

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MUSLIM COMMUNITY ASSOCIATION OF ANN ARBOR; AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE; ARAB COMMUNITY CENTER FOR ECONOMIC AND SOCIAL SERVICES; BRIDGE REFUGEE & SPONSORSHIP SERVICES, INC.; COUNCIL ON AMERICAN-ISLAMIC RELATIONS; ISLAMIC CENTER OF PORTLAND, MASJED AS-SABER,

Plaintiffs,

v.

JOHN ASHCROFT, in his official capacity as Attorney General of the United States; ROBERT MUELLER, in his official capacity as Director of the Federal Bureau of Investigation,

Defendants.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Case No.

Hon.

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## **COMPLAINT**

### **PRELIMINARY STATEMENT**

1. This lawsuit challenges the constitutionality of Section 215 of the USA PATRIOT Act, which vastly expands the power of the Federal Bureau of Investigation (“FBI”) to obtain records and other “tangible things” of people not suspected of criminal activity. Pub. L. No. 107-56, 115 Stat. 272 (Oct. 26, 2001) (“Patriot Act” or “Act”). The FBI can use Section 215 to obtain personal belongings, including “books, records, papers, documents, and other items,” directly from a person’s home. It can also order charities, political organizations, libraries, hospitals, Internet Service Providers, or indeed *any* person or entity to turn over the records or personal belongings of others. The FBI can use Section 215 against anyone at all, including United States citizens and permanent residents.

2. Section 215 is invalid on its face. To obtain a Section 215 order, the FBI need only assert that the records or personal belongings are “sought for” an ongoing foreign intelligence, counterintelligence, or international terrorism investigation. The FBI is not required to show probable cause – or any reason – to believe that the target of the order is a criminal suspect or foreign agent. The FBI can obtain and execute Section 215 orders in total secrecy. The targets of Section 215 orders are *never* notified that their privacy has been compromised – even years later, and even if they are innocent. The law includes a gag provision that prohibits persons or entities served with Section 215 orders from ever disclosing, even in the most general terms, that the FBI has sought information from them. By seriously compromising the rights to privacy, free speech, and due process, Section 215 violates the First, Fourth, and Fifth Amendments of the United

States Constitution. Plaintiffs respectfully seek a declaration that Section 215 is facially unconstitutional, and a permanent injunction against its enforcement.

### **JURISDICTION AND VENUE**

3. This case arises under the United States Constitution and the laws of the United States and presents a federal question within this Court's jurisdiction under Article III of the United States Constitution and 28 U.S.C. § 1331. The Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* The Court has authority to award costs and attorneys' fees under 28 U.S.C. § 2412. Venue is proper in this district under 28 U.S.C. § 1391(e).

### **PARTIES**

4. Plaintiff Muslim Community Association of Ann Arbor ("MCA") is a non-profit, membership-based organization that serves the religious needs of Muslims in and around Ann Arbor, Michigan. MCA owns and administers a mosque and an Islamic school. MCA sues on its own behalf and on behalf of its members, students, and constituents.

5. Plaintiff American-Arab Anti-Discrimination Committee ("ADC") is a non-profit civil rights organization committed to defending the rights of people of Arab descent and promoting their rich cultural heritage. ADC, which is non-sectarian and non-partisan, is the largest Arab-American grassroots organization in the United States. Based in Washington, D.C., it was founded in 1980 by former United States Senator James Abourezk and has chapters nationwide. ADC sues on its own behalf and on behalf of its members and constituents.

6. Plaintiff Arab Community Center for Economic and Social Services (“ACCESS”) is a Detroit-based human services organization committed to the development of the Arab-American community in all aspects of its economic and cultural life. Among other services, ACCESS operates a Community Health and Research Center. ACCESS sues on its own behalf and on behalf of its members, clients, and constituents.

7. Plaintiff Bridge Refugee & Sponsorship Services, Inc. (“Bridge”) is an ecumenical, non-profit organization based in Knoxville, Tennessee, dedicated to helping refugees and asylum-seekers become and stay self-sufficient. Bridge is affiliated with Church World Service and with Episcopal Migration Ministries. Bridge recruits and trains church sponsors to help refugees create new lives in East Tennessee, and provides services until refugees are eligible to apply for United States citizenship. Bridge sues on its own behalf and on behalf of its clients.

