, and a list of New York City landmarks. Described as “al-Qaeda’s Mata Hari” and “Lady al-Qaeda,” Siddiqui was active in the MSA at MIT, where she studied neuroscience. A 2005 article in *Vogue*, which speculated that Siddiqui’s radicalization began with her association with the MSA, noted that Siddiqui had authored a guide published by the national MSA organization that encouraged MSA members not to water down Islamic doctrine -- particularly on the topics of jihad and the treatment of women, saying that perseverance was needed until “America becomes a Muslim land.”
- Former University of Arizona MSA president **Wael Hamza Julaidan** has the distinction of being one of al-Qaeda’s co-founders and its logistics chief. He was listed as a specially designated global terrorist by the U.S. government in September 2002, saying that he is a close associate of Osama bin Laden and other al-Qaeda leaders, and served as director of the Rabita Trust, which had already been designated a terrorist finance entity for its logistical and financial support of al-Qaeda.
- Former University of Idaho MSA president **Sami Omar Al-Hussayen** was arrested and accused of using academic studies as a cover for terrorist support activities. Hussayen operated nearly a dozen Arabic language websites for clerics that thundered anti-American themes and encouraged suicide bombings. One website opened by Hussayen a year to the day before the 9/11 attacks carried an article encouraging the use of an airplane to attack Western targets. At the university, he had also covertly relocated his campus office without his

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<sup>24</sup> Patrick Poole, “The Muslim Students Association’s Terror Problems”, PJ Media (Aug. 20, 2010), available at <https://pjmedia.com/blog/the-muslim-student-associations-terror-problem>. (non-substantive revisions were made to the text of the article to update for dates and readability).

advisor's approval from the computer science department to the engineering lab that handled radioactive materials. Despite being acquitted on terrorism charges, and a mistrial on others for immigration violations, he was deported back to Saudi Arabia in June 2004 after a deal with federal prosecutors.

- Howard University dental student **Ramy Zamzam** and four other D.C.-area men were arrested in Pakistan and charged with plotting to join the Jaish-e-Muhammed terrorist group with plans to attack U.S. soldiers in Afghanistan. The five were active in the MSA, and Zamzam served as the president of the MSA's D.C. Council. They were convicted in a Pakistani court.
- **Syed Maaz Shah**, the secretary of the MSA at the University of Texas-Dallas in December 2006, was arrested for his involvement in conducting paramilitary training at an Islamic campground and intended to join the Taliban to fight U.S. troops. Shah had posted comments on the UTD MSA's website praising insurgents killing troops in Iraq and posting links to terrorist videos.
- Al-Qaeda's chief procurement agent in the U.S. during the 1990s, **Ziyad Khaleel**, was also the president of the Columbia College (MO) MSA. A computer science student, he also registered and operated the English-language website for the Hamas terrorist organization. Khaleel, who also regularly lectured at the University of Missouri MSA as a representative of the Islamic Association for Palestine (a Hamas front), was tasked by a top al-Qaeda operative in 1996 to purchase a \$7,500 satellite phone for Osama bin Laden. Over the next two years he purchased a spare battery for the phone and at least 2000 airtime minutes. The phone, dubbed by intelligence authorities as the "jihad phone," was used to plan the 1998 U.S. embassy bombings.
- **Anwar Al-Aulaqi**, who reportedly played a role in the Ft. Hood massacre, the failed Christmas Day underwear bomber plot, and the attempted Times Square bombing served as the chaplain for the George Washington University MSA. He was elected to that position by the group's membership.

In a 2015 Washington Times article, journalist David Horowitz described the MSA as one of the two leading campus organizations promoting BDS activity in the United States (SJP was the other organization named).<sup>25</sup> Additional information on MSA activities is provided in the AMP discussion, above.

## Students for Justice in Palestine

SJP is a university based group, co-founded by AMP chairman Hatem Bazian and former Popular Front for the Liberation of Palestine member Senan Shaqdeh. SJP openly supports terror attacks against Israel<sup>26</sup> and promotes BDS activity across American university campuses. Because of a penchant for violence, SJP chapters have been banned or suspended from a number of university campuses.

According to NGO Watch,<sup>27</sup>

*[a]s an organization, SJP exists without an apparent central leadership or central structural framework. Each SJP chapter operates independently and is responsible for forming its own constitutions, finding funding sources, and organizing activities. Indeed, several SJP chapters, such as Palestine Solidarity Committee at Harvard College and Students United for Palestinian*

<sup>25</sup> David Horowitz, "When Students Cheer Jihad: Tracking the Pro-Terror Campaign on American Campuses", Washington Times (Nov. 5, 2015), available at <http://www.washingtontimes.com/news/2015/nov/5/david-horowitz-tracking-pro-terror-campaigns-on-us/>.

<sup>26</sup> See, e.g., William A. Jacobson, UC-Davis: Protesters shout "Allahu Akbar" and "Long Live Intifada" at Israeli speaker", Legal Insurrection website, available at <http://legalinsurrection.com/2016/03/uc-davis-protesters-shout-allahu-akbar-and-long-live-intifada-at-israeli-speaker/>.

<sup>27</sup> NGO Monitor website, available at [http://www.ngo-monitor.org/reports/bds\\_on\\_american\\_campuses\\_sjp\\_and\\_its\\_ngo\\_network/](http://www.ngo-monitor.org/reports/bds_on_american_campuses_sjp_and_its_ngo_network/). See, also, Perry Chiramonte, "Pro-Palestinian students bring hate, intimidation to campus, critics say", Fox News website (June 9, 2014), available at <http://www.foxnews.com/us/2014/06/09/pro-palestinian-students-bring-hate-intimidation-to-campus-critics-say.html>.

*Equal Rights at Washington University do not actually carry the name Students for Justice in Palestine. However, SJP has developed regional networks to aid in coordinating campaigns across several campuses, hinting at greater consolidation.*

*While the majority of visible funding for SJP activities comes from student governments, SJP chapters do receive funding from groups such as AMP and WESPAC. However, due to a fundamental lack of transparency on the part of SJP and its donors, only a fraction of SJP's funding is known and publicly accessible. It is highly difficult to ascertain how much funding SJP receives from sources outside universities.*

Details on SJP officials, activities and ties to terrorist groups are provided in the AMP discussion above, in the BDS Terror Report included as **Exhibit A** hereto and in the report titled "Students for Justice in Palestine Unmasked", included as **Exhibit D** hereto.

## The BDS Movement

BDS is an acronym standing for "boycott, divest and sanction" that is used by a number of affiliated groups seeking to foster boycotts of Israel. Each of the Domestic Terror Affiliates is active in BDS activity and uses BDS advocacy as a cover for promoting and arranging material support to the Designated Terror Organizations.

Individuals connected to the founding of the BDS Movement include:

- **Omar Barghouti**, who also co-founded the Palestinian Campaign for the Academic and Cultural Boycott of Israel ("**PACBI**"). The PACBI is one of the principle members of the governing body of BDS, the BDS National Committee ("**BNC**").
- **Riham Bargoutti**, who is an original PACBI member and is also affiliated with Adalah-NY (see "Supporters of the Domestic Terror Affiliates", below).

Though the history of BDS is not clearly defined, according to the BNC, the self-acknowledged organizing and coordinating entity of the BDS Movement globally, BDS "...was launched in July 2005 with the initial endorsement of over 170 Palestinian Arab organizations...efforts to coordinate the BDS campaign, that began to grow rapidly since the 2005 Call was made public, culminated in the first Palestinian Arab BDS Conference held in Ramallah in November 2007. Out of this conference emerged the BNC as the Palestinian coordinating body for the BDS campaign worldwide."<sup>28</sup> In short, the BNC claims to be the authority in charge of the BDS Movement.

A leading and influential member organization of the BNC is the Council of National and Islamic Forces in Palestine,<sup>29</sup> a coalition of prominent Palestinian terror organizations that includes the patriarch of radical terror organizations, the Palestine Liberation Organization ("**PLO**"), and five currently designated foreign terror organizations:

- **Hamas**,
- **Popular Front for the Liberation of Palestine**,
- **Popular Front for the Liberation of Palestine-General Command**,
- **Palestinian Islamic Jihad**, and
- **Palestinian Liberation Front**.<sup>30</sup>

If one were draw a diagram of the entities that control BDS, it would appear as follows<sup>31</sup>

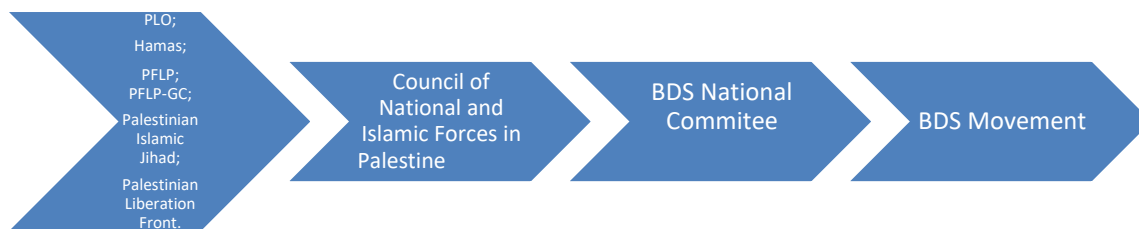
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<sup>28</sup> BDS Movement website "About" section, available at <http://www.bdsmovement.net/bnc>.

<sup>29</sup> <https://bdsmovement.net/bnc>

<sup>30</sup> Terrorism Research and Analysis Consortium website, available at <https://www.trackingterrorism.org/group/palestinian-national-and-islamic-forces-pnif>

<sup>31</sup> There are additional entities comprising the Council of National and Islamic Forces in Palestine and the BNC which are not included in this diagram for the sake of brevity.



**This constitutes a direct connection between terror organizations and the governing body of BDS. It is also important to note that the USCPR, the umbrella organization of the Domestic Terror Affiliates, is a fiscal sponsor of the BNC.**

While the BDS Movement claims to be a grass roots organization, there is considerable evidence showing that it, and BDS activity, is a continuation of the Arab League’s anti-Israel boycott apparatus. Furthermore, in addition to the five designated foreign terror organizations that are coalition members of the BNC, the government of Iran and backers of a number of other foreign designated terror organizations are associated with the formation and continuing operation of the BDS Movement and BDS activity carried out by other organizations.<sup>32</sup>

## Supporters of the Domestic Terror Affiliates

The Domestic Terror Affiliates are supported by a large number of organizations that provide funding, personnel, training, outreach and other resources to promote BDS in the United States and worldwide. See **Exhibit E** hereto for detailed descriptions of the activities of the supporters of the Domestic Terror Affiliates. A major American fiscal sponsor of BDS is The Tides Foundation (“**Tides**”). Tides was created to use donor advised funds to grow and develop grassroots activism at the national and international levels.<sup>33</sup> Tides allows wealthy donors to contribute to progressive causes discreetly without opening separate family foundations. Since its founding, Tides has given over \$2 billion to organizations that are primarily focused on progressive activism. Tides not only helps finance non-profits, but offers training and administrative support, to aid fledgling grassroots initiatives into becoming more established and self-sustainable endeavors over the long term.

The following organizations, as well as DDP and SJP, are funded either directly or indirectly by Tides and promote the work of the Domestic Terror Affiliates by providing services such as recruitment, public relations, organizational support, social media outreach and fostering the spread of BDS. As will be discussed later in this letter, much of what the following organizations do in support fits the definition of “material support” under applicable federal law.

### Adalah-NY.

The Founder of Adalah-NY, **Riham Bargouti**,<sup>34</sup> is one of the co-founders of the PACBI, which is affiliated with, among other terror groups, Hamas, PFLP and PIJ. Adalah NY is exclusively a BDS organization. Adalah-NY hold protests around New York City protesting

<sup>32</sup> See Marc A. Greendorfer, “The BDS Movement: That Which We Call A Foreign Boycott By Any Other Name, Is Still Illegal”, 22 ROGER WILLIAMS U. L. REV. 1 (2017) (hereinafter, the “BDS Legal Study”), at the sections titled “The Durban Conference and the Rise of the NGO arm of the Arab League” and “Material Support to Terrorists as a BDS Movement RICO Predicate Offense.” The founder of Zachor Legal Institute conducted a comprehensive study of BDS and its status under various United States’ laws. The BDS Legal Study is the paper that resulted from this study. The BDS Legal Study has been cited by, among others, the Supreme Court of Israel in a recent decision relating to Israel’s domestic anti-boycott law as well as wide range of legal advocacy groups such as The Louis D. Brandeis Center for Human Rights Under Law and Scholars for Peace in the Middle East. The BDS Legal Study provides a detailed history of BDS and a thorough legal analysis of how BDS violates, among other federal laws, the anti-boycott provisions of the Export Administration Act, the Hobbs Act, anti-trust laws and the material support to terrorism statute.

