

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

GILBERT RAMEZ CHAGOURY)
 21 Bis Avenue D'Iena,)
 Paris, France 75116,)
)
 Plaintiff,)
)
 v.)
)
 FEDERAL BUREAU OF INVESTIGATION)
 935 Pennsylvania Avenue, NW)
 Washington, D.C. 20535-0001,)
)
 DEPARTMENT OF JUSTICE)
 950 Pennsylvania Avenue, NW)
 Washington, D.C. 20530-0001,)
)
 NATIONAL COUNTER TERRORISM)
 CENTER)
 1500 Tysons McLean Drive)
 McLean, VA 22102,)
)
 DEPARTMENT OF STATE)
 2201 C Street, NW)
 Washington, D.C. 20520,)
)
 CENTRAL INTELLIGENCE AGENCY)
 1000 Colonial Farm Road)
 McLean, VA 22101,)
)
 DEPARTMENT OF HOMELAND SECURITY)
 245 Murray Lane SW)
 Washington, D.C. 20528-0075,)
)
 AND)
)
 UNITED STATES CUSTOMS AND BORDER)
 PROTECTION)
 1300 Pennsylvania Avenue. NW)
 Washington, D.C. 20229,)
)
 Defendants.)

Civil Case No. 16-cv-1844 (TSC)

SECOND AMENDED COMPLAINT

Introduction

1. Plaintiff Gilbert Ramez Chagoury (“Gilbert Chagoury”) is a devout Catholic who has dedicated much of his life to philanthropic works across the globe. Born in Nigeria to

Lebanese parents, he is a British citizen who has worked for peace around the world and has devoted much of his life to the security and religious liberty of the Christians of the Middle East. He has been a lifelong supporter of the United States and of America's interests around the world. He has a long history of philanthropy on behalf of many United States charities including, but by no means limited to, his substantial financial support of St. Jude Children's Research Hospital.

2. An Ambassador to the Holy See, Gilbert Chagoury is a man of deep faith who abhors violence and works tirelessly for peace in his native Nigeria, his ancestral home of Lebanon, the Middle East, and the world.

3. For many years, Gilbert Chagoury has maintained substantial ties to the United States, including interest in real property in California and maintaining financial accounts in the United States. He frequently visited the United States for business and pleasure.

4. Gilbert Chagoury also maintains strong relationships with family and friends that live in California.

5. From 2000 until 2017, Gilbert Chagoury maintained a home in Beverly Hills, California, where he spent about two to three months each year.

6. Notwithstanding this exceptional record of public service, demonstrated commitment to core American values such as religious freedom, and substantial ties to the United States, Gilbert Chagoury was denied a visa by the United States Department of State ("State Department"). Gilbert Chagoury believes that this decision was based on false information.

7. On information and belief, the State Department, or possibly the Federal Bureau of Investigation ("FBI"), Department of Justice ("DOJ"), National Counter Terrorism Center

(“NCTC”), Central Intelligence Agency (“CIA”), Department of Homeland Security (“DHS”), or the United States Customs and Border Protection (“CBP”), compounded this injustice by leaking information about the denial of Gilbert Chagoury’s visa application and a prior incident in which he was for a time restricted in his air travel to the United States,¹ to Los Angeles Times (“LA Times”) reporter Joe Tanfani, including the false information that reportedly led to the visa denial and Selectee or No Fly list classification, without seeking or obtaining Mr. Chagoury’s consent, and without providing notice or an opportunity to be heard or to dispute the false information.

8. Because Gilbert Chagoury is a successful businessman, influential advocate for religious freedom, philanthropist and a friend of prominent political leaders, the LA Times published the story in its newspaper under an inflammatory headline.

9. The intentional leak to the media of false information improperly impugning the reputation of Gilbert Chagoury replicates and aggravates a similarly unlawful incident from 2010, when Gilbert Chagoury was, on information and belief, restricted in his air travel to the United States, without notice or opportunity to be heard, an action that was leaked to the media as his having been placed on the No Fly list. The U.S. Government eventually issued an apology for the inconvenience this caused and allowed Gilbert Chagoury to travel to the United States, which he did multiple times without incident until quite recently.

10. In his LA Times article, Joe Tanfani cites multiple Government sources. More specifically, he cites:

¹ This was reported by the media as placement on the No Fly list. The Government is in the best position to know whether Gilbert Chagoury has ever been on the No Fly list. For the purposes of this Second Amended Complaint, all references to the leak of his presence on the No Fly list refer to this incident.