8. Plaintiff Council on American Islamic Relations (“CAIR”) is a non-profit, mainstream, grassroots organization dedicated to enhancing the public’s understanding of Islam and Muslims. CAIR is the largest Islamic civil liberties organization in the United States. CAIR is based in Washington, D.C., and has chapters nationwide and in Canada. CAIR sues on its own behalf and on behalf of its members and constituents.

9. Plaintiff Islamic Center of Portland, Masjed As-Saber (“ICPMA”), is a non-profit organization that serves the religious needs of Muslims in and around Portland, Oregon. ICPMA owns and administers a mosque known as Masjed As-Saber and an Islamic school known as the Islamic School of Portland. ICPMA sues on its own behalf and on behalf of its community members and students.

10. Defendant Attorney General John Ashcroft heads the United States Department of Justice, which is the agency of the United States government responsible for enforcement of federal criminal laws and domestic intelligence investigations. Defendant Attorney General Ashcroft has ultimate authority for supervising all of the operations and functions of the Department of Justice. The Department of Justice includes the FBI, the agency authorized to use the law challenged in this case.

11. Defendant Robert Mueller is the Director of the FBI, which is the principal investigative arm of the United States Department of Justice. Defendant Robert Mueller is responsible for supervising all of the operations and functions of the FBI. The FBI is the agency authorized to use the law challenged in this case.

#### **STATUTORY LANGUAGE AT ISSUE**

12. The Foreign Intelligence Surveillance Act (“FISA”), 50 U.S.C. § 1801 *et seq.*, was enacted in 1978 to govern FBI surveillance of foreign powers and their agents inside the United States. *See* Pub. L. 95-511, 92 Stat. 1783 (Oct. 25, 1978). Through FISA, Congress created the Foreign Intelligence Surveillance Court (“FISA Court”), originally composed of seven (now eleven) federal district judges empowered to grant or deny government applications for FISA surveillance orders. *See* 50 U.S.C. § 1803.

13. Since 1978, Congress has amended FISA numerous times, each time adding new tools to the FBI’s foreign intelligence toolbox or expanding the class of investigations in which such tools may be employed.

14. One amendment, which was codified as Subchapter IV of FISA, authorized the FBI to obtain “business records” from vehicle rental agencies, common carriers, storage facilities, and other similar businesses if the FBI had “specific and

articulable facts” giving reason to believe that the records in question pertained to a foreign agent or power. *See* Pub. L. 105-272, Title VI, § 602, 112 Stat. 2411 (Oct. 20, 1998).

15. The Patriot Act was passed on October 26, 2001.

16. Section 215 of the Patriot Act amended Subchapter IV of FISA by:

(i) allowing the FBI to demand the production of “any tangible things (including books, records, papers, documents, and other items),” and not just business records; (ii) allowing the FBI to demand books, records and other tangible things from *anyone*, and not just from vehicle rental agencies and other third parties; and (iii) allowing the FBI to demand books, records and other tangible things without showing any evidence that the person whom it is investigating is a foreign agent. *See* 50 U.S.C. § 1861(a)(1).

17. Section 215 does not require the FBI to show probable cause or any reason to believe that the records or personal belongings sought pertain to a person involved in criminal activity or to a foreign agent or foreign power. *See id.* § 1861(b)(2). The provision requires only that the FBI certify to the FISA Court that the books, records, or other tangible things demanded on the authority of the provision are “sought for” a foreign intelligence, clandestine intelligence, or international terrorism investigation. As a result of the changes effected by the Patriot Act, the FBI is now authorized to use Section 215 even against people who are known to be altogether unconnected to criminal activity or espionage.

18. Section 215 requires the FISA Court to defer to the FBI’s specification that the records or personal belongings sought by a Section 215 order are sought for an investigation to obtain foreign intelligence information or to protect against international

terrorism or clandestine intelligence activities. The FISA Court has no statutory authority to examine the foundation of the FBI's specification or to reject the specification as unfounded. *See id.* § 1861(b)(2) & (c)(1).

19. Section 215 does not require the FBI to have reason to believe that the records or personal belongings sought pertain to a particular suspect or a particular offense. Accordingly, the FBI could use Section 215 to obtain from a bookstore a list of people who had purchased a particular book, or to obtain from a health clinic a list of patients who had received medical care. The FBI need not state or even know in advance which individuals' privacy will be infringed.