<sup>33</sup> <https://www.tides.org/about/history/>

<sup>34</sup> <https://adalahny.org/document/393/consolidating-nyc-bds-movement-nycbi-merges-adalah>

businesses like Soda Stream, Hewlett-Packard, and Israeli musicians or performers who come to give shows in the United States.<sup>35</sup>

### Arab American Action Network (“AAAN”).

AAAN is the employer of convicted terrorist *Rasmea Odeh*. Odeh is a member of the PFLP and played a role in a deadly terror bombing which left two Israelis dead in Jerusalem in 1969. Odeh was arrested and imprisoned in Israel for her role in the bombing. When Odeh was released from Israeli prison as part of a prisoner exchange, she immigrated to the United States and lied on her immigration paperwork concerning whether she had ever served time in prison or been convicted of a crime. Odeh was recently convicted of immigration fraud in the United States, has had her citizenship revoked and has been deported.<sup>36</sup>

### Arab Resource and Organizing Center (“AROC”) (formerly known as the American Arab Anti-Discrimination Committee).

In 2001 the American Arab Anti-Discrimination Committee co-sponsored the first National Student Conference of the Palestine Solidarity Movement (also known as the “Divestment Conference”) with newly founded Students for Justice in Palestine at UC Berkeley (then-headed by graduate student *Hatem Bazian*) effectively launching the Palestine Solidarity Movement (heavily linked with the International Solidarity Movement).<sup>37</sup>

- AROC member *Monadel Herzallah*<sup>38</sup> is a Coordinating Committee member of the US Palestine Community Network,<sup>39</sup> which has links to the PFLP
- ISM has been linked to terrorists and terror activity in Israel in the early 2000’s<sup>40</sup>
- Speaker at the Second Palestine Solidarity Conference, *Sami Al-Arian*, was arrested and tried for having link to the terror organization Palestinian Islamic Jihad.<sup>41</sup>

### Center for Constitutional Rights (“CCR”).

CCR is partnered with Palestine Legal to provide legal support and representation for BDS activists. CCR and Palestine Legal partnership are dedicated to promoting BDS in the United States.

- Since 2004, Tides has donated over \$1.5 million dollars to the CCR.
- CCR and Palestine legal advocated on behalf of Fordham students who attempted to open a chapter of SJP on the Fordham campus.

### CodePink.

CodePink is among the most active supporters of BDS in the United States, with specific campaigns urging companies and consumers to boycott companies such as Hewlett Packard, ReMAX, Air BnB, and Ahava among others. These campaigns are detailed on the “Justice for Palestine” section of the CodePink website.<sup>42</sup> CodePink was a participant in the PFLP/BDS Meeting described in **Exhibit E** hereto. For a report on CodePink, please see **Exhibit G** hereto.

- Since 2004, Tides has given approximately \$180,292 dollars to CodePink.

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<sup>35</sup> <https://adalahny.org/>

<sup>36</sup> <http://www.dailymail.co.uk/news/article-4350928/Women-s-March-leader-deported-prior-terror-charge.html>

<sup>37</sup> <https://web.archive.org/web/20031011011730/http://www.palestineconference.com/psm.htm>

<sup>38</sup> <http://laborforpalestine.net/2010/04/02/arab-american-union-members-council-gascons-apology-is-not-enough/>

<sup>39</sup> <http://araborganizing.org/tag/press-advisory/>

<sup>40</sup> <https://web.archive.org/web/20030706095201/http://www.mfa.gov.il/mfa/go.asp?MFAH0n8c0>

<sup>41</sup> [https://web.archive.org/web/20160130235441/http://www.sptimes.com/2006/04/23/Hillsborough/In\\_his\\_plea\\_deal\\_wha.shtml](https://web.archive.org/web/20160130235441/http://www.sptimes.com/2006/04/23/Hillsborough/In_his_plea_deal_wha.shtml)

<sup>42</sup> [http://www.codepink.org/justice\\_for\\_palestine](http://www.codepink.org/justice_for_palestine)

## CAIR.

CAIR was listed as an unindicted coconspirator in The Holy Land Foundation trial. CAIR has been a leading supporter of BDS activity in the United States.<sup>43</sup>

## Friends of Sabeel -North America

Under the name Friends of Peace and Justice in the Holy Land, Friends of Sabeel is an active BDS promoter, cultivating the support of churches through co-sponsored regional conferences, advocacy, alternative pilgrimages, witness trips, and international gatherings in the Holy Land.<sup>44</sup> Friends of Sabeel North America is linked to Sabeel, Ecumenical Liberation Theology Center, located in East Jerusalem and interprets Palestinian life under occupation through Christian scripture.<sup>45</sup> Sabeel wholly supports the BDS Movement and calls for other to follow BDS internationally.<sup>46</sup>

## Grassroots International.

Grassroots International is partners with several groups active in Palestine:

- Stop the Wall Campaign. Based in the Palestinian territories<sup>47</sup> Stop the Wall Campaign is part of the BNC along with organizations like Hamas, PIJ and PFLP.<sup>48</sup> The leader of Stop the Wall, *Salah Khawaja*, has been active in the PFLP since the 1960's with various members of his family and arrested several times for PFLP related activity since he was a teenager.<sup>49</sup>
- Union of Agricultural Work Committees (“UAWC”).<sup>50</sup> UAWC was founded in 1986 and is listed as the “agricultural arm of the PFLP” by the United States.<sup>51 52</sup>
- Palestinian Centre for Human Rights (“PCHR”)<sup>53</sup>. PCHR founder *Raji Sourani* has been honored by the PFLP for winning the “alternative Nobel prize.” The ceremony was held in Gaza and was attended by representatives of the “National and Islamic Forces”<sup>54</sup>, a coalition of Palestinian organizations that includes the PLO, and designated foreign terrorist organizations Hamas, PFLP, the Palestinian Liberation Front, PIJ and the PFLP General Command.

## Jewish Voice for Peace.

Since 2004, Tides has granted approximately \$219,413 to Jewish Voice for Peace (“JVP”), which is primarily concerned with promoting BDS in the United States.<sup>55</sup> A number of the Domestic Terror Affiliates use JVP as a strawman organization to defend against allegations that BDS is an anti-Semitic movement. While JVP has a nominally Jewish makeup, it advocates for the elimination of Israel, aligns almost exclusively with radical Islamist and Marxist organizations and partners with groups that rabidly support designated foreign terror

<sup>43</sup> See, for example, CAIR’s recent statement supporting BDS at <https://www.cair.com/action-alerts/12939-act-today-to-defeat-anti-bds-bill-in-congress.html>.

<sup>44</sup> <http://www.fosna.org/content/about-fosna>

<sup>45</sup> <http://sabeel.org/2016/08/08/palestinian-liberation-theology-jerusalem/>

<sup>46</sup> <https://web.archive.org/web/20070221202235/http://www.sabeel.org/pdfs/mri.htm>

<sup>47</sup> <https://grassrootsonline.org/who-we-are/partner/stop-the-wall-campaign/>

<sup>48</sup> <https://bdsmovement.net/bnc>

<sup>49</sup> <http://palestinemonitor.org/details.php?id=t007bja2932yxrzknuq5>

<sup>50</sup> <https://grassrootsonline.org/who-we-are/partner/union-of-agricultural-work-committees-uawc/>

<sup>51</sup> [http://pdf.usaid.gov/pdf\\_docs/PNABY769.pdf](http://pdf.usaid.gov/pdf_docs/PNABY769.pdf)

<sup>52</sup> <https://www.scribd.com/doc/110665551/Alleged-breach-of-anti-terror-law-by-World-Vision-Australia-Detailed-Evidence>

<sup>53</sup> <https://grassrootsonline.org/who-we-are/partner/palestinian-center-for-human-rights-pchr/>

<sup>54</sup> <https://pchr.org/en/?p=858>

<sup>55</sup> <https://jewishvoiceforpeace.org/boycott-divestment-and-sanctions/jvp-supports-the-bds-movement/>

organizations including Hamas and Hezbollah.<sup>56</sup> JVP recently invited convicted terrorist and PFLP member, **Rasmea Odeh**, to speak at a conference.<sup>57</sup> In 2017, JVP was a co-sponsor of the PFLP/BDS Meeting, which brought American BDS activists to the Palestinian territories for meetings with the Designated Terror Organizations, as is detailed in **Exhibit E** hereto.

### National Lawyers Guild.

The Palestine Subcommittee of the National Lawyers Guild (“**NLG**”) actively supports and promotes the BDS Movement against Israel. Though no longer available, the NLG previously had an entire subsection of its website devoted to its Palestine Subcommittee, which has been archived online.<sup>58</sup> The Palestine Subcommittee page called for full divestment and cease of US financial support to Israel, called Israel an apartheid state, supported UN initiatives against Israel, supported campus divestments and publicly claimed support for controversial figures such as **Rasmea Odeh**<sup>59</sup> and **Khalida Jarrar**.<sup>60</sup>

- NLG member **Lynne Stewart**<sup>61</sup> was convicted of providing material support to convicted terrorist **Sheik Omar Ali Abdel Rahman**, who served a life term in prison for his role in the 1993 bombing of the World Trade Center.
- The NLG publicly stood by Lynne Stewart throughout her trial. Stewart was an NLG member at the time of her crime and arrest.<sup>62</sup>

### Palestine Legal.

According to the Tides website: “*Palestine Legal aims to provide coordinated and strategic legal support to the Palestine solidarity movement in the US by building a legal support network, developing legal resources for activists and advocates, and advancing ongoing and developing advocacy and litigation in this area, in coordination with a network of strategic partners.*”<sup>63</sup>

- Palestine Legal provides legal support for a network of BDS organizations and initiatives worldwide.

### US Palestinian Community Network.

Founder **Hatem Abudiyeh** was arrested by the FBI for raising money for the PFLP’s women’s branch called the Union of Palestinian Women’s Committee.<sup>64 65</sup>

## **Samidoun: The Facilitator between the Domestic Terror Affiliates, the BDS Movement and the PFLP.**

“Samidoun-Palestinian Prisoner Solidarity Network” (“**Samidoun**”) is a non-profit network that operates in the Middle East, the U.S., Europe and Canada. While Samidoun claims to be a human rights group advocating for political prisoners, our research indicates that Samidoun is actually a proxy for, and alter-ego of, the PFLP, created

<sup>56</sup> [http://www.jns.org/latest-articles/2015/3/3/jewish-voice-for-peace-whitewashes-anti-semitism-in-the-anti-israel-movement#.WNrIb\\_nyuMo=](http://www.jns.org/latest-articles/2015/3/3/jewish-voice-for-peace-whitewashes-anti-semitism-in-the-anti-israel-movement#.WNrIb_nyuMo=)

<sup>57</sup> <http://forward.com/opinion/367022/letter-to-the-editor-why-jvp-invited-rasmea-odeh-to-speak/>

<sup>58</sup> <https://web.archive.org/web/20160312035406/http://www.nlginternational.org/com/main.php?cid=11>

<sup>59</sup> <https://web.archive.org/web/20150912122502/http://nlginternational.org/news/article.php?nid=563>

<sup>60</sup> <https://web.archive.org/web/20150912183143/http://nlginternational.org/news/article.php?nid=647>

<sup>61</sup> <http://www.nlg.org/national-lawyers-guild-applauds-the-compassionate-release-of-lynn-stewart/> (“Ms. Stewart is a longtime member of the National Lawyers Guild.”)

<sup>62</sup> <https://web.archive.org/web/20110728143157/http://www.nlg.org/news/press-releases/national-lawyers-guild-stands-by-longtime-member-lynn-stewart-as-she-surrenders-to-federal-custody/>

<sup>63</sup> <http://www.tides.org/community/project-directory/show/project/single/title/palestine-legal/>

<sup>64</sup> <http://www.cbsnews.com/news/activist-palestinian-trips-had-no-link-to-terror/>

<sup>65</sup> [http://pdf.usaid.gov/pdf\\_docs/PNABY769.pdf#page=7](http://pdf.usaid.gov/pdf_docs/PNABY769.pdf#page=7)

by PFLP officials in an attempt to allow the PFLP to act in the United States and elsewhere without being subject to the restrictions attendant to the PFLP's designation as a foreign terror organization.