- A. A “Homeland Security document [that] shows agents citing unspecified suspicions of [Chagoury's] links to terrorism, which can include financing extremist organizations” at or around the time that Gilbert Chagoury was placed on the Selectee list in about 2010;
- B. “Homeland Security documents” that purportedly “show” that Gilbert Chagoury was “subsequently removed from the [no fly] list and categorized as a ‘selectee’”;²
- C. “A 2013 FBI intelligence report, citing unverified raw information from a source, claimed Chagoury had sent funds to [Gen. Michel] Aoun, who transferred money to Hezbollah. The source said Aoun was ‘facilitating fundraising for Hezbollah.’ The U.S. put Chagoury in its database used to screen travelers for possible links to terrorism, interagency memos show”; and
- D. Cites “interviews and government documents” for the fact that Gilbert Chagoury was denied a visitor’s visa, reportedly “[b]ased upon the FBI report and other allegations from intelligence and law enforcement sources.”

11. Since none of the alleged “facts” described in Paragraphs 10(A)-10(D) should have or appear to have been in the public record at the time the article was published, Tanfani could only have had access to this information and these documents as a result of illegal leak(s) by a Government agent. To take one example, the letter denying Gilbert Chagoury’s visa application stated only that he was found ineligible according to Section 212(a)(3)(B) of the Immigration and Nationality Act; it did not cite any FBI report or alleged links to specific terrorist organizations.

² See *supra* at note 1.

12. The “facts” described in Paragraphs 10(A) and 10(C) are false. Gilbert Chagoury has no links to terrorism and has never provided any financial or any other support to Hezbollah or any other terrorist organization.

13. These allegations purport to be based on Government documents and databases, suggesting that the Government is currently maintaining false and defamatory information concerning Gilbert Chagoury in its systems.

14. The Government’s intentional and outrageous leak of information and more importantly, misinformation about Gilbert Chagoury triggered the obvious, foreseeable, inevitable and ongoing consequence of making banking in the United States more difficult, bordering on impossible, depriving him of property interests in violation of his Constitutional right to due process.

15. Based on the Government’s history of leaking information about Gilbert Chagoury purporting to show his alleged terrorist ties, Gilbert Chagoury has a reasonable, good faith belief that he will continue to be the target of such leaks and that his inability to bank in the United States will continue indefinitely into the future.

16. As a result of the Government’s malfeasance, Gilbert Chagoury’s reputation, business opportunities, and property interests protected by the Fifth Amendment to the United States Constitution have been harmed. He therefore brings this action seeking a Court Order demanding the Government make a good faith effort to identify and discipline the agents responsible for the ongoing illegal leaks against him, to provide him an opportunity to clear his name, and to obtain the process he is due for the deprivation of his property rights.

17. Gilbert Chagoury further brings this action because he has been deprived of a constitutionally-protected liberty interest – the right as a nonresident with substantial ties to the

United States to travel to this country – without due process. Gilbert Chagoury has been deprived of this right by the Defendants’ continued maintenance of false information in their databases, including, but not limited to, the allegations in Paragraphs 10(A) that he has links to terrorism and 10(C) that he sent funds to Aoun to be transferred to Hezbollah, which reportedly led directly to his visa revocation and subsequent visa denial, and creates an ongoing obstacle to his receiving a visa in the future. He seeks a post-deprivation opportunity to be heard on the misinformation.

18. The Constitution requires that Gilbert Chagoury be provided with a name-clearing hearing, at which he will have an opportunity to prove the Government is maintaining false information about his alleged terrorist ties and to restore his good name.

Parties

19. Plaintiff, Gilbert Ramez Chagoury (“Gilbert Chagoury”), was born in Nigeria and is a British citizen.

20. The Federal Bureau of Investigation (“FBI”) is a component of the United States Department of Justice, a Department of the Executive Branch of the United States Government.

21. The Department of Justice (“DOJ”) is a Department of the Executive Branch of the United States Government and oversees the FBI.

22. The National Counter Terrorism Center (“NCTC”) is an agency of the Executive Branch of the United States Government.

23. The Department of State (“State Department”) is a Department of the Executive Branch of the United States Government and is responsible for the review of applications for visas to enter the United States.

24. The Central Intelligence Agency (“CIA”) is an agency of the Executive Branch of the United States Government.

25. The Department of Homeland Security (“DHS”) is a Department of the Executive Branch of the United States Government.

26. The United States Customs and Border Protection (“CBP”) is a component of DHS, a Department of the Executive Branch of the United States Government.

Jurisdiction

27. This action arises under the Fifth Amendment to the United States Constitution.

28. This court has subject-matter jurisdiction over the claim arising under the Fifth Amendment pursuant to 28 U.S.C. §§ 1331 and the power to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 & 2202. Venue is proper pursuant to 28 U.S.C. § 1391.

Facts

29. Gilbert Chagoury is a prominent businessman and a leading figure in the Maronite Catholic community. He was born in Nigeria to Lebanese-Christian parents, is a British citizen, and currently resides in Paris.