20. At a hearing before the House Judiciary Committee on June 5, 2003, Defendant Attorney General John Ashcroft stated that, prior to the Patriot Act, the government "used to have [to allege] a reason to believe that the target is an agent of a foreign power," a standard he agreed was "lower than probable cause." He acknowledged that, under Section 215, the government may now obtain "all relevant, tangible items" without such a showing.

21. Section 215 does not require the FBI ever to notify surveillance targets that it has obtained their records or personal belongings.

22. Section 215 does not include any procedure that would allow a person or entity served with a Section 215 order to challenge the order's constitutionality before turning over the records or personal belongings sought by the order.

23. Section 215 authorizes the FBI to obtain records or personal belongings of United States citizens and permanent residents based in part on "activities protected by the first amendment to the Constitution." *Id.* § 1861(a)(1); *see also* § 1861(a)(2)(B).

24. Section 215 authorizes the FBI to obtain records or personal belongings of people who are not United States citizens or permanent residents based *solely* upon “activities protected by the First Amendment to the Constitution.” *See id.* § 1861(a)(1); *see also* § 1861(a)(2)(B).

25. Section 215 requires the FISA Court to defer to the FBI’s specification that the investigation is not being conducted of a United States person solely upon the basis of activities protected by the First Amendment. The FISA Court has no statutory authority to examine the foundation of the FBI’s specification or to reject the specification as unfounded. *See id.* § 1861(b)(2) & (c)(1).

26. Section 215 includes the following gag provision: “No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.” *See id.* § 1861(d). Section 215 gag orders are indefinite, and do not require the FBI to make a showing that secrecy is necessary in any particular case.

27. Defendant Attorney General John Ashcroft has refused to disclose publicly even the most basic information about the FBI’s use of Section 215. He has refused to say, for example, how many times the provision has been used to obtain information from public libraries, how many times it has been used to obtain information about United States citizens or permanent residents, and how many times it has been used in response to a person’s engagement in activity protected by the First Amendment.

28. Through a request submitted under the Freedom of Information Act, the American Civil Liberties Union obtained heavily redacted documents that indicate that the FBI has already used Section 215.

29. At a June 2003 hearing, Defendant Attorney General Ashcroft informed the House Judiciary Committee that it is his position that Section 215 could be used to obtain, among other things, library and bookstore records, computer files, education records, and even genetic information.

### **FACTUAL BACKGROUND**

30. Based on their personal experiences and the government's own actions, plaintiffs have a well-founded belief that they and their members, clients, and constituents (hereinafter "members and clients") have been or are currently the targets of investigations conducted under Section 215. Because Section 215 does not require the government to provide notice to surveillance targets, and because it strictly gags recipients from disclosing that the FBI has sought or obtained information from them, plaintiffs and other innocent targets of FBI surveillance have no way to know with certainty that their privacy has been compromised.

31. The FBI has already targeted plaintiffs, their members, and their clients in a number of ways.

32. The FBI has sought information directly from some of the plaintiffs about their members and clients.

33. The FBI has sought information from some of the plaintiffs' members and clients directly, either during visits to their homes and businesses, or through numerous

registration and interview programs directed at Muslims of Arab and South Asian descent.

34. Plaintiffs have many members and clients who were required to register under the National Security Entry-Exit Registration System (NSEERS), an INS program that thus far has been applied almost exclusively to nationals of predominantly Arab and Muslim countries. Many individuals who appeared in good faith for registration were then detained by the INS for alleged immigration violations. The FBI also interviewed many of plaintiffs' members and clients of Arab, Muslim, and South Asian descent in March 2002. Finally, the FBI interviewed many of plaintiffs' members and clients of Iraqi descent in March 2003, as part of "Operation Liberty Shield."

35. During these interviews, many members were questioned about their religious and political beliefs, activities, and associations. Some of plaintiffs' members expressed opposition to the war in Iraq, to United States support for Israeli policies, and to other aspects of United States foreign policy. Plaintiffs' members and clients believe that the FBI may have selected them for investigation under Section 215 because of information obtained during these interviews.

36. The Attorney General stated publicly in November 2002 that the Justice Department had a "previously undisclosed intelligence program involv[ing] tracking thousands of Iraqi citizens and Iraqi-Americans with dual citizenship."

37. The FBI is currently investigating a number of charities suspected of providing material support to Foreign Terrorist Organizations. Some of plaintiffs' members and clients contributed financially to these charities before the charities were accused of having provided material support.