Samidoun was established during the September 2011 hunger strike of Palestinian prisoners in Israeli jails. It claims to seek "to raise awareness and provide resources about Palestinian political prisoners, their conditions, their demands, and their work for freedom for themselves, their fellow prisoners, and their homeland." Samidoun also organizes campaigns that purportedly aim to effect political change and advocate for Palestinian prisoners' rights and freedoms.

Individuals in leadership positions at Samidoun, such as Khaled Barakat and Mohammed Khatib, are also members of the PFLP.

Barakat in particular, is a key element of the affiliation between BDS and the PFLP: He is the foreign operations director of the PFLP, in addition to being an international director of Samidoun.

## **Ties Between BDS and Samidoun**

Leaders of Samidoun are also influential promoters of BDS activity. Evidence of the ties between Samidoun and the Domestic Terror Affiliates' BDS activities are as follows:

- ***Khaled Barakat***, co-manager of Samidoun and director of foreign operations for the PFLP, is also a member of Al-Awda Palestine Right to Return Coalition.
- ***Charlotte Kates***, co-manager of Samidoun and the wife of Barakat, was a campus leader of the Palestine Solidarity Movement. She also worked for the Center for Constitutional Rights as the Advocacy Program Manager, and Al-Awda The Palestine Right to Return Coalition. She co-chaired the Middle East sub-Committee at the NLG, a strong proponent and enabler of BDS activity, where she is still listed as an Organizer and Coordinator. Charlotte Kates is part of the Organizing Collective of the US Campaign for the Academic and Cultural Boycott of Israel ("**USACBI**"), an affiliated organization of the PACBI, and opened and registered their website.
- ***Mohammed Khatib*** is Samidoun's coordinator in Europe and a PFLP member.
- ***Sayel Kayed*** is a Samidoun activist and AMP's New Jersey Chairman and National board member.
- ***Mostafa Awad*** is Samidoun's official representative in Belgium and a PFLP member.
- ***Lamis Deek*** is a Samidoun activist and the co-founder and co-chair of Al-Awda. She is also a CAIR board member and an attorney & human rights advocate at the NLG.
- ***Katie Huerter*** is a Samidoun activist and a member of SJP's National Organizing Committee. She founded the University of Nebraska at Omaha's SJP chapter and she is the Vice-President at IPB.
- ***Rabab Abdulhadi*** is a Samidoun supporter and activist. She is also a national leader within the BDS movement as a founding member of the USACBI.
- ***Nerdeem Kiswani*** is a Samidoun activist and a co-founder and chair of NYC SJP.
- ***Katherine Azcona*** is a Samidoun activist and a member of NYC SJP.
- ***Nick Maniace*** is a Samidoun activist and a member of NYC SJP.



- *Noura Farouq* is a Samidoun activist and a member of NYC SJP.
- *Dan Cione* is a Samidoun activist and the Education Development Officer of NYC SJP and the Vice President of SJP CUNY.

The foregoing is just a sample of the interlocking ties between Samidoun and the Domestic Terror Affiliates. In late 2017, Samidoun joined a number of other BDS organizations in a call to oppose the Israel Anti-Boycott Act that is currently being debated in Congress. The other organizations included among others, AMP, Codepink, CAIR, JVP, NLG, Al-Awda, USACBI, SJP, Adalah, WESPAC, and USCPR. Not long after, Samidoun and the BDS Movement co-organized an event featuring PFLP member and convicted terrorist, Leila Khaled.

This representative sample of events reflects Samidoun's integration into the broader network of pro-BDS organizations in the US. It shows that these organizations work closely together and share funds and members. The influence these groups have on each other is unquantifiable but undoubtedly extensive. As such, through Samidoun, the PFLP disseminates its agenda and impacts the entire BDS network. A full examination of these ties is set forth in **Exhibit F**.

### **Ties Between Samidoun and the PFLP.**

The ties between the PFLP and Samidoun are demonstrated by their shared activity and cooperation. The PFLP and Samidoun share each other's content across their respective social media platforms. Samidoun shares and promotes content directly from the PFLP's official web platforms, which includes interviews and events with Khaled Barakat. Perhaps more tellingly, the PFLP shares Samidoun's publications on its web platforms. Further, the PFLP and Samidoun not only share the others' content, but the two groups promote and attend each other's events showing that the overlap between the two groups is likely not accidental.

In addition, the "Campaign to Free Ahmad Sa'adat", an imprisoned Secretary General of the PFLP, is run by Barakat and promoted on both the PFLP's and Samidoun's online platforms. Activists of this campaign take part in official PFLP events. For example, on January 1, 2018, the PFLP held a sit-in event in Gaza. Members of the international solidarity campaign to free Ahmad Saadat participated in this event along with many leading PFLP officials, including members of its political bureau and its head, Jamil Mezher. This high-level campaign and the involvement of both the PFLP and Samidoun, evinces the interrelation of the two groups.

Moreover, the substantial bulk of Samidoun's work in support of Palestinian prisoners is organizing campaigns for former PFLP terrorists who were imprisoned for murdering civilians in France and Israel, hijacking, bombings, and other terrorist activities. Other Samidoun events celebrate key milestones for the PFLP, such as its 50th anniversary, and many Samidoun events feature former PFLP terrorists, such as Leila Khaled and almost always display the PFLP's flag.

These events, especially the "Campaign to Free Ahmad Saadat", show that the PFLP and Samidoun are not only working in tandem but that Samidoun is a sanitized arm of the PFLP. Samidoun's human rights façade allows the PFLP to openly advocate on behalf of terrorists and spread its agenda abroad. Samidoun provides a "veil of legitimacy" for the PFLP, allowing the PFLP to operate in the Western world despite its designation as a terror organization.

Please see the report at **Exhibit F** titled "Samidoun: A PFLP Terror Proxy" for supporting citations to the matters discussed in this subsection.

### **The Designated Terror Organizations.**

The following organizations comprise the Designated Terror Organizations.

- Ḥarakat al-Muqāwamah al-'Islāmiyyah ("**Hamas**");

- The Popular Front for the Liberation of Palestine (“PFLP”); and
- Palestine Islamic Jihad (“PIJ”).

## HAMAS

The following description of Hamas was obtained from the United States Department of State:<sup>66</sup>

*aka the Islamic Resistance Movement; Harakat al-Muqawama al-Islamiya; Izz al-Din al Qassam Battalions; Izz al-Din al Qassam Brigades; Izz al-Din al Qassam Forces; Students of Ayyash; Student of the Engineer; Yahya Ayyash Units; Izz al-Din al-Qassim Brigades; Izz al-Din al-Qassim Forces; Izz al-Din al-Qassim Battalions*

**Description:** *Designated as a Foreign Terrorist Organization on October 8, 1997, Hamas was established in 1987 at the onset of the first Palestinian uprising, or Intifada, as an outgrowth of the Palestinian branch of the Muslim Brotherhood. The armed element, the Izz al-Din al-Qassam Brigades, has conducted anti-Israeli attacks, including suicide bombings against civilian targets inside Israel. Hamas also manages a broad, mostly Gaza-based, network of “Dawa” or ministry activities that include charities, schools, clinics, youth camps, fundraising, and political activities. After winning Palestinian Legislative Council elections in January 2006, Hamas gained control of significant Palestinian Authority (PA) ministries in Gaza, including the Ministry of Interior. As of 2015, the group retained control of Gaza.*

**Activities:** *Prior to 2005, Hamas conducted numerous anti-Israeli attacks, including suicide bombings, rocket launches, IED attacks, and shootings. Hamas has not directly targeted U.S. interests, although U.S. citizens have died and been injured in the group’s attacks against Israeli targets. In June 2007, after Hamas took control of Gaza from the PA and Fatah; the Gaza borders were closed and Hamas increased its use of tunnels to smuggle weapons into Gaza, using the Sinai and maritime routes. Hamas has since dedicated the majority of its activity in Gaza to solidifying its control, hardening its defenses, building its weapons caches, tightening security, and conducting limited operations against Israeli military forces.*

*Hamas fought a 23-day war with Israel from late December 2008 to January 2009. From November 14-21, 2012, Hamas fought another war with Israel during which it claims to have launched more than 1,400 rockets into Israel. Despite the Egypt-mediated ceasefire between Israel and Hamas in 2012, operatives from Hamas and Palestine Islamic Jihad (PIJ) coordinated and carried out a November bus bombing in Tel Aviv that wounded 29 people. On July 8, 2014, Israel launched Operation Protective Edge in Gaza with the intent of preventing rocket fire into the country, which had increased following Israeli military operations after Hamas’ kidnapping and murder of three Israeli teenagers. In March 2015, Amnesty International released a report in which it accused Hamas of committing war crimes for launching rockets and mortars into civilian areas in Israel during Operation Protective Edge. In May 2015, Amnesty International published another report declaring Hamas’ abduction, torture, and killing of Palestinians during the 2014 Gaza war was further evidence the group had committed war crimes.*

*Throughout 2015, Hamas continued preparing for attacks against Israel. In July, Hamas announced on Iranian television that it had built a new tunnel into Israel to carry out attacks. A month later, the group released a video showing members conducting training exercises while moving through its newly reconstructed tunnels. In October, Hamas ordered members to conduct suicide attacks in Israel. In November, Hamas fired two rockets into the Mediterranean Sea as part of its ongoing missile tests in preparation for any future war with Israel.*

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<sup>66</sup> United States Department of State Country Reports on Terrorism 2015, Chapter 6 (released June 22, 2016) available at <https://www.state.gov/documents/organization/258249.pdf> These descriptions have been condensed to pertinent facts; please see the report for full descriptions of each entity.

**Funding and External Aid:** Historically, Hamas has received funding, weapons, and training from Iran. The group also raises funds in the Gulf countries and receives donations from Palestinian expatriates around the world. Hamas also receives donations from its charity organizations. Hamas's supply lines have suffered since the crackdown on smuggling tunnels in the Sinai Peninsula by the Egyptian military.

In addition, according to the United States National Counterterrorism Center, Hamas' charter "...calls for establishing an Islamic Palestinian state in place of Israel and rejects all agreements made between the PLO and Israel."<sup>67</sup> This organizational principle is shared with, *inter alia*, BDS.<sup>68</sup>

## Popular Front for the Liberation of Palestine

The following description of PFLP was obtained from the United States Department of State:<sup>69</sup>

*aka PFLP; Halhul Gang; Halhul Squad; Palestinian Popular Resistance Forces; PPRF; Red Eagle Gang; Red Eagle Group; Red Eagles; Martyr Abu-Ali Mustafa Battalion*

**Description:** Designated as a Foreign Terrorist Organization on October 8, 1997, the Popular Front for the Liberation of Palestine (PFLP), a Marxist-Leninist group founded by George Habash, broke away from the Arab Nationalist Movement in 1967. The group earned a reputation for large-scale international attacks in the 1960s and 1970s, including airline hijackings that killed at least 20 U.S. citizens.

**Activities:** The PFLP increased its operational activity during the Second Intifada, illustrated by at least two suicide bombings since 2003, multiple joint operations with other Palestinian terrorist groups, and the assassination of Israeli Tourism Minister Rehavam Ze'evi in 2001. In 2008 and 2009, the PFLP launched several rockets, primarily from Gaza against Israel, and claimed responsibility for numerous attacks on Israeli Defense Forces in Gaza. In 2010, the PFLP claimed responsibility for numerous mortar and rocket attacks fired from Gaza into Israel, as well as an attack on a group of Israeli citizens. In October 2011, the PFLP claimed responsibility for a rocket attack that killed one civilian in Ashqelon. In 2012, the Israeli Security Agency arrested several members of the PFLP for plotting to carry out attacks on Israeli Defense Forces checkpoints and planning to conduct kidnappings. On November 18, 2014, two Palestinians reportedly affiliated with the PFLP entered a synagogue and attacked Israelis with guns, knives, and axes, killing five people, including three American citizens, and injuring 12. In May, Jerusalem police arrested three suspects, one of whom was affiliated with the PFLP, on suspicion of plotting an attack in East Jerusalem, and in December the PFLP claimed responsibility for several rocket attacks along the Lebanese-Israeli border.