30. Gilbert Chagoury is Founder and Chairman of the Chagoury Group, an industrial conglomerate with assets exceeding \$1 billion that employs thousands of people worldwide. He is also Saint Lucia’s Ambassador to UNESCO, to the United Nations Office at Geneva, and to the Holy See.

31. Gilbert Chagoury is a private individual, who is best known for his business activities, advocacy for religious freedom and his philanthropy.

32. Gilbert Chagoury is engaged in philanthropic activities across the globe, including in the United States.

33. Gilbert Chagoury has funded the establishment of a medical school and a nursing school at the Lebanese American University.

34. Gilbert Chagoury has been named Commander of Arts and Letters by the French Ministry of Culture for his contributions to the restoration of the Richelieu Aisle in the Musée du Louvre. He has also donated a series of six seventeenth-century Beauvais tapestries and a pair of Sèvres vases to the Louvre, for which he has a gallery in his name.

35. Gilbert Chagoury is an active supporter of health, education, and infrastructure projects elsewhere, and particularly in Mizyara, Lebanon.

36. Gilbert Chagoury has donated millions of dollars to the Clinton Global Initiative.

37. Gilbert Chagoury has funded scholarships and degree programs at multiple universities in the United States and has donated to the St. Jude Children's Research Hospital.

38. As a result of these philanthropic activities, Gilbert Chagoury travels around the world, including to and within the United States.

39. These activities are only part of the positive and mutually beneficial interactions that Gilbert Chagoury has long had with the United States. As an important industrialist in Nigeria, he has assisted the U.S. Embassy there whenever possible, and U.S. Ambassadors often call him to help solve their problems.

40. Gilbert Chagoury has previously held a U.S. visa and he has traveled to this country regularly.

41. For more than a decade and until recently, Gilbert Chagoury maintained a residence in Beverly Hills. He has been a dues-paying member of a local country club and is a dedicated fan of the Los Angeles Lakers.

42. Gilbert Chagoury, until the events complained of herein, spent about two to three months each year in the United States, where he visited family members who live in the United States.

43. In addition, in the course of his career, Gilbert Chagoury has developed friendships with many prominent Americans. This group includes Government officials protected by the Department of Homeland Security's Secret Service, the Department of State's Bureau of Diplomatic Security, and similar agencies. Gilbert Chagoury has been cleared by these security forces to attend events and socialize with many current and former high-ranking officials from multiple Presidential administrations including, but not limited to, President William J. Clinton.

January 2010 No Fly List Incident

44. On information and belief, in January 2010, Gilbert Chagoury was placed on the Selectee or No Fly list.

45. Gilbert Chagoury was provided no notice or opportunity to be heard prior to being placed on the list. He was simply informed that he could no longer travel to the United States.

46. Almost immediately, on February 17, 2010, ABC News reported that Gilbert Chagoury had been placed on the No Fly list.

47. The article, which was published on the World Wide Web, cited "law enforcement authorities" as the source of this information and reported that "law enforcement authorities say Chagoury was a 'positive match' to the Gilbert Chagoury on the terrorism no fly list."

48. According to the ABC News article, "the no-fly list is designed to 'keep known terrorists off planes.'"

49. Upon information and belief, the "law enforcement authorities" who were the source of the ABC News article were agents of the FBI.

50. The ABC News report instigated a spate of additional stories that stigmatized Gilbert Chagoury based on his reported placement on the No Fly list for terrorists.

51. The injuries to Gilbert Chagoury's reputation caused by the leak were exacerbated by the falsity of the misinformation leaked and the Government's refusal to disavow it.

52. Gilbert Chagoury sought redress by filing a petition with DHS under its only available procedure, the Traveler Redress Inquiry Program and by preparing a lawsuit to rebut the wrongful allegations against him.

53. As a result, the Government agreed to a modified selectee search protocol – allowing Gilbert Chagoury to again travel to the United States – and issued a letter of apology. Gilbert Chagoury's reported removal from the No Fly list and the Government's apology received significant media coverage. And, subsequent reports that have mentioned the No Fly List Incident, including the LA Times Article, typically include reference to the Government's apology.

54. Gilbert Chagoury has traveled to the United States multiple times without incident since the 2010 No Fly List Incident.

2015 Visa Application

55. Gilbert Chagoury has traveled regularly to the United States for over 35 years on ten year multiple-entry tourist visas. The last visa was issued in December 2006.

56. On May 22, 2015, the State Department revoked Gilbert Chagoury's visa and required him to reapply, which he did.

57. The State Department then denied Gilbert Chagoury's application for a visa in September 2015, citing the Immigration and Nationality Act ("INA") Section 212(a)(3)(b).