38. Some of the plaintiffs and their members and clients have direct contacts with people whom the INS detained and the FBI interrogated after September 11<sup>th</sup>. The FBI routinely interrogated INS detainees, asking questions not only about the detainees' own immigration status, political views, religious beliefs, and foreign connections but also about the political views, religious beliefs, and foreign connections of the detainees' friends and family members.

39. Many of plaintiffs' members and clients emigrated to the United States from countries the government has accused of sponsoring terrorism, such as Syria and Iraq. Defendant Mueller has stated publicly that a "substantial" number of persons are under constant surveillance, particularly in communities like New York and Detroit, where plaintiffs have thousands of Arab-American members and clients.

40. Many of the plaintiffs directly serve Muslim communities, or have significant numbers of members or clients who are Muslim. Two of the plaintiffs, the Muslim Community Association of Ann Arbor and the Islamic Center of Portland, Masjed As-Saber, operate mosques.

41. Section 215 has caused some of plaintiffs' members and clients to be inhibited from publicly expressing their political views, attending mosque and practicing their religion, participating in public debate, engaging in political activity, associating with legitimate political and religious organizations, donating money to legitimate charitable organizations, exercising candor in private conversations, researching sensitive political and religious topics, visiting particular websites, and otherwise engaging in activity that is protected by the First Amendment to the United States Constitution.

Muslim Community Association of Ann Arbor

42. MCA is a non-profit, membership-based organization that owns and administers a mosque and an Islamic school, the Michigan Islamic Academy, in Ann Arbor, Michigan. Approximately 1000 people attend services at the mosque each Friday; as many as 2500 attend services on religious holidays. MCA employs approximately 20 people and has about 700 registered, dues-paying members.

43. Approximately 200 students are enrolled at the Michigan Islamic Academy, which offers classes from pre-K through 11<sup>th</sup> grade. In addition to offering the standard academic curriculum used in the State of Michigan for public schools, the school offers classes in Arabic language, Quranic recitation and Islamic Studies. The mission of the school is to provide students with the basic knowledge required to preserve their Islamic heritage, religion and cultural identity.

44. MCA has spent a significant amount of time, staff resources, and funds discussing the impact of September 11<sup>th</sup> and the Patriot Act on the civil rights of Muslims. It sponsored civil rights forums on January 26, 2002; April 14, 2002; October 13, 2002; and March 12, 2003. Each of these forums addressed the impact of the Patriot Act. The MCA has also sponsored numerous rallies and fundraisers related to the Rabih Haddad case; at these events, the Patriot Act was almost always discussed.

45. Because of the relationship between MCA, its members and leaders, and persons and organizations investigated, questioned, detained, or arrested since September 11<sup>th</sup>, MCA reasonably believes that the FBI has used or is currently using Section 215 to obtain records or personal belongings about it and its members, students, and constituents.

46. For example, the MCA, its leadership, and its members have been associated with Rabih Haddad. Rabih Haddad is a 41-year-old native of Lebanon who came legally to the United States and lived until recently in Ann Arbor with his wife and four children. He was an active member of MCA and a volunteer teacher at MCA's Michigan Islamic Academy. In 1992, he co-founded the Global Relief Foundation, a humanitarian organization which the federal government has accused of having provided material support for terrorism. In December 2001, Mr. Haddad was arrested on immigration charges. Though never accused of threatening or harming anyone, Mr. Haddad was denied bond and held in solitary confinement for months with almost no access to his family or the outside world. The INS commenced removal proceedings against him based on visa violations, and the government attempted to close the INS hearings to the press and public. The ACLU, the Detroit Free Press, Representative John Conyers and others successfully sued to open the hearings. Mr. Haddad was ultimately imprisoned for approximately nineteen months, and deported to Lebanon in July 2003. He was never charged with any crime.

47. Some MCA members founded the Free Rabih Haddad Committee in December 2001. The Free Rabih Haddad Committee supported the Haddad family during Mr. Haddad's imprisonment, raised money to assist in his defense, organized public demonstrations in support of Mr. Haddad, and organized a letter-writing campaign. The Free Rabih Haddad Committee continues to educate the public about the government's treatment of Mr. Haddad. The MCA itself also held numerous fundraisers and public rallies to protest Mr. Haddad's detention.