**Funding and External Aid:** Unknown

## Palestine Islamic Jihad

The following description of PIJ was obtained from the United States Department of State:<sup>70</sup>

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<sup>67</sup> United States National Counterterrorism Center website, page titled TERRORIST GROUPS: HAMAS, available at <https://www.nctc.gov/site/groups/hamas.html>.

<sup>68</sup> See the section of this letter titled "The BDS Movement".

<sup>69</sup> United States Department of State Country Reports on Terrorism 2015, Chapter 6 (released June 22, 2016) available at <https://www.state.gov/documents/organization/258249.pdf>

<sup>70</sup> United States Department of State Country Reports on Terrorism 2015, Chapter 6 (released June 22, 2016) available at <https://www.state.gov/documents/organization/258249.pdf>

*aka PIJ; PIJ-Shaqaqi Faction; PIJ-Shallah Faction; Islamic Jihad of Palestine; Islamic Jihad in Palestine; Abu Ghunaym Squad of the Hizballah Bayt al-Maqdis; Al-Quds Squads; Al-Quds Brigades; Saraya al-Quds; Al-Awdah Brigades*

**Description:** *Palestine Islamic Jihad (PIJ) was designated as a Foreign Terrorist Organization on October 8, 1997. Formed by militant Palestinians in Gaza during the 1970s, PIJ is committed to the destruction of Israel through attacks against Israeli military and civilian targets and to the creation of an Islamic state in all of historic Palestine, including present day Israel.*

**Activities:** *PIJ terrorists have conducted numerous attacks, including large-scale suicide bombings against Israeli civilian and military targets. Although U.S. citizens have died in PIJ attacks, the group has not directly targeted U.S. interests. Between 2008 and 2011, PIJ primarily conducted rocket attacks aimed at southern Israeli cities and attacked Israeli targets with explosive devices. In November 2012, PIJ operatives, working with Hamas, detonated a bomb on a bus in Tel Aviv, wounding 29 civilians. In December 2013, four PIJ operatives were arrested by Israeli authorities for their role in a bus bombing near Tel Aviv. In March 2014, PIJ carried out a wave of rocket attacks into Israeli territory. While the group claimed it fired 130 rockets and mortars, 60 were believed to have reached Israel.*

*In early 2015, PIJ began re-arming and replenishing its ranks. In March, reports suggested that around 200 new recruits between the ages of 19 and 22 were undergoing various PIJ training programs lasting anywhere from 36 days to six months. Also in March, PIJ revealed its militants were smuggling weapons, including rockets and mortars made inside Gaza, through tunnels in Gaza, in preparation for future attacks against Israel. In May, Israeli forces blamed PIJ for firing a rocket that landed in Gan Yazne, a region close to the Gaza border. The rocket was the first mid-range rocket fired at Israel since the August 2014 ceasefire. In August, four militants, including one PIJ operative, were arrested in conjunction with what Israel's domestic security agency Shin Bet described as a PIJ plot to attack Jewish worshippers at Joseph's Tomb in the West Bank. That same month, Israel's Defense Force claimed PIJ operatives in Syria fired four rockets at the Golan Heights and Upper Galilee.*

**Funding and External Aid:** *PIJ receives financial assistance and training primarily from Iran. PIJ has partnered with Iranian- and Syrian-sponsored Hizballah to carry out joint operations.*

Please see the chart titled “**Connections**” following this letter for a visual representation of the connections between and among the Domestic Terror Affiliates and the Designated Terror Organizations.

### **Overview of Applicable Provisions of the RICO Statute**

Rather than go into detail on matters the Department of Justice deals with on a daily basis, we defer to the Department of Justice's United States' Attorneys Manual, Criminal Resource Manual (the “**DOJ Manual**”)<sup>71</sup> at Section 109 for detailed information on the elements of a criminal RICO case. Based on the DOJ Manual, the three principal elements of a RICO case are as follows.

- First Element: Pattern of Racketeering Activity

The first step in determining whether a RICO case can be brought is establishing a pattern of racketeering activity (two or more offenses will generally suffice to prove that a pattern exists). The RICO Statute specifies the activities that are racketeering “predicates” for RICO prosecution. These predicate offenses can be put into three general categories: (1) any act or threat that is chargeable as one or more of certain enumerated felonies under state law; (2) any act that is indictable under certain enumerated federal statutes and (3) any offense involving three enumerated categories of federal law.

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<sup>71</sup> DOJ Manual 109, available at <https://www.justice.gov/usam/criminal-resource-manual-109-rico-charges>.

- Second Element: Connection to Prohibited Conduct.

If a racketing predicate offense is found to exist, the next step is to determine whether it is connected to certain prohibited conduct.

Professor Pamela Pierson, a former Assistant United States Attorney for the Eastern District of Missouri, provided a concise overview of this step in her recent paper, "RICO Trends: From Gangsters to Class Actions"<sup>72</sup>

*[t]he RICO statute is complex. It applies to a wide range of conduct and contains abstract terms not easily correlated with everyday experience. There are four types of conduct prohibited by RICO: (1) investing proceeds from a pattern of racketeering activity in an enterprise, (2) acquiring or maintaining control over an enterprise through a pattern of racketeering activity, (3) conducting or participating in the affairs of an enterprise through a pattern of racketeering activity, and (4) conspiring to do any of these types of conduct. Because RICO is both a crime and a civil cause of action, it may be prosecuted by United States Department of Justice prosecutors, criminally or civilly, or it may be brought as a civil suit by private individuals who have suffered damage to their business or property. Those convicted of RICO crimes face stiff penalties: a possible prison term of twenty years, forfeiture of property acquired or maintained in violation of RICO, and fines of \$250,000 per offense (\$500,000 per offense if the defendant is an organization). Those found civilly liable also face significant consequences: treble damages, and payment of attorneys' fees and costs.*

*RICO's civil cause of action, which is available to "[a]ny person injured in his business or property by reason of a violation" of RICO requires RICO plaintiffs to prove that the defendants committed crimes. Thus, in addition to proving "RICO elements" ("pattern" and "enterprise") private plaintiffs in civil RICO actions must prove the elements of the crimes they allege as "racketeering activity."*

- Third Element: Existence of an Enterprise.

If a pattern of racketeering that affects commerce has been found, the final step is to determine whether the conduct is part of an "enterprise". The RICO Statute defines an enterprise to include "...any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." The statutory list is representative, rather than exclusive, and courts have shown great latitude in finding that an association is an "enterprise". In addition, "...it is not necessary to prove 'that every member of the enterprise participated in or knew about all its activities.' Rather, 'it is sufficient that the defendant know the general nature of the enterprise and know that the enterprise extends beyond his individual role.' Nor is it necessary to prove that the enterprise or its members acted with criminal intent."<sup>73</sup>

- Summary of How BDS Satisfies the Three Elements.

In a RICO prosecution against the Domestic Terror Affiliates, patterns of predicate offenses that we believe apply are violations of federal law prohibiting the provision of material support to terrorists, 18 U.S. Code § 2339A ("Section 2339A") and § 2339B ("Section 2339B", and together with Section 2339A, the "**Material Support Statute**"). The category of prohibited conduct that forms the basis for a RICO case would be "conducting or participating in the affairs of an enterprise through a pattern of racketeering activity" under 18 U.S.C. § 1962(c). The Domestic Terror Affiliates' status as a RICO enterprise would be established by showing coordination among them in furtherance of the BDS movement's objectives, all of which are generally directed by and in coordination with the Designated Terror Organizations, as further described herein.

<sup>72</sup> Pamela Bucy Pierson, RICO Trends: From Gangsters to Class Actions, 65 S.C. L. REV. 213 (2013) (internal citations omitted), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2179211](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2179211).

<sup>73</sup> Staff of the Organized Crime and Gang Section, U.S. Department of Justice, CRIMINAL RICO: 18 U.S.C. §§1961-1968, A Manual For Federal Prosecutors, Sixth Revised Edition (May 2016) at 82-83, available at <https://www.justice.gov/usam/file/870856/download>.

## Material Support Statute Predicate

According to the DOJ's United States' Attorneys Manual,<sup>74</sup> the operative provisions of Section 2339A are

*... aimed at reaching those persons who provide material support to terrorists knowing that such support will be used to commit one of the offenses specified in the statute. (The offenses specified in the statute are: 18 U.S.C. §§ 32, 37, 81, 175, 351, 831, 842(m) or (n), 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A and 49 U.S.C. § 46502.) The section requires only that the supplier of the material support have knowledge of its intended use. Section 2339A... does not require that the supplier also have whatever specific intent the perpetrator of the actual terrorist act must have to commit one of the specified offenses.*

Section 2339B, on the other hand,

*...makes it unlawful, within the United States, or for any person who is subject to the jurisdiction of the United States anywhere, to knowingly provide material support to a foreign terrorist organization that has been designated by the Secretary of State.*

The Material Support Statute prohibits the following activity<sup>75</sup>:

- knowingly
  - attempting to provide,
  - conspiring to provide, or
  - actually providing
- material support or resources
- to a foreign terrorist organization
- knowing that the organization
  - has been designated a foreign terrorist organization, or
  - engages, or has engaged, in “terrorism” or “terrorist activity.”

## **The RICO Case Against The Domestic Terror Affiliates**

### **Why RICO applies to the Domestic Terror Affiliates.**

- The first principal element of a RICO case is establishing a pattern of racketeering activity, which is shown by demonstrating two or more violations of the underlying predicate crimes.
  - The predicate crimes include violations of the Material Support Statute, described below.
  - The Domestic Terror Affiliates' BDS activity is, by its nature, a series of violations of the predicate criminal laws, which results in the racketeering activity being a pattern. Each call to boycott is an individual violation of the predicate crime and as the Supreme Court has

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<sup>74</sup> United States' Attorneys Manual, Criminal Resource Manual 15-16 (non-pertinent material excluded), **available** at <https://www.justice.gov/usam/criminal-resource-manual-16-providing-material-support-designated-terrorist-organizations>.

<sup>75</sup> Charles Doyle, *Terrorist Material Support: A Sketch of 18 U.S.C. § 2339A and 2339B*, CONGRESSIONAL RESEARCH SERVICE (December 8, 2016) R41334 (the “CRS Material Support Report”), available at <http://fas.org/sgp/crs/natsec/R41334.pdf>. See *id.* at 5-7 for detailed discussions on each element.

observed, in order to prove a pattern one must “show that the racketeering predicates are related, and that they amount to or pose a threat of continued criminal activity.”<sup>76</sup>

- The second and third principal elements of the RICO case against the Domestic Terror Affiliates are showing (i) the existence of an enterprise and (ii) demonstrating that the enterprise is conducting prohibited activities.
  - To show that the Domestic Terror Affiliates’ BDS activity is an enterprise, the first step is to go to the statutory definition of that term. The RICO Statute defines an enterprise as “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.”<sup>77</sup> The Supreme Court has found that “...’an enterprise includes any union or group of individuals associated in fact’ and that RICO reaches ‘a group of persons associated together for a common purpose of engaging in a course of conduct.’ Such an enterprise, we said, ‘is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.’”<sup>78</sup> Importantly, the Supreme Court rejected arguments that a RICO enterprise can only be a business-like entity, saying “[w]e see no basis to impose such an extratextual requirement”<sup>79</sup>

It is beyond question that the Domestic Terror Affiliates’ BDS activities are carried out by an ongoing organization consisting of associates that function as a continuing unit. The BNC can be seen as a modern analog to the “Five Families” of the New York City Mafia, which operated with loosely connected factions that ultimately were given orders by the same governing body. While the subsidiary organizations of AMP, BDS, DDP MSA and SJP, may have separate names and nominally separate leadership, they all coordinate on BDS through the BNC, which, not coincidentally, is an organization that includes in its leadership five designated foreign terror organizations. Under RICO, that the Domestic Terror Affiliates are not business organizations does not prevent them from being considered parts of an enterprise. The fact that the Domestic Terror Affiliates are in a sense fungible, since members of one affiliate frequently associate with other affiliates, reinforces the categorization of the Domestic Terror Affiliates’ BDS activity as an enterprise.

Furthermore, the activities of Samidoun as a proxy for the PFLP and its support by the Domestic Terror Affiliates are a classic example of a RICO enterprise. See the report at **Exhibit F** hereto for further information the ties between Samidoun and PFLP.