58. Being denied a visa pursuant to INA Section 212(a)(3)(b) indicates that the State Department wrongly believed Gilbert Chagoury has provided material assistance to terrorism.

59. In fact, Gilbert Chagoury has not provided material assistance to any terrorist group and there is no reasonable basis on which to believe he is a terrorist threat.

60. On information and belief, the State Department believed Gilbert Chagoury provided material support to terrorists because of misinformation provided to it by the FBI, DOJ, NCTC, CIA, DHS, or CBP.

61. As recited in Paragraphs 10(A) and 10(C), the LA Times article cites several false and defamatory “facts” as coming from government documents and databases and providing the basis for the visa denial, including alleged “links to terrorism” and “claim[s] Chagoury had sent funds to Aoun, who transferred money to Hezbollah.”

62. On information and belief, the Government continues to maintain these false allegations in its databases and its continued maintenance of this misinformation in its databases makes it a virtual certainty that Gilbert Chagoury will not be able to receive a visa to enter the United States for the foreseeable future.

63. Gilbert Chagoury has a right to be free from being falsely stigmatized as an individual associated with terrorist activity, where, as here, the stigma caused a change in legal status that affects his ability to travel to this country, a liberty interest protected under the due process clause of the Fifth Amendment. Such process should consist, at a minimum, of a post-deprivation hearing allowing him to prove the falsity of the Government’s erroneous records.

Disclosure to LA Times

64. Beginning in June 2016, Gilbert Chagoury and his spokesperson received repeated communications from Joe Tanfani, a reporter at the LA Times, asking for details regarding the denial of Gilbert Chagoury's visa application.

65. On August 28, 2016, the Los Angeles Times published an article entitled "He was a billionaire who donated to the Clinton Foundation. Last year, he was denied entry into the U.S.," by Joe Tanfani, reporting that Gilbert Chagoury applied for and was denied a visa. (Exhibit A, attached hereto).

66. According to the LA Times article, as detailed in Paragraphs 10(A)-10(D), the sources of Tanfani's information included FBI intelligence reports, interagency memos, government documents and "other allegations from intelligence and law enforcement sources," none of which should have been available to Tanfani and would not have been but for an unlawful leak on the part of the defendant agencies.

67. The LA Times article states that "interagency memos" show "[t]he U.S. put Chagoury in its database used to screen travelers for possible links to terrorism" based on allegations he was "facilitating fundraising for Hezbollah," further evidencing Joe Tanfani was provided misinformation concerning Gilbert Chagoury that is stored in government databases.

68. Further, the LA Times article referenced the reported No Fly list incident and suggested that Gilbert Chagoury's prior inclusion on the No Fly list was based on "unspecified suspicions of links to terrorism, which can include financing terrorist organizations," which Tanfani reported were reflected in a "Homeland Security document." This misinformation was not previously reported in connection with the 2010 leak(s) and appears to have been leaked to Tanfani.

69. Upon information and belief, the unlawfully disclosed information referenced in the LA Times article was disclosed by agents of the FBI, DOJ, NCTC, State Department, CIA, DHS, and/or CBP.

70. In preparing for his article, Tanfani, asked for comment on his statement that “Mr. Chagoury and members of his family last year were denied visas to enter the U.S. because of reports in government databases alleging that he may have provided support to terrorism – so called 3B grounds under the Immigration and Naturalization Act, according to sources. Specifically, there have been unconfirmed reports to US agencies that he may have provided support to Hezbollah, in cooperation with Gen. Michel Aoun.”

71. Tanfani’s questions and the content of his article show knowledge of information – albeit false information – stored in “government databases” that he could only access by means of an unlawful government leak.

72. Upon information and belief, the Government’s agent who leaked information and misinformation concerning Gilbert Chagoury did so intentionally to harm him, or at least with reckless and deliberate indifference to whether it would cause him harm. Indeed, the LA Times article does not refer directly to the source of the confidential government documents on which they relied, presumably because the source spoke to the media only on condition of anonymity given the illegality of leaking the misinformation or information at issue.

73. Further evidencing the willful and intentional nature of the Defendants violation, this is part of a pattern of wrongful and unlawfully leaked misinformation and information injuring Gilbert Chagoury.

74. In 2012, President Obama declared a “zero tolerance” policy against government leakers.³

75. More recently, in March 2017, President Trump criticized the leaking of classified information and demanded leakers be found and stopped.⁴

76. At no point in time did Gilbert Chagoury consent to any Government agency or Department disclosing information that his visa application was denied, that he had previously been placed on the Selectee or No Fly lists or any other information or misinformation about him.

77. At no point in time was Gilbert Chagoury afforded notice or an opportunity to be heard prior to the Government’s disclosure of information and misinformation relating to him.