48. Almost all meetings of the Free Rabih Haddad Committee were held at the MCA. During his detention, Mr. Haddad placed weekly telephone calls to the MCA in order to speak with MCA leaders and members.

49. The MCA, its leadership, and its members have also been associated with Dr. Sami Al-Arian. In October 2002, Dr. Sami Al-Arian spoke at the MCA mosque on the “Eroding Status of Our Civil Liberties.” Dr. Al-Arian is a Kuwaiti-born former professor at the University of South Florida. He was indicted in the Middle District of Florida in February 2003 for allegedly aiding and abetting terrorism in the occupied West Bank. The federal government has introduced evidence in the case that they obtained through wiretaps authorized under another Patriot Act amendment to FISA. Dr. Al-Arian’s daughter, Layla Al-Arian, spoke about her father’s case at MCA’s mosque in March 2003.

50. Other MCA members and leaders have been individually targeted for investigation by the FBI.

51. For example, MCA member Homam Albaroudi was born in Syria and came to the United States in 1987. He received a Masters in Engineering from Missouri State University and a Ph.D. in Engineering from Oregon State University. He is now a United States citizen. He is married to a United States citizen and has three children, all United States citizens. He works as an engineer for a Fortune 100 company.

52. Mr. Albaroudi has been an active member of MCA since 1999. He was a member of the Michigan Islamic Academy’s board of directors for 3 years.

53. Mr. Albaroudi has also been a member of CAIR’s Michigan chapter for approximately three years.

54. In 1993, Mr. Albaroudi co-founded the Islamic Assembly of North America (“IANA”), a non-profit organization dedicated to educating the public about Islam. While he was associated with the organization, IANA organized conferences, published religious books, and supplied Qurans to incarcerated Muslims. Mr. Albaroudi served as IANA’s Executive Director from the organization’s founding in 1996 until 1997, when he stepped down from his position and ended his association with IANA because of personal differences with other IANA leaders. The FBI raided IANA’s offices in February 2003, seizing computers and taking photographs of books. The computers contained information about Mr. Albaroudi. FBI agents also questioned IANA associates and ex-employees about Mr. Albaroudi, notwithstanding that his association with IANA ended in 1997.

55. Mr. Albaroudi was also a founder of the Free Rabih Haddad Committee. Mr. Albaroudi convened the initial meeting of the Committee on the premises of the MCA.

56. Mr. Albaroudi has twice been contacted by the FBI. On the first occasion, which was approximately four years ago, Mr. Albaroudi was on an employment-related consulting assignment in Indiana when the FBI came looking for him at his home in Michigan. When the FBI discovered that Mr. Albaroudi was not at home, they left their cards with Mr. Albaroudi’s wife, asking that Mr. Albaroudi contact them when he returned. Mr. Albaroudi did so. The FBI did not pursue efforts to speak with Mr. Albaroudi after he informed them that he did not feel comfortable speaking with them without an attorney present.

57. The FBI contacted Mr. Albaroudi again in or about March 2003. On this occasion, the FBI agents who contacted him said that they had not singled him out but rather were interviewing many people in the area to find out whether anyone had learned of conspiracies against the United States. Mr. Albaroudi explained to the FBI that he would have contacted them of his own accord if he had learned of conspiracies against the United States. The FBI then asked Mr. Albaroudi about another co-founder of IANA, who had recently been arrested for an overdraft check and then detained on immigration charges. The FBI did not pursue efforts to speak with Mr. Albaroudi after he informed them that he did not feel comfortable speaking with them without an attorney present.

58. Mr. Albaroudi reasonably believes that, because of his religion, his ethnicity, his place of birth, his earlier leadership role in IANA, his leadership role in the Free Rabih Haddad Committee, and his membership and leadership role in MCA, the FBI has used or is currently using Section 215 to obtain his records and personal belongings.

59. MCA member Kristine Abouzahr was born in Lansing, Michigan in 1958. She is married and has five children, the eldest of whom is 21 and the youngest 9. Mrs. Abouzahr received a B.S. from Oklahoma State University in 1978 and an M.A. from Virginia Polytechnic Institute and State University in 1980. She moved to Michigan in 1986.

60. Mrs. Abouzahr has been a member of the MCA since 1986.

61. Mrs. Abouzahr taught at the Michigan Islamic Academy from 1990-1994, from 1995-1997, from 1999-2001, and during this past academic year. Mrs. Abouzahr's youngest daughter is currently a student at the Michigan Islamic Academy.