- The next step of satisfying the enterprise requirement of RICO relies upon 18 U.S.C. 1962(c) to show that those charged with racketeering activity had a role in the conduct of the enterprise’s activity. While the Domestic Terror Affiliates’ BDS enterprise may not have employees per se, those to be investigated are persons who are “associated with” BDS activities, which fulfills the statutory requirement under 18 U.S.C. 1962 (c). As the Supreme Court found “[o]nce we understand the word “conduct” to require some degree of direction and the word “participate” to require some part in that direction, the meaning of § 1962(c) comes into focus. In order to ‘participate, directly or indirectly, in the conduct of such enterprise’s affairs,’ one must have some part in directing those affairs. Of course, the word ‘participate’ makes clear that RICO liability is not limited to those with primary responsibility for the enterprise’s affairs, just as the phrase ‘directly or indirectly’ makes clear that RICO liability is not limited to those with a formal position in the enterprise, but some part in directing the enterprise’s affairs is required [, however] we disagree with the suggestion ... that § 1962(c) requires ‘significant control over or within an enterprise.’”<sup>80</sup> With this, the

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<sup>76</sup> H.J Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 239 (1989).

<sup>77</sup> 18 U.S. Code § 1961(4).

<sup>78</sup> Boyle v. United States, 556 U.S. 938, 944-945 (2009) (citing to United States v. Turkette, 452 U.S. 576 (1981)).

<sup>79</sup> *Id.* at 945.

<sup>80</sup> *Reves v. Ernst & Young*, 507 U.S. 170,179 (1993),

Supreme Court clearly set forth the proposition that RICO liability can apply to even those who don't have the equivalent of a managerial position in the enterprise, but nonetheless knowingly further the criminal aims of the enterprise by carrying out the orders and intentions of those in control. Consequently, while 18 U.S.C. 1962(c) may not necessarily apply to a person who simply holds up a sign supporting BDS at a single event, it would apply to those who organize BDS activities and regularly participate in such activities, such as the Domestic Terror Affiliates.

- An additional element of a RICO case is proving that a RICO enterprise “engaged in, or the activities of which affect, interstate or foreign commerce.” Even if the Domestic Terror Affiliates’ BDS enterprise does not directly engage in interstate or foreign commerce, its primary purpose, as set out in the BDS Charter, is to affect interstate and foreign commerce. Specifically, BDS activity aims to disrupt commercial markets that Israel participates in. This is a prima facie example of an enterprise affecting interstate, as well as foreign, commerce.

## RICO Prosecution with a Material Support Statute Predicate

In recent testimony before Congress, Dr. Jonathan Schanzer provided unprecedented detail on the funding network supporting BDS and the Domestic Terror Affiliates,<sup>81</sup> focusing on tracking the recent activities of those behind entities that had previously been prosecuted by the government for violations of the Material Support Statute. Dr. Schanzer summarized his testimony as follows:

*In the case of three organizations that were designated, shut down, or held civilly liable for providing material support to the terrorist organization Hamas, a significant contingent of their former leadership appears to have pivoted to leadership positions within the American BDS campaign.<sup>82</sup>*

Dr. Schanzer chronicled the transformation of HLF into a new organization known as AMP, an entity that Dr. Schanzer described as “a leading driver of the BDS campaign.” A chart provided as part of Dr. Schanzer’s testimony that illustrates the relationships between disbanded entities that supported Hamas and AMP is included at **Exhibit G** hereof and a chart illustrating the ties between and among the Domestic Terror Affiliates and the Designated Terror Organizations is provided following this letter and titled “**Connections**”.

At least three former HLF officials are now officials of AMP and a number of other high level personnel of other entities prosecuted for providing support to Hamas are now affiliated with AMP.<sup>83</sup> AMP is one of the primary sources of support for BDS, providing funding, materials and coordination for SJP and other BDS affiliates.<sup>84</sup> Dr. Schanzer’s testimony to Congress was quite clear in demonstrating the many faces of Hamas in the United States:

*In short, at least seven individuals who work for or on behalf of AMP have worked for or on behalf of organizations previously shut down or held civilly liable in the United States for providing financial support to Hamas: the Holy Land Foundation, the Islamic Association for Palestine, and KindHearts.*

*AMP states that it was founded in 2005. They were, in their words, “a strictly volunteer organization” until 2008, when they opened their national headquarters in Palos Hills, Illinois. Their mission statement does not include raising money for causes abroad, and we have seen no evidence of illicit activity. Its mission, however, is troubling. A recent photo from their headquarters features an Arabic-language poster that includes the phrase, “No Jew will live among them in Jerusalem.” **It is also troubling that at their 2014 annual conference, AMP invited participants to “navigate the fine line between legal activism and material support for terrorism.”** That invitation is troubling because it appears that some of AMP’s officers and donors came from organizations that have failed to navigate that “fine line” in the past<sup>85</sup>.*

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<sup>81</sup> Schanzer Testimony.

<sup>82</sup> Schanzer Testimony at 1.

<sup>83</sup> *Id.* at 5-6.

<sup>84</sup> *Id.* at 2.

<sup>85</sup> *Id.* at 8. (emphasis added).



Dr. Schanzer also identified ties between constituent members of the governing body of BDS (the BNC), the PLO, on the one hand, and the PFLP and BDS officials operating in the United States, including Senan Shaqdeh, a PFLP veteran who claims to have founded SJP, on the other hand.<sup>86</sup>

In subsequent testimony before Congress, Dr. Schanzer described his organization's recent findings of funding and strategic ties between BDS and the PLO.<sup>87</sup>

*1. The Palestinian National Fund (PNF) is likely a key source of funding for the BDS movement. The PNF is the PLO's powerful treasury. Headquartered in Amman, it manages the majority of the organization's assets worldwide. It reportedly pays the salaries of the group's members, as well as students, who received tens of millions of dollars in support of BDS activities each year. The PLO has an obvious interest in strengthening the BDS movement, given that the target is Israel.*

*2. The PLO mission in Belgium appears to be sponsoring an "operations room" to coordinate the activities of BDS activists in Europe. The operatives involved in this effort, almost entirely embassy personnel, reportedly receive directives from Ramallah. The "operations room" is believed to be funded through an account at Allied Irish Bank, and could cost the PLO mission as much as one million euro per month to run. FDD is currently working to confirm the names of the individuals reportedly involved in the activities of the "operation room."*

*3. The PLO embassy in Washington is said to be actively promoting campus BDS activity in the US. PLO operatives in Washington, DC are reportedly involved in coordinating the activities of Palestinian students in the U.S. who receive funds from the PLO to engage in BDS activism. This, of course, suggests that the BDS movement is not a grassroots activist movement, but rather one that is heavily influenced by PLO-sponsored persons.*

While Dr. Schanzer's testimony focused on connections between BDS and Hamas supporters, there is also significant and extensive evidence of significant ties between PFLP and BDS promoters.

The most direct example of these ties is that of Samidoun, which coordinates BDS activity internationally on behalf of PFLP, including through Samidoun's affiliated organizations AMP and SJP.<sup>88</sup> Samidoun promotes PFLP's agenda, ideas and content, but it is also headed by the head of PFLP's foreign operations, Khaled Barakat and his wife, Charlotte Kates.

Samidoun promotes PFLP's agenda and its content, sometimes translated directly from PFLP's official website and PFLP's official social media accounts and posted to Samidoun's website.

Samidoun also organizes and sponsors events and demonstrations which aim to release PFLP's convicted terrorists and members from jails, while collaborating closely with various BDS organizations such as AMP, SJP, CAIR and others. Moreover, our research shows that the interconnectedness between BDS organizations and Samidoun is manifested in not only in co-organizing and co-sponsoring events and activities but also in the fact that some of Samidoun's activists hold positions and are actively involved with AMP, SJP and CAIR. For example: Samidoun's activist, Sayel Kayed, holds a position of AMP-New Jersey Chapter chairman and he is also an AMP National Board member.

DDP, as another example, recently published what it refers to as an educational series entitled "Blacked Out History – Rebellion Curriculum Toolkit," that, as a news report described,<sup>89</sup>

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<sup>86</sup> *Id.* at 10-11.

<sup>87</sup> Schanzer PLO Testimony at text accompanying footnote 37 thereof.

<sup>88</sup> See Exhibit F to this letter for documentation on the statements made on the ties between Samidoun, BDS and the PFLP in this section.

<sup>89</sup> Paul Miller, "Black Lives Matter offshoot embraces anti-Semitism, engages with terrorists", FoxNews.com (Dec. 30, 2016), available at <http://www.foxnews.com/opinion/2016/12/30/black-lives-matter-offshoot-embraces-anti-semitism-engages-with-terrorists.html>.

*...justifies acts of violence and terrorism under the euphemism “struggle.” The “common core-compatible” curriculum mentions various violent PFLP strategies such as “hijackings, assassinations, car bombings, suicide bombings, paramilitary operations against civilian and military targets.”*

DDP doesn't hide its affiliation with PFLP, openly advocating PFLP objectives and naming itself as the research contributor on PFLP matters<sup>90</sup> while promoting PFLP through its social media sites.

Finally, the BDS Terror Report at **Exhibit A** of this letter provides detailed descriptions of the ties among the Domestic Terror Affiliates and their ties to the Designated Terror Organizations.

This evidence should be viewed in conjunction with the admission of the BNC that a coalition of five designated foreign terror organizations are its first listed members on the BNC website. In a prosecution based on Section 2339A, these findings become the linchpin of finding liability for BDS. Furthermore, we believe that similar evidence directly tying Hamas, PFLP and other terror organizations to ongoing BDS activities can likely be obtained through a DOJ investigation.

In sum, the Domestic Terror Affiliates' BDS RICO enterprise has deep and varied ties to backers of terrorism and designated foreign terror organizations.

## The Four Elements of a Material Support Violation

As the Congressional Research Service has summarized, there are four elements to prove a violation of the Material Support Statute: the defendant has (i) knowingly (ii) provided (iii) material support to (iv) a foreign terror organization.<sup>91</sup>

### Analysis of the “Knowingly” Element

The Congressional Research Service defines “knowingly” to mean that the government must “prove that the defendant had ‘knowledge of the facts that constituted the offense.’ The government need not prove that the defendant knew his conduct was unlawful.”

<sup>92</sup>

Using the example of SJP founder *Senan Shaqdeh*, the fact that he is a veteran of PFLP, a designated foreign terrorist organization, provides irrefutable proof that he has knowledge that he is providing support to an entity that is a foreign terrorist organization. As Dr. Schanzer noted, “[i]n a PLO YouTube video, Shaqdeh said that he travelled to Ramallah in September 2014 to meet with President Mahmoud Abbas and Prime Minister Rami Hamdallah about BDS activity in America. Shaqdeh's access to the highest echelons of the Palestinian government, his PFLP past, and his connections to the AMP network may be worthy of further scrutiny.”<sup>93</sup> Short of an unlikely public statement by Shaqdeh that he directs SJP and AMP to carry out its BDS activity to support terrorism against Israel under coordination with Hamas and the PFLP, this evidence of knowledge is as strong as it can get at this stage of an investigation. However, AMP's National Policy Director, *Osama Abuirshaid*, a former official with the now-disbanded Islamic Association for Palestine (like HLF, an organization that was successfully prosecuted for providing material support to Hamas), also runs a newspaper that openly praises Hamas.<sup>94</sup>

Similarly, many of the officials of AMP are former officials of groups that have been successfully prosecuted for providing material support to Hamas, another designated foreign terrorist organization. As Dr. Schanzer documented in his testimony before Congress, the FBI has investigated numerous ties between AMP board member *Salah Sarsour* and Hamas, while AMP board member *Hossein Khatib* was the regional director for Hamas funder

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<sup>90</sup> The “Rebellion Curriculum Toolkit” reciting PFLP positions and encouraging support for PFLP, is available for download at <https://www.scribd.com/doc/302090495/BOHM-Rebellion-Curriculum>.

<sup>91</sup> CRS Material Support Report.

<sup>92</sup> *Id.*

<sup>93</sup> Schanzer Testimony at 10-11

<sup>94</sup> *Id.* at 6.

HLF and *Jamal Said*, a frequent keynote speaker at AMP events was named as an unindicted co-conspirator in the HLF prosecution.<sup>95</sup>

Perhaps the most concrete example of a BDS affiliate knowingly providing support to an organization that it knows to be a designated foreign terror organization is that of DDP. DDP openly acknowledges that it supports PFLP and uses PFLP material to spread BDS in the United States. It does so on Twitter, Instagram, Facebook, other social media and through its workshops. DDP has gone so far as to travel to Israel to meet with a number of members of terrorist groups, including PFLP, and proudly posted accounts of those meetings on its social media site.<sup>96</sup> There is no question that DDP associates and coordinates with at least one, and perhaps more, designated foreign terror organizations.