78. At no point in time was Gilbert Chagoury afforded an opportunity to be heard or any other post-deprivation remedy after the Government’s disclosure of information and misinformation relating to him.

79. The LA Times report has instigated a spate of additional stories repeating and further disseminating information about the denial of Gilbert Chagoury’s visa, prior reported placement on the No Fly list, and the misinformation that reportedly provided the grounds for these Government actions – that Gilbert Chagoury has provided material support to a terrorist organization such as Hezbollah.

80. Gilbert Chagoury has never provided any financial or any other support to Hezbollah or any other terrorist organization. He has supported organizations providing food

³ US Department of Justice, *Attorney General Guidelines for Victim and Witness Assistance* (2011 ed., revised May 2012), available at http://www.justice.gov/olp/pdf/ag_guidelines2012.pdf.

⁴ Trump, Donald (@realDonaldTrump). “The real story that Congress, the FBI and all others should be looking into is the leaking of Classified information. Must find leaker now!” March 20, 2017. 4:02 AM. Tweet.

and shelter to Christians turned into refugees by the civil war in Syria, but by no stretch of the imagination may he be considered the source of assistance to terrorist organizations.

81. The Government's failure to publicly deny the accusations concerning Gilbert Chagoury's alleged links to terrorism in the articles lends them the Government's tacit approval and support.

82. Gilbert Chagoury has suffered adverse effects as a result of the leak to the LA Times and the Government's failure to publicly rebut the accusations made including, but not limited to, stigma and humiliation.

83. The Government's unwillingness or inability to stop the recurring leaks of misinformation concerning Gilbert Chagoury, combined with its tacit approval and support of these wrongful accusations, leads the public to believe them, exacerbating the damage to Gilbert Chagoury. This is not simply a matter of harm to Gilbert Chagoury's reputation or of lost business opportunities. Hezbollah has enemies. Hezbollah today is locked in a deadly Syrian conflict with Islamic State (also known as ISIS or ISIL). Islamic State has not limited its actions to Syria and Iraq. It has killed dozens in terrorist attacks aimed at its enemies in Paris and other Western European nations. To be falsely cast as a supporter of Hezbollah is to have one's life and the lives of one's family put at risk.

Bank Reaction to the LA Times Article

84. The United States Government strictly regulates banks.

85. Among the many banking regulations, the United States Government demands banks vigilantly guard against allowing suspected financiers of terrorism from opening or maintaining accounts or transferring money into or out of their banks.

86. The Office of Foreign Assets Control (“OFAC”) maintains a list of Specially Designated Nationals (“SDNs”) with whom U.S. persons and entities, including banks and financial institutions, are prohibited from transacting business, subject to penalties. The Secretary of State and the Secretary of the Treasury can, pursuant to Executive Order 13224 of September 23, 2001 (66 FR 49079, September 25, 2001), designate individuals for the SDN list.

87. Gilbert Chagoury has not been designated an SDN.

88. Beyond the SDN list, “Know-Your-Customer” or “Customer Identification Program” rules promulgated by the United States Government cause banks vigilantly to avoid doing business with any person or entity whose reputation has been put in doubt, regardless of the truth of the matter.

89. Banks are also subject to ongoing regulatory scrutiny to ensure that their Customer Identification Program and Customer Due Diligence procedures are functioning effectively.

90. These rules particularly warn banks that they must “include procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations issued by any Federal government agency and designated as such by Treasury in consultation with the Federal functional regulators.” 31 C.F.R. § 1020.220(a)(4). The rules do not caution banks to avoid relying on unauthorized or unlawful leaks by government officials.

91. In addition, the criminal money laundering statutes create potential criminal liability for banks and bank officers if there is knowledge or willful blindness that a customer is using the bank to move illegally derived funds or funds intended to finance illegal activities. 18 U.S.C. §§ 1956, 1957.

92. Under Section 352 of the USA Patriot Act, banks are required by law to have a board-approved Anti-Money Laundering and Countering the Financing of Terrorism compliance program.

93. Banks are predictably risk-averse; allegations in a news article of unconfirmed claims that an individual financially supported terrorism, occurring against the backdrop of United States banking regulations including, but not limited to, those listed above, will lead banks to refuse to transact business with that individual, regardless of the veracity or source of that information.

94. As reflected in the Report of Barry Koch (“Koch Report”) attached as Exhibit 1 to the Declaration of Barry M. Koch in Support of Plaintiff Gilbert Chagoury’s Second Amended Complaint (Exhibit B, attached hereto), Gilbert Chagoury is a “politically exposed person” or “PEP” who is required to be subject to enhanced scrutiny under Section 312 of the USA Patriot Act. Some banks might choose not to do business with Gilbert Chagoury for this reason alone. And, as a result of Gilbert Chagoury’s PEP status, banks who would otherwise do business with him would be especially sensitive to any adverse information published about him.

95. Prior to the leak complained of herein, there were occasions where Gilbert Chagoury had difficulty persuading banks to do business with him and instances in which banks refused to transact with him.

96. According to Barry Koch, who has served in high-level positions at financial institutions and is a recognized expert on international compliance and anti-money laundering issues, the misinformation the Government allegedly unlawfully leaked has made it even more difficult, approaching impossible, for Gilbert Chagoury to bank in the United States, effecting a

status change in his ability to engage in financial transactions in the present and for the foreseeable future.

97. By leaking misinformation regarding Gilbert Chagoury, the leaking government agency triggered what amount to financial sanctions on Gilbert Chagoury by encouraging banks not to engage in financial transactions with him, without providing him any due process whatsoever. As reflected in the Koch Report, banks evaluating Gilbert Chagoury as a potential customer, considering the public information about him, will be substantially influenced by the report of Gilbert Chagoury's alleged link to terrorism and funding for Hezbollah, in particular, especially as attributed to Government sources and documents in the LA Times article.

98. Limitations on Gilbert Chagoury's ability to transfer money to banks in the United States mean that he has found it increasingly difficult to pay for substantial maintenance, property taxes, and other continuing expenses related to the house in Beverly Hills. These limitations created a distressed sale situation, pressuring him to sell his property for less than what he believes is its fair value.

99. As the Koch Report demonstrates, the increased challenges approaching impossibility that Gilbert Chagoury now faces banking in the United States are an entirely predictable and ongoing consequence of the leak to the LA Times and subsequent news stories.

100. Thus, the actions of the United States Government, by means of the intentional and willful leak of misinformation regarding Gilbert Chagoury, created this ongoing deprivation of his property rights and did so without providing due process.

101. As a result of the Government leaks, Gilbert Chagoury has been deprived of his right to engage in financial transactions and his right to travel into the United States, both of which represent ongoing deprivations as long as the Government maintains false information

implicating him in their databases and allows the public, and especially the banks, to believe the same – a belief generated by the Government. He further suffers a substantial risk of future leaks as shown by the pattern of damaging leaks targeting him personally and the Government’s apparent failure to seek to identify the leakers and discipline them; having already happened twice and the leakers apparently not having faced any repercussions, there is no reason to believe it will not continue to occur unless the Government is directed to take action.

Count I

(PROCEDURAL DUE PROCESS)

(AS AGAINST ALL DEFENDANTS)

102. Plaintiff incorporates the allegations contained in Paragraphs 1-101 as if fully set forth herein.

103. The Fifth Amendment to the United States Constitution states that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

104. The right to travel, including the right to travel in and out of the United States, is part of the liberty interest protected under the due process clause of the Fifth Amendment.

105. Gilbert Chagoury, as a nonresident alien with substantial ties to the United States, is entitled to the due process protection of the Fifth Amendment, including with regard to the right to travel in and out of the United States.

106. Upon information and belief, the Defendant agencies’ maintenance of false information in government databases directly and proximately caused Gilbert Chagoury to be placed on the Selectee or No Fly lists, have his visa revoked, and to be denied a new visa.

107. The same can reasonably be inferred from the LA Times article written by Joseph Tanfani, in which he cited “interviews and government documents” for the fact that Gilbert Chagoury was denied a visitor’s visa, “[b]ased upon the FBI report and other allegations from intelligence and law enforcement sources,” referring to: (A) A “Homeland Security document [that] shows agents citing unspecified suspicions of links to terrorism, which can include financing extremist organizations”; and (B) “A 2013 FBI intelligence report, citing unverified raw information from a source, claimed Chagoury had sent funds to Aoun, who transferred money to Hezbollah. The source said Aoun was ‘facilitating fundraising for Hezbollah.’ The U.S. put Chagoury in its database used to screen travelers for possible links to terrorism, interagency memos show.”

108. Gilbert Chagoury is not challenging the denial of his visa, only the inclusion of false information in government databases that likely led to his visa denial and was unlawfully leaked. Removal of the false and defamatory “facts” cited in Paragraphs 10(A) and 10(C) would make a grant of a visa in the future more likely.

109. Upon information and belief, Gilbert Chagoury has, for all intents and purposes, no chance of receiving a visa to reenter the United States so long as the misinformation continues to exist in a government database, meaning the maintenance of the misinformation by the Defendant agencies effectively acts as a deprivation of his liberty interest in entering this country.

110. The leak of false and defamatory information concerning Gilbert Chagoury, including, but not limited to, allegations that he has funded a terrorist organization, has caused great reputational harm and stigma.