One need only look at the governing document of the BDS Movement (the “**BDS Charter**”)<sup>97</sup> to find convincing evidence that BDS intends to be the outreach and nominally non-violent activist arm of groups comprising the “Palestinian resistance”, which includes Hamas, PFLP, PIJ, the PLO and others that focus on violence and terror activities. The BDS Charter explicitly acknowledges that like the Designated Terror Organizations, it rejects the Palestinian/Israeli peace process and believes in a single state solution to the conflict, with the ultimate aim being the destruction of Israel.<sup>98</sup> The BDS Charter does not hide the fact that BDS is a supplement to the violent tactics of the Designated Terror Organizations, proclaiming that BDS “...cannot and should not look to replace the resistance and struggle of those people they are trying to support.....”<sup>99</sup>

The BDS Charter makes it clear that while there may be a separation of tactics among the various radical Palestinian groups, whether they are engaged in terrorist activity or promoting boycotts and sanctions, they are united by the overarching goal of the destruction of Israel:

*Characterizing the struggle as a whole as “non-violent” does not necessarily equate with the values of the oppressed for whom BDS forms one part or mechanism of support for their struggle. This raises important questions over the right to resist...the Palestinian struggle has evolved over the decades as an expression of the Palestinians, who challenge the occupation and use the means available to a subjugated people to seek the attainment of their rights. **The Palestinian struggle cannot be so simply defined as violent or non-violent; it brings together a variety of strategies in its path of resistance to advance national goals.***<sup>100</sup>

Thus, there is ample evidence to conclude that those who are instrumental in operating and spreading BDS know that they are operating in conjunction with and in support of foreign terror organizations.

## Analysis of the “Provided” Element

Noting that there is scant legislative history on the intended meaning of “provided” for purposes of the Material Support Statute, the Congressional Research Service and lower courts have concluded that the word should be given its ordinary meaning of “...to supply something for sustenance or support.”

As can be seen in the verbatim quote directly above, the BDS Charter is unambiguous in describing the core goal of BDS to be providing support for the “Palestinian struggle”. Likewise, the stated goals of AMP and its affiliates (like SJP) are to provide that support to groups seeking to eliminate Israel and establish a Palestinian Arab state in its stead.

## Analysis of the “Material Support” Element

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<sup>95</sup> *Id.* a 3-4.

<sup>96</sup> See **Annex C** for a complete report on the activities of DDP.

<sup>97</sup> “Towards a Global Movement: A framework for today’s anti-apartheid activism” (“BDS Charter”) dated June 2007, available at <http://bdsmovement.net/files/bds%20report%20small.pdf>.

<sup>98</sup> See the BDS Legal Study at the section titled “The Ties That Bind: The Oslo Accords, Radical Rejectionism and the BDS Movement”.

<sup>99</sup> BDS Charter at 13-14.

<sup>100</sup> *Id.* at 11.

The Material Support Statute generally defines the term “material support” as “...any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials...”<sup>101</sup>

In 2010, the United States Supreme Court was called upon to examine the constitutionality of one of the Material Support Statutes in the Humanitarian Law Project case.<sup>102</sup> This case was a pre-enforcement challenge to the Material Support Laws filed on behalf of a group of individuals and institutions (the “**HLP Plaintiffs**”) that sought to provide humanitarian aid to two separate foreign groups that had been designated as “foreign terrorist organizations” under Section 2339B.

The HLP Plaintiffs sought to provide the PKK and the LTTE, two groups that had been designated as foreign terrorist organizations, with monetary and other tangible aid (presumably, materials and equipment), legal training and political advocacy; in particular, the HLP Plaintiffs intended to provide the following support:

*(1) “train[ing] members of [the] PKK on how to use humanitarian and international law to peacefully resolve disputes”; (2) “engag[ing] in political advocacy on behalf of Kurds who live in Turkey”; and (3) “teach[ing] PKK members how to petition various representative bodies such as the United Nations for relief.” With respect to the other plaintiffs, those activities are: (1) “train[ing] members of [the] LTTE to present claims for tsunami-related aid to mediators and international bodies”; (2) “offer[ing] their legal expertise in negotiating peace agreements between the LTTE and the Sri Lankan government”; and (3) “engag[ing] in political advocacy on behalf of Tamils who live in Sri Lanka.”<sup>103</sup>*

The HLP Plaintiffs alleged that the Material Support Statute infringed, *inter alia*, their First Amendment rights to speech and association. In upholding the Material Support Laws, the Supreme Court first noted that the law prohibits activity in support of an organization that a person knows is a terror organization. It is not relevant whether the person intended to provide support to that organization’s terror activities.

In practical terms, this means that as long as a person knows that an organization is a terror organization, any material support that the person provides to any part of that organization will subject him or her to prosecution, even if the support was intended to help the organization’s non-terror activities.<sup>104</sup> Just as providing advocacy and other support to the non-terror arm of the PKK subjected the HLP Plaintiffs to prosecution under the Material Support Statute, providing those types of support to the Designated Terror Organizations’ non-terror arm (BDS) should subject the Domestic Terror Affiliates to the same type of prosecution.

The Humanitarian Law Project court was careful to differentiate permissible activities in relation to terror groups from impermissible activities. Citing to the statute, the court noted that independent advocacy was not implicated by the Material Support Statute: “Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization’s direction and control.”<sup>105</sup>

The court reached a similar conclusion with regard to the prohibition on provision of “services” under the Material Support Statute: to the extent a service is provided without coordination or without benefit to the terror group, it would be outside of Material Support Statute’s restrictions

*[t]he other types of material support listed in the statute, including “lodging,” “weapons,” “explosives,” and “transportation,” §2339A(b)(1), are not forms of support that could be provided independently of a foreign terrorist organization. We interpret “service” along the same lines. Thus, any independent advocacy in which plaintiffs wish to engage is not prohibited by §2339B. On the other hand, a*

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<sup>101</sup> 18 U.S. Code 2339A.

<sup>102</sup> Holder v. Humanitarian Law Project, 561 U.S. \_\_\_ (2010) (slip op.) (“Humanitarian Law Project”).

<sup>103</sup> *Id.* at 9 (internal citations omitted).

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 18.

*person of ordinary intelligence would understand the term “service” to cover advocacy performed in coordination with, or at the direction of, a foreign terrorist organization.*<sup>106</sup>

It would be impossible to find that no material coordination exists between the Domestic Terror Affiliates and the Designated Terror Organizations. The BNC, the coordinating body for BDS worldwide of which the Designated Terror Organizations are primary members, explicitly acknowledges this coordination, stating on its website that one of its main activities is “[c]oordination with BDS activists locally and worldwide, including preparation of regional and international organizing meetings and conferences....”<sup>107</sup>

Furthermore, there are direct financial ties between the Domestic Terror Affiliates and the BNC. Donations made by United States persons to the BDS Movement’s website are received by the USCPR. The USCPR, the umbrella organization under which the Domestic Terror Affiliates operate, is listed as the fiscal sponsor of the BNC on receipts for donations made to the BNC.

In sum, the BNC, an organization littered with designated foreign terror organizations, proudly states that it coordinates BDS activity worldwide. Moreover, as Dr. Schanzer’s testimony to Congress demonstrated, the Palestine Liberation Organization, another BNC member organization, actively funds and coordinates BDS activity worldwide.

Moving on to the issue of support for humanitarian activities of designated foreign terror organizations, the court found that Congress had a legitimate reason to not make a distinction in the Material Support Laws on this point. Congress found that “foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.”<sup>108</sup> In particular, the court reasoned that

*[m]aterial support meant to “promot[e] peaceable, lawful conduct,” can further terrorism by foreign groups in multiple ways. “Material support” is a valuable resource by definition. Such support frees up other resources within the organization that may be put to violent ends. **It also importantly helps lend legitimacy to foreign terrorist groups—legitimacy that makes it easier for those groups to persist, to recruit members, and to raise funds—all of which facilitate more terrorist attacks.** “Terrorist organizations do not maintain organizational ‘firewalls’ that would prevent or deter sharing and commingling of support and benefits.”<sup>109</sup>*

Using BDS affiliate and benefactor, Hamas, as an example of how non-terror related support can’t be separated from terror-related support,<sup>110</sup> the *Humanitarian Law Project* court went on to explain that

*[i]nvestigators have revealed how terrorist groups systematically conceal their activities behind charitable, social, and political fronts. Indeed, some designated foreign terrorist organizations use social and political components to recruit personnel to carry out terrorist operations, and to provide support to criminal terrorists and their families in aid of such operations. **Muddying the waters between its political activism, good works, and terrorist attacks, Hamas is able to use its overt political and charitable organizations as a financial and logistical support network for its terrorist operations.***<sup>111</sup>

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<sup>106</sup> *Id.*

<sup>107</sup> <https://bdsmovement.net/bnc>.

<sup>108</sup> Humanitarian Law Project at 24 (citing to the Congressional Findings and Purpose of the Material Support Laws).

<sup>109</sup> *Id.* at 25 (internal citations omitted) (emphasis added to show that Congress intended to prevent terror groups from doing public relations outreach in the United States).

<sup>110</sup> The Supreme Court was prescient in examining how support for Hamas’ non-terror work constituted material support to terrorism. Even though Hamas had nothing to do with the Humanitarian Law Project case, the court’s use of Hamas as an example sets important guideposts for the application of the Material Support Laws to Hamas and other Islamic terror organizations.

<sup>111</sup> Humanitarian Law Project at 25-26 (internal citations omitted) (emphasis added).

The Material Support Statute was enacted with a dual purpose. First, it was designed to deny terror groups the tangible and intangible support that is needed to carry out terror attacks. Second, and just as important, the law was enacted for policy and diplomatic reasons. American support for foreign terror groups provides those groups with a public relations coup and stymies American efforts to coordinate with foreign nations who are also fighting against terror. The *Humanitarian Law Project* court explained that

*[p]roviding foreign terrorist groups with material support in any form also furthers terrorism by straining the United States' relationships with its allies and undermining cooperative efforts between nations to prevent terrorist attacks. We see no reason to question Congress's finding that "international cooperation is required for an effective response to terrorism...[t]he material-support statute furthers this international effort by prohibiting aid for foreign terrorist groups that harm the United States' partners abroad: "A number of designated foreign terrorist organizations have attacked moderate governments with which the United States has vigorously endeavored to maintain close and friendly relations," and those attacks "threaten [the] social, economic and political stability" of such governments.*<sup>112</sup>

The BDS Charter acknowledges that BDS does not disclaim terrorism against Israel.<sup>113</sup> Rather, the BDS Charter proclaims that BDS is simply one arm of the Palestinian Arab "resistance" and it is but one part of the overall "resistance" strategy employed against Israel. Hamas, an organization named as a foreign terrorist organization, is connected to the establishment of BDS, shares numerous objectives and philosophies with BDS and is properly seen as coordinating and affiliating with the BDS.<sup>114</sup> Whether or not there are formal operational and financial ties between Hamas, PFLP or other named foreign terrorist organizations and BDS is something that can only be determined through the legal discovery process, as neither organization is forthcoming about their respective inner workings (though Dr. Schanzer's testimony to Congress showed extensive coordination between the PLO and PLFP, on the one hand, and BDS on the other hand), but the threshold connections between the two are manifest and support the presumption that the two organizations coordinate with each other for purposes of the Material Support Statute.<sup>115</sup> When one looks at the intimate and publicly acknowledged ties between DDP and PLFP, for example, there can be no plausible denial that DDP's goals are to promote and enable PFLP's ideals and objectives. It would be difficult to find a more definitive example of a group providing material support to a designated foreign terrorist organization

Indeed, under the HLF prosecution, there is precedent for the government filing suit against Hamas front organizations that are purportedly focused solely on humanitarian or charitable objectives. The HLF prosecution consisted of a number of cases brought by the United States and individuals who were harmed by Hamas's terrorist acts. As a result, HLF, a Hamas front organization, was permanently disbanded, monetary fines were imposed and the responsible individuals were sentenced to long prison terms.<sup>116</sup> Though this case was brought under a different

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<sup>112</sup> *Id.* at 27.