111. Gilbert Chagoury has been afforded no opportunity to be heard to disprove the false information in government databases, despite the significant reputational harm caused by the leak of the false information and their acting and continuing to act to deprive him of his liberty interests.

112. Gilbert Chagoury has no forum in which to seek redress or an opportunity to be heard other than this court to challenge the misinformation concerning him contained in government databases and no opportunity to submit evidence that he is not a terrorist threat. Depriving Gilbert Chagoury of access to any procedure to vindicate his due process rights prior to or post the deprivation of his liberty interest violates the Due Process Clause of the Fifth Amendment.

113. Defendants have acted, and continue to act, to deprive Gilbert Chagoury of his constitutional rights. He is suffering and will continue to suffer irreparable injury as a result of the practices described in this complaint unless those practices are enjoined by this Court, including but not limited to the Defendants' continued maintenance of the false information concerning him in Government databases, as detailed in Paragraphs 10(A) and 10(C).

114. Gilbert Chagoury has no plain, adequate, or speedy remedy at law and is entitled to declaratory and injunctive relief against defendants.

115. As a result, Gilbert Chagoury is entitled to a name-clearing hearing, at which he has a meaningful opportunity to challenge the misinformation about him leaked by the Government, specifically including the "facts" claimed in the LA Times article cited in Paragraphs 10(A) and 10(C), including allegations that he has "links to terrorism" and the claim that he provided money to General Aoun that was funneled to Hezbollah. In the event that Chagoury is successful in refuting these allegations, the Government should be required to provide him with

documentation and make a public statement that he is not and has never been on the SDN list, that this misinformation was unlawfully leaked and that it has been found to be inaccurate.

116. Further, Plaintiff is entitled to an injunction to undo the harm the Government caused. Specifically, this court should issue an order requiring the Defendants to remove any false information regarding him from their databases.

117. Gilbert Chagoury is further entitled to an Order requiring Defendants to communicate the removal of the complained of misinformation from Government databases to the United States Visa Office, the United States Embassy in Paris, France, and any other government agency, foreign or domestic, that may rely on Defendants' databases to identify visa applicants who may be inadmissible pursuant to Section 212(a)(3)(B) of the Immigration and Nationality Act, and to state said debunked misinformation should have no bearing on any future visa applications.

Count II

(PROCEDURAL DUE PROCESS)

(AS AGAINST ALL DEFENDANTS)

118. Plaintiff incorporates the allegations contained in Paragraphs 1-117 as if fully set forth herein.

119. The Fifth Amendment to the United States Constitution states that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

120. The Fifth Amendment's Due Process Clause protects Gilbert Chagoury's liberty and property interests from deprivation by the United States without due process of law.

121. Gilbert Chagoury is not a terrorist threat and there is no reasonable basis on which to conclude he is a terrorist threat.

122. The disclosure and publication of Gilbert Chagoury's denied visa, and the alleged grounds for the denial - in general that he has provided material support to terrorism and in detail as laid out in Paragraphs 10(A) and 10(C) - has injured his good name, reputation, honor, and integrity and has generated a cloud of suspicion that is not consistent with the decent and honorable person who Gilbert Chagoury is.

123. In addition to the stigma described in Paragraph 122, as a proximate and predictable result of Defendants' actions and explained in detail in the Koch Report, the leak has made it even more difficult, nearing impossible, for Gilbert Chagoury to bank in the United States, effecting a status change in his ability to engage in financial transactions.

124. Gilbert Chagoury has encountered difficulties paying the substantial expenses associated with the Beverly Hills property and attending to his financial interests, causing him significant financial injury, and ultimately leading him to agree to sell the house at what he believes to be a deep discount. As a result, Gilbert Chagoury has been deprived of property and/or financial interests in the United States including the home in Beverly Hills and the use and enjoyment thereof

125. As reflected in the Koch Report, banks evaluating Gilbert Chagoury as a potential customer will consider public information regarding him and will be substantially influenced by the Government's alleged finding of a link from Gilbert Chagoury to terrorism and Hezbollah, as reported in the LA Times article.

126. The Government's unlawful leak of information and misinformation regarding Gilbert Chagoury has deprived him of property interests protected by the Due Process Clause of the Fifth Amendment.

127. The Due Process Clause of the Fifth Amendment requires that Gilbert Chagoury be given notice and an opportunity to be heard prior to the Government depriving him of his liberty interests or of the use, enjoyment and value of his property rights in the United States, or alternatively a post-deprivation opportunity to be heard regarding the deprivation.

128. Gilbert Chagoury received neither notice nor opportunity to be heard prior to the Government, via its unlawful leak by unknown agents and by encouraging or requiring U.S. banks to rely on such leaks in deciding whom to do business with, denying him liberty and property rights in the United States.

129. Gilbert Chagoury has similarly received no post-deprivation opportunity to be heard.

130. Gilbert Chagoury reasonably fears further leaks of false, nonpublic information concerning him unless and until the Defendants take steps to identify and discipline the leakers. He equally reasonably fears, as reflected in the Koch Report, an ongoing inability to bank in the United States, unless and until the Government takes steps to dispel the false belief – created by its own leak – that he is linked to terrorism and Hezbollah.

131. Gilbert Chagoury is suffering and will continue to suffer irreparable injury as a result of the repeated unlawful leaks about him and other practices described in this Complaint unless those practices are enjoined by this Court.

132. The Government's failure to disavow the misinformation creates an ongoing harm to Gilbert Chagoury because it leads observers, including the banks refusing to transact with Mr.

Chagoury, to believe that the United States Government's information is accurate and that the Government's silence is tacit confirmation of the false information.

133. Now that the misinformation has been leaked, nothing short of correcting the misinformation in the public sphere will cure the violation by giving banks the comfort they need to freely transact business with Gilbert Chagoury. As explained in the Koch Report, banks will be significantly more likely to transact with Gilbert Chagoury if he succeeds in discrediting the leaked information claiming that he has links to terrorism and Hezbollah.

134. Gilbert Chagoury has no plain, adequate, or speedy remedy at law and is entitled to declaratory and injunctive relief against defendants.

135. Gilbert Chagoury has no forum in which to seek redress or an opportunity to be heard other than this court to challenge the misinformation concerning him contained in government databases and no opportunity to submit evidence that he is not a terrorist threat. Depriving Gilbert Chagoury of access to any procedure to challenge the underlying information – a necessary step in maintaining his liberty and property rights – violates the Due Process Clause of the Fifth Amendment.

136. As a result, Gilbert Chagoury is entitled to a name-clearing hearing, at which he has a meaningful opportunity to challenge the misinformation about him leaked by the Government, specifically including the "facts" claimed in the LA Times article cited in Paragraphs 10(A) and 10(C), including allegations that he has "links to terrorism" and the claim that he provided money to General Aoun that was funneled to Hezbollah. In the event that Chagoury is successful in refuting these allegations, the Government should be required to provide him with documentation and make a public statement that he is not and has never been on the SDN list, that this misinformation was unlawfully leaked and that it has been found to be inaccurate.

137. Further, Defendants should be ordered to make good faith efforts to identify and discipline any agents involved in leaking Gilbert Chagoury's information and misinformation concerning him, and also to institute procedures that mitigate the future risk of leaks.

Relief Requested

WHEREFORE, Plaintiff respectfully prays that this Court grant the following relief:

138. Grant an injunction requiring Defendants to provide Plaintiff a post-deprivation opportunity to be heard; namely, a name-clearing hearing, at which he has a meaningful opportunity to challenge the misinformation about him leaked by the Government, specifically including the "facts" claimed in the LA Times article cited in Paragraphs 10(A) and 10(C), including allegations that he has "links to terrorism" and the claim that he provided money to General Aoun that was funneled to Hezbollah;

139. Order the United States Government to undo the harm it has caused by requiring the Defendants to remove any false information regarding him from their databases, including but not limited to the "facts" claimed in the LA Times article cited in Paragraphs 10(A) and 10(C), including allegations Gilbert Chagoury has "links to terrorism" and the claim that he provided money to General Aoun that was funneled to Hezbollah;

140. Order the Government to provide Gilbert Chagoury with documentation and make a public statement that he is not and has never been on the SDN list, that the misinformation cited in Paragraphs 10(A) and 10(C) was unlawfully leaked and that it has been found to be inaccurate, including allegations Gilbert Chagoury has "links to terrorism" and the claim that he provided money to General Aoun that was funneled to Hezbollah;

141. Order the United States Government to communicate the removal of the complained of misinformation from Government databases to the United States Visa Office, the

United States Embassy in Paris, France, and any other government agency, foreign or domestic, that may rely on Defendants' databases to identify visa applicants who may be inadmissible pursuant to Section 212(a)(3)(B) of the Immigration and Nationality Act, and to state said debunked misinformation should have no bearing on any future visa applications;

142. Order the United States Government to take affirmative steps in good faith to identify and discipline any and all agents that played a role in the leak of information and misinformation concerning Gilbert Chagoury, and further that the United States Government put in place procedures to mitigate the risks of future leaks;

143. Award Gilbert Chagoury his costs and reasonable attorneys' fees incurred in this action; and

144. Grant such other relief as the Court may deem just and proper.

Dated: April 26, 2017

Respectfully submitted,
STEPTOE & JOHNSON LLP

/s/ Stewart Baker

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2017, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which shall send notice to all counsel of record.

/s/ Stewart Baker
Stewart Baker