<sup>113</sup> BDS Charter at 13-14 ("**BDS movements, no matter how powerful, cannot and should not look to replace the resistance and struggle of those people they are trying to support.**") (emphasis added). Resistance is a synonym for violence, as the BDS Charter implicitly acknowledges at page 11: "the Palestinian struggle has evolved over the decades as an expression of the Palestinians, who challenge the occupation and use the means available to a subjugated people to seek the attainment of their rights. The Palestinian struggle cannot be so simply defined as violent or non-violent; it brings together a variety of strategies in its path of resistance..." In fact, the name "Hamas" is an acronym for "Islamic Resistance Movement" and Hamas itself has become a synonym for terrorism directed at Jews and Israel.

<sup>114</sup> See "Analysis of the Knowingly Element" at IV(c)(i)(1), above.

<sup>115</sup> See the BDS Legal Study at the section titled "The BDS Movement's ties to Militant Islamist Groups" for detailed evidence of the affiliations between Hamas and the Muslim Brotherhood, on one hand, and the BDS Movement and the MSA, on the other hand.

<sup>116</sup> In what is known as the "Holy Land Foundation" cases, the United States first designated a Hamas front group named the Holy Land Foundation as a "Specially Designated Global Terrorist", froze its assets and ultimately obtained criminal convictions against its principals, resulting in decades-long prison sentences. *Holy Land Found. for Relief & Dev. v. Ashcroft*, 333 F.3d 156, 160 (D.C. Cir. 2003) (relating to the asset freeze) and *U.S. v. El-Mezain*, 664 F.3d 467 (5<sup>th</sup> Cir. 2011) (relating to the criminal prosecution of individuals; see *Federal Judge Hands Down Sentences in Holy Land Foundation Case*, UNITED STATES DEPARTMENT OF JUSTICE website (May 27, 2009), available at <http://www.justice.gov/opa/pr/federal-judge-hands-down-sentences-holy-land-foundation-case>, for details on the sentencing; two of the Holy Land Foundation principals each received sentences of 65 years). After the government's action commenced, American citizens who were harmed by Hamas's terrorist activities filed suit against certain Hamas front organizations in the United States, including the Holy Land

anti-terrorism law, the precedent of finding a front group liable for aiding and abetting the parent terrorist group's activities, especially a Hamas front group operating in the United States, should not be overlooked.

Under the Material Support Statute, material support is defined as the provision of "... any property, tangible or intangible, or service... except medicine or religious materials." BDS activities are easily classified as a service to each of the Designated Terror Organizations, as those organizations were instrumental in creating BDS, called for a boycott of Israel and BDS implements that boycott. By providing this service to the Designated Terror Organizations, the Domestic Terror Affiliates frees those organizations' assets from being used for boycott promotion, allowing them to be used for its terror activities instead, in exactly the way that the *Humanitarian Law Project* court described the HLP Plaintiffs' advocacy and other services as allowing terrorist organizations to free up resources for violent acts.

Moreover, since BDS' terror affiliations have not yet become widely known to the public in the United States, there is likely a greater public acceptance of the boycott under the Domestic Terror Affiliates' names than would be possible if a direct tie to the Designated Terror Organizations were known. Providing an untainted cover for the Designated Terror Organizations' activities and enrolling new supporters for the Designated Terror Organizations' anti-Israel propaganda campaign are properly characterized as services to the Designated Terror Organizations. Put another way, if the Designated Terror Organizations were to hire public relations and lobbying firms to do exactly what the Domestic Terror Affiliates do with regard to anti-Israel advocacy in the United States, there is no question that the firms' activities would be considered a service to the Designated Terror Organizations.

Furthermore, since the Domestic Terror Affiliates' BDS activities result in a deprivation of property rights from Israeli companies and their supporters, the corresponding shift in commercial activity to non-Israeli companies or companies that support the boycott is a transfer of property rights. In this way, those who participate in the boycott create commercial rewards for companies that are either sympathetic to anti-Israel terrorism or that are favored by such terror groups. Thus, it can also be said that the Domestic Terror Affiliates are providing property in support of the Designated Terror Organizations.

Because each of the Designated Terror Organizations is a designated foreign terrorist organization<sup>117</sup> the foregoing analysis of the types of material support the Domestic Terror Affiliates provide to the Designated Terror Organizations demonstrates that there is a colorable case to be made that the Domestic Terror Affiliates' BDS activities are in violation of §2339B of the Material Support Laws.

It is also likely that BDS' formative connection to Iran (and Iran's terrorism proxy in Lebanon, Hizballah, which is also a designated foreign terrorist organization) and other designated foreign terrorist organizations would provide the basis for prosecution under §2339B.

While it is clear that the inspiration for BDS originated in Iran,<sup>118</sup> the ongoing ties between Iran and BDS have

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Foundation, under 18 U.S.C. § 2333 (providing a civil cause of action for American victims of global terrorism), alleging that the front groups aided and abetted Hamas through their charitable and humanitarian activities in the United States. The plaintiffs were awarded damages of \$156,000,000. *Boim v. Quranic Literacy Inst.*, 340 F. Supp. 2d 885 (N.D. Ill. 2004), *vacated sub nom. Boim v. Holy Land Found. for Relief & Dev.*, 511 F.3d 707 (7th Cir. 2007), *vacated*, 549 F.3d 685 (7th Cir. 2008) (en banc), *cert. denied*, 130 S. Ct. 458 (2009). For more information on the Holy Land Foundation civil cases, see Laura B. Rowe, *Ending Terrorism with Civil Remedies: Boim v. Holy Land Foundation and the Proper Framework for Liability*, 4 SEVENTH CIRCUIT REV. 372 (2009) and Adam N. Schupack, *The Arab-Israeli Conflict and Civil Litigation against Terrorism*, 60 DUKE L. J. 207 (2010).

<sup>117</sup> Each of Hamas, PFLP and PIJ was added to the foreign terrorist organization list in 1997. See Foreign Terrorist Organizations, United States Department of State website, available at <http://www.state.gov/j/ct/rls/other/des/123085.htm>.

<sup>118</sup> The BDS Charter does acknowledge that the BDS Movement originated at a conference in Durban, South Africa (the "Durban Conference"). BDS Charter at 40 ("The first important move from global civil society came in August-September 2001, during the NGO Forum of the UN World Conference against Racism, Racial Discrimination and Related Intolerances in Durban, South Africa. Tens of thousands of people converged for the meeting, with Palestine one of the most prominent causes. A resolution was passed pressing for the isolation of Israel and

been obfuscated by the parties. Indeed, the ties between Iran and BDS are likely much deeper than the fact that BDS originated at the Tehran regional meeting as part of the Durban Conference. In November 2014, Iran's Supreme Leader, Ayatollah Ali Khamenei, published a document that was unsettlingly similar to the BDS Charter's core principles. The document was titled "9 Key Questions About Elimination of Israel" (sic) and was posted on Khamenei's government website.<sup>119</sup> Though Khamenei's position paper was significantly less verbose than the BDS Charter, the essence of his call to action is the same as the BDS Charter's. Khamenei first brands Israel as a criminal regime, then asserts that any Jewish state is illegitimate and must be eliminated and replaced by a state that is controlled by the "original people of Palestine." Just like the BDS Charter, Khamenei's paper proclaims that Jews who were in the diaspora prior to the founding of the modern state of Israel should be ethnically cleansed from the new Palestinian Arab state that will replace Israel, with such Jews to be "return[ed] to their home countries." Until such time that Israel can be eliminated as a Jewish state, Khamenei calls for "powerful confrontation" and "resolute" resistance. Like BDS, Khamenei refuses to accept a two-state solution, insists upon a Muslim state replacing Israel and embraces both violent and non-violent "resistance" to undermine and weaken Israel.

The BDS Charter's objectives parallel those of not just Iran but of virtually every other radical Islamist organization. The coordinated agendas of these organizations and countries cannot be mere coincidence.

As AMP admitted, the goal of BDS is to "navigate the fine line between legal activism and material support for terrorism." The fact is, however, that there is no such fine line. The Domestic Terror Affiliates actively provide material support to terrorist groups and have, to this point, engaged in a propaganda campaign to whitewash those crimes as being a form of civil rights advocacy.

Though the Domestic Terror Affiliates are usually quite adept at creating organizational separation between their own activities and the Designated Terror Organizations, they recently exposed the deep direct ties that exist when the domestic parent of BDS, the USCPR, along with AMP, worked with the IPB to organize the PFLP/BDS Meeting, where Americans were brought to the Palestinian Territories to meet with (and presumably coordinate BDS activity with), members of the PFLP. These ties are chronicled in the report at **Exhibit E** hereto. A thorough investigation by the Department of Justice can definitively conclude that the Domestic Terror Affiliates' BDS activity is an alter ego of Hamas, PFLP, PIJ and other designated foreign terror organizations.

In support of initiating such an investigation, we note that a recent report has shown that the BDS Movement's own list of organizations that were responsible for its formation included

*... illegal associations, terror organizations, and their affiliates, such as the Council of National and Islamic Forces in Palestine, which is a coordination forum for all Palestinian terror organizations in their ongoing fight against Israel. This forum includes Hamas, the Popular Front for the Liberation of Palestine, the Democratic Front for the Liberation of Palestine, the Palestinian Liberation Front (acknowledged as a terrorist organization by the U.S., EU, and Canada) and Palestinian Islamic Jihad (acknowledged as a terrorist organization by the U.S., EU, UK, Japan, Australia, and Canada).<sup>120</sup>*

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denouncing its racist nature and policies.") This anti-Israel agenda is documented to have been devised at the regional meeting held in Iran prior to the Durban Conference. See the BDS Legal Study at the section titled "The Durban Conference and the Rise of the NGO arm of the Arab League".

<sup>119</sup> <http://khamenei.ir/>. The document was also posted to Khamenei's twitter account on November 9, 2014 under the title *Why should & how can #Israel be eliminated? Ayatollah Khamenei's answer to 9 key questions*, available at [https://twitter.com/khamenei\\_ir/status/531366667377717248](https://twitter.com/khamenei_ir/status/531366667377717248). See, also, Antonia Molloy, *Iran's supreme leader Ayatollah Khamenei outlines plan to 'eliminate' Israel*, THE INDEPENDENT (Nov. 10, 2014), available at <http://www.independent.co.uk/news/world/middle-east/irans-supreme-leader-ayatollah-khamenei-outlines-plan-to-eliminate-israel-9850472.html>.

<sup>120</sup> Adam Shay, *Manipulation and Deception: The Anti-Israel "BDS" Campaign (Boycott, Divestment, and Sanctions)*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (March 19, 2012), available at <http://jcpa.org/article/manipulation-and-deception-the-anti-israel-bds-campaign-boycott-divestment-and-sanctions/#sthash.E4nS2Rcf.dpuf>. Further ties between the BDS Movement and designated foreign terrorist organizations were outlined in a 2014 report:



It is time to investigate out how far the Domestic Terror Affiliates' BDS activity has crossed from legal activism into material support for terrorism and to prosecute those responsible.

## Analysis of the "Foreign Terrorist Organization" Element

Two types of terrorist organizations are subject to the provisions of the Material Support Statute. The first, which is governed by Section 2339A, applies to any terrorist organization, even those that are not designated as foreign terrorist organizations, but only if the person or entity providing material support knows that the support is intended to be used in the commission of certain enumerated acts of terror.

The second type of terror organization, governed by Section 2339B is comprised of those that have been specifically designated as foreign terrorist organizations by the United States government. Support to such organizations results in a form of strict liability: As long as an organization has been designated by the Secretary of State as a foreign terrorist organization, support that is provided to that organization generally results in a violation of Section 2339B.

### Section 2339A Analysis

Section 2339A would be most applicable if the Domestic Terror Affiliates are providing material support to a terrorist entity that is not designated as a foreign terrorist organization by the Secretary of State. Since Hamas, PFLP and PIJ are designated foreign terrorist organizations, the prosecution of the Domestic Terror Affiliates with regard to material support for these entities would be most appropriate under Section 2339B. To the extent the Domestic Terror Affiliates are found to be providing material support to the terror activities of non-designated entities, such as the Muslim Brotherhood or the PLO, Section 2339A liability may attach to those BDS affiliates. The evidence of ties between BDS and the PLO described in the Schanzer PLO Testimony makes for a very strong case in this regard.

By way of example, one of the predicate crimes under Section 2339A is a violation of 18 U.S. Code § 2332. This code section makes it a crime for a person outside of the United States to engage in acts of physical violence against United States' nationals. Though courts have found that suits directly against the PLO under, inter alia, 18 U.S. Code § 2332 may not proceed due to US courts' lack of jurisdiction over the PLO, those courts would certainly have jurisdiction over US entities who provide material support to the PLO for the commission of acts constituting a violation of 18 U.S. Code § 2332.<sup>121</sup>

### Section 2339B Analysis.

The analysis under Section 2339B is much more straightforward. Since, as of the date of this letter, Hamas, PFLP and PIJ have been designated as foreign terrorist organizations, liability for material support should attach to

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*Letters of support [for the BDS Movement's formation] were accepted from senior figures in various PLO factions, such as Abu Maher Ghneim, a member of Fatah's Central Committee; Ahmed Saadat, Secretary-General of the Popular Front for the Liberation of Palestine (PFLP); Rakad Salem, Secretary-General of the Arab Liberation Front (ALF); and Jamil Shahada, Secretary-General of the Palestinian Arab Front (PAF); as well as from many trade unions in Europe, South Africa, Canada, Australia, and the United States. Finally, the conference called for the continuation of the BDS campaign until the three obligations mentioned above were fulfilled.*

*In September 2011, following President Abbas' speech at the United Nations, Dr. Sabri Saydam, the president's adviser on high-tech affairs, revealed Palestinian plans for the coming months: to use weapons that were made available by modern technology – recruit and develop social networks in order to organize campaigns for boycotts of Israeli goods; apply more pressure on the Israeli academy by asking universities in countries supporting the Palestinian cause to cut their ties with these institutions; organize demonstrations with more attendees; and strengthen the relations between various solidarity groups, so they can better communicate and listen to each other and not fall under specific factions.*

Ehud Rosen, *What is the Real BDS Endgame? The Elimination of Israel*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (Feb. 12, 2014), available at <http://jcpa.org/article/what-is-the-real-bds-endgame/#sthash.zhZ0b4fS.dpuf>.

<sup>121</sup> See *Waldman v. Palestine Liberation Organization*, 835 F. 3d 317 (2nd Cir. 2016).

BDS affiliates upon a showing that the BDS affiliates knew that they were providing the support to any of these entities.<sup>122</sup>

## **Prosecution under Additional RICO Predicates and 18 U.S.C. §241**

While we believe that the strongest RICO cases against the Domestic Terror Affiliates will be based on Material Support Statute predicates, it is important to note that if the DOJ investigates the Domestic Terror Affiliates it will likely find evidence of activity that supports RICO prosecution under additional predicates. In particular, the Domestic Terror Affiliates engage in a wide range of fundraising by portraying BDS as a human rights organization. These fundraising campaigns are conducted through the mail and wire (telephone, email, internet and otherwise). Mail and wire fraud (18 U.S.C. §§ 1341 and 1343) are RICO predicates. If the DOJ agrees with our contention that the Domestic Terror Affiliates' BDS activity is a front for terrorist organizations, its fundraising activities constitute mail and wire fraud in that the solicitations are based on an intentional misrepresentation of the purposes of BDS and the uses for which the funds raised were to be used.

Additionally, the Domestic Terror Affiliates' BDS activity is demonstrably a form of extortion implicating interstate commerce in violation of the Hobbs Act.<sup>123</sup>

Finally, the Domestic Terror Affiliates' BDS activity is a classic example of a conspiracy to deprive persons of constitutionally protected rights. Specifically, BDS is a campaign against Americans of Jewish and Israeli origin, meant to deprive them of 14<sup>th</sup> Amendment rights to be free from discrimination and also to deprive them of their constitutionally protected rights to participate in American commercial and academic affairs, a crime punishable under 18 U.S.C. § 241.<sup>124</sup>

## **Conclusion**

There is, unfortunately, a long list of front groups that hide behind the mantle of human rights advocacy to provide support to foreign terrorist organizations in the United States. Some of these groups, like the HLF, have been successfully prosecuted, only to see their puppet masters reform under new names like AMP or the BDS Movement. Others, like SJP, exist in the shadows and have, to this point, evaded prosecution. Some, like CAIR, which openly supports and promotes BDS,<sup>125</sup> have so blatantly provided support to terror organizations that the United States government named it as an unindicted co-conspirator of Hamas funder HLF.<sup>126</sup> Behind them all, however, apparently providing funding and strategic resources, are terror organizations like the PLO, Hamas, the Muslim Brotherhood, PFLP and PIJ.

And in return, the USCPR, the parent organization of United States' BDS organizations including the Domestic Terror Affiliates, fiscally sponsors the BNC, the foreign entity comprised in part of the Designated Terror Organizations that controls international BDS activity. Concurrently, Samidoun, with interlocks to the Domestic Terror Affiliates, carries out the PFLP's agenda

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<sup>122</sup> As of the date of this letter, the United States government has reportedly considered designating several additional entities as foreign terrorist organizations, including the Muslim Brotherhood. If such a designation is made, BDS support to the Muslim Brotherhood should also be investigated. **See, e.g.,** Peter Baker, "White House Weighs Terrorist Designation for Muslim Brotherhood" N.Y. Times (Feb. 7, 2017), available at [https://www.nytimes.com/2017/02/07/world/middleeast/muslim-brotherhood-terrorism-trump.html?\\_r=0](https://www.nytimes.com/2017/02/07/world/middleeast/muslim-brotherhood-terrorism-trump.html?_r=0).

<sup>123</sup> 18 U.S.C. § 1951. *See* the BDS Legal Study at 111-123 for a detailed examination of how BDS activity violates the Hobbs Act.

<sup>124</sup> 18 U.S.C. §241 makes it unlawful for two or more persons to conspire to "injure, oppress, threaten, or intimidate any persons of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States (or because of his/her having exercised the same)."

<sup>125</sup> *See* "Keeping Up With CAIR's Islamic Radicalism", Capital Research Center (Oct. 18, 2016), available at <https://capitalresearch.org/article/keeping-up-with-cair/> ("...[CAIR official Imraan] Siddiqui, CAIR-LA former vice president and current CAIR National Board member Masoud Nassimi, [CAIR official Zahra] Billoo, and CAIR as an organization signed a 2014 statement supporting BDS....")

<sup>126</sup> *See* the government's HLF prosecution list of unindicted co-conspirators, available at [http://www.investigativeproject.org/documents/case\\_docs/423.pdf](http://www.investigativeproject.org/documents/case_docs/423.pdf). For further documentation of the ties between CAIR and foreign terrorist organizations, *see* "The Council on American-Islamic Relations (CAIR): CAIR Exposed, the Investigative Project on Terrorism, report available at <http://www.investigativeproject.org/documents/misc/122.pdf>.

BDS is not a human rights campaign, nor is BDS activity protected free speech,<sup>127</sup> any more than funding Hamas was in the HLF case. Rather, like HLF, the Domestic Terror Affiliates' BDS activity is the latest permutation of a criminal enterprise tied to foreign terror that has, as one of its goals, the use of American commercial markets, labor unions and universities as weapon to further a discriminatory campaign<sup>128</sup> of terror against Americans and one of America's most important allies.

The veil of BDS is already being lifted. A number of American states have taken direct legislative action against BDS, proclaiming BDS to be a discriminatory campaign. This letter has documented that there is ample evidence and precedent to begin an investigation into the Domestic Terror Affiliates' BDS activity, and the undersigned respectfully request that such an investigation be initiation as soon as possible.

On behalf of Zachor Legal Institute,

Marc Greendorfer  
President

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<sup>127</sup> See Marc A. Greendorfer, "The Inapplicability of First Amendment Protections to BDS Movement Boycotts," 2016 Cardozo L. Rev. de\*novo 112, available at [http://www.cardozolawreview.com/content/denovo/GREENDORFER\\_denovo.37.pdf](http://www.cardozolawreview.com/content/denovo/GREENDORFER_denovo.37.pdf).

<sup>128</sup> See "The Illegality of BDS in New York State: Response to Frivolous Arguments of Palestine Legal and the Center for Constitutional Rights", The Lawfare Project (Feb. 2016), available at [http://thelawfareproject.org/wp-content/uploads/2016/02/Illegality\\_of\\_BDS\\_NYS.pdf](http://thelawfareproject.org/wp-content/uploads/2016/02/Illegality_of_BDS_NYS.pdf); see also the BDS Legal Study at the section titled "Is the BDS Movement a Grassroots Peace Movement or is it Another Face of Radical Islam?". International courts have also found BDS to be a form of discrimination. See, for example, the decision of the French court in 2015 (<http://forward.com/news/breaking-news/323207/france-court-upholds-bds-is-discrimination-ruling/>) and the decision of a Spanish tribunal in 2016 (<http://www.breitbart.com/jerusalem/2016/05/25/bds-fail-spanish-tribunal-bans-anti-israel-discrimination/>).

**Chart: CONNECTIONS**

A summary chart illustrating connections between and among the parties identified in this letter is provided on the following page.

[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository the complete chart and accompanying report]

**Exhibit A**

**Report: *The Connection between the United States BDS Network and US-Designated Terror Organizations***  
[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]

**Exhibit B**

**Report: *Muslim Students Association***

[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]

**Exhibit C**

**Report: *Dream Defenders***

[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]

**Exhibit D**

**Report: *Students for Justice in Palestine Unmasked***

[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]



**Exhibit E**

**Report: *2017 Meetings Between Designated Terror Organizations and BDS Affiliates***

[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]

**Exhibit F**

**Report: *Samidoun: A PFLP Terror Proxy***

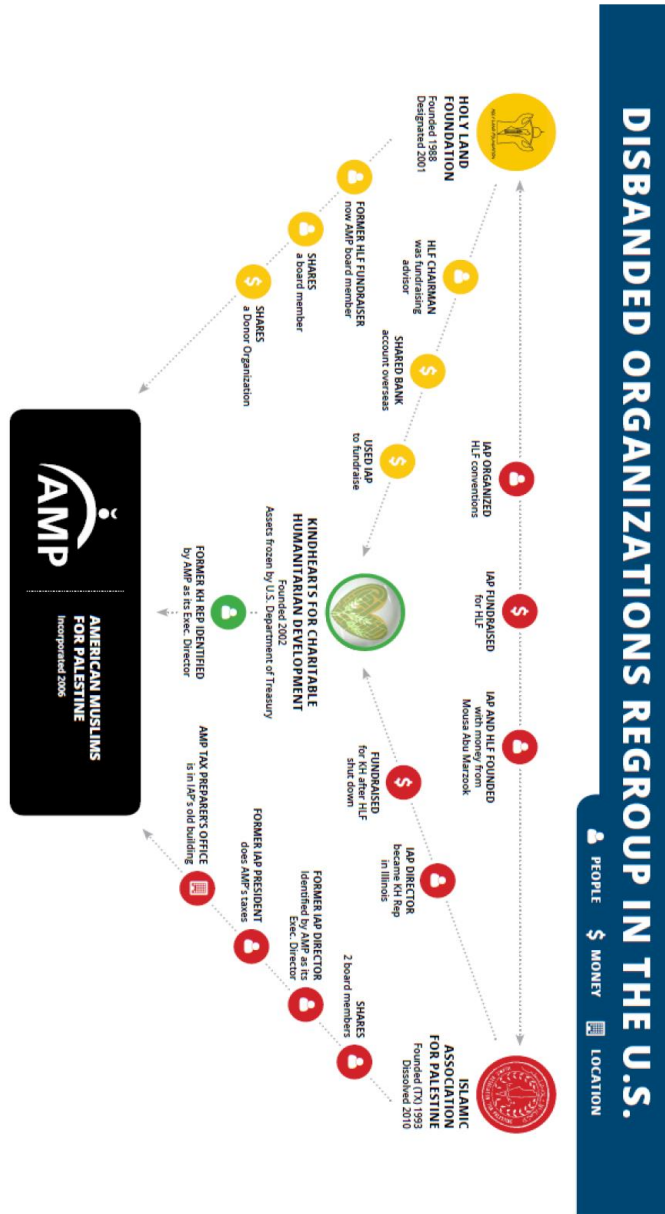
[Please email [info@zachorlegal.org](mailto:info@zachorlegal.org) to obtain a link to the secure online repository for all reports to this letter]

Exhibit G

Obtained from <http://docs.house.gov/meetings/FA/FA18/20160419/104817/HHRG-114-FA18-Wstate-SchanzerJ-20160419.pdf>. No rights are claimed.

Jonathan Schanzer

April 19, 2016



Foundation for Defense of Democracies

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www.defenddemocracy.org

**Exhibit H**

**Report: *CodePink***

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