62. Mrs. Abouzahr serves on MCA's Outreach Committee, whose mandate is to educate Americans about Islam. As a member of the Outreach Committee, she has visited numerous local schools and community organizations to give presentations about Islam. Mrs. Abouzahr also serves informally as an advisor to Michigan Islamic Academy's new immigrant students and their parents who have questions about adjusting to life in the United States.

63. Mrs. Abouzahr is an active member of the Ann Arbor Area Committee for Peace (AAACP). As a member of that organization, Mrs. Abouzahr attended demonstrations against the Gulf War, against the Patriot Act, against the FBI's "voluntary" interview program, and in favor of a just peace between Israel and Palestine. Mrs. Abouzahr has also spoken publicly at demonstrations sponsored by AAACP and MCA, including at demonstrations in support of Rabih Haddad.

64. Mrs. Abouzahr is also an active member of the Free Rabih Haddad Committee. As one of the Committee's two Media Coordinators, she drafts press releases, speaks to the media, and organizes public demonstrations. She has also spoken publicly in support of Mr. Haddad. For example, in February 2002, after she had traveled to Washington, D.C., with Mr. Haddad's wife, she spoke at an informational forum organized and co-sponsored by the AAACP and the Free Rabih Haddad Committee to inform the local community about Haddad's case.

65. The Free Rabih Haddad Committee's post office box is registered in Mrs. Abouzahr's name.

66. Mrs. Abouzahr reasonably believes that, because of her religion, her leadership role in the Free Rabih Haddad Committee, her membership in AAACP, and

her membership and leadership role in MCA, the FBI has used or is currently using Section 215 to obtain her records and personal belongings.

67. MCA member Nazih Hassan was born in Lebanon in 1969. He emigrated to Canada in 1988 and became a Canadian citizen in 1993. Mr. Hassan received his B.Esc. from the University of Western Ontario in 1994.

68. Mr. Hassan came to the United States in 1994 to study at Eastern Michigan University. He received his M.S. in Computer Information Systems from that institution in 1997.

69. Mr. Hassan became a legal permanent resident in 2001. He is married and has three children, two of whom are United States citizens. Mr. Hassan now works as a technology consultant and resides in Ypsilanti, Michigan.

70. Mr. Hassan has been a member of the MCA since 1994. Since January 2002, he has served as MCA's President. At various times since 1995, he also served as Editor of MCA's newsletter, as MCA's Secretary, and as MCA's Vice President.

71. Mr. Hassan was a founder of the Free Rabih Haddad Committee. As one of the Committee's two Media Coordinators, he drafts press releases, speaks to the media, and organizes public demonstrations.

72. Mr. Hassan reasonably believes that, because of his religion, his ethnicity, his place of birth, his leadership role in the Free Rabih Haddad Committee, and his membership and leadership role in MCA, the FBI has used or is currently using Section 215 to obtain his records and personal belongings.

73. MCA also reasonably believes that it could be served with a Section 215 order. It then would have no ability to challenge the order before compromising the

privacy and free speech rights of its members. MCA maintains various records pertaining to its members, including records of members' names, telephone numbers, e-mail, home and business addresses, and citizenship status and national origin. MCA keeps records relating to members' marriages and divorces, and relating to members' family problems that MCA's Imam and Social Committee help resolve. MCA also keeps records documenting the use of zakat (members' charitable donations). The Michigan Islamic Academy also maintains a variety of educational and counseling records about its students. Finally, MCA has a variety of religious documents associated with the mosque and the Michigan Islamic Academy.

74. MCA has a policy of strictly maintaining the privacy of its records and routinely assures its members that any information they provide to MCA will be kept confidential. MCA's members rely on MCA's assurances that their records will be kept confidential.

75. Section 215 compromises MCA's ability to maintain the confidentiality of records pertaining to its members and students, and to protect individual members and students from harassment, threats, and violence. MCA has been the target of harassment since September 11<sup>th</sup>. For example, on some occasions after MCA President Nazih Hassan was quoted in newspaper articles, the MCA received several hate letters. After Mr. Hassan wrote a letter to the Ann Arbor News at the end of March 2003, an unknown individual or group placed hate fliers on cars outside the mosque. Were the confidentiality of MCA's records to be compromised and MCA's membership list to become public knowledge, MCA's individual members would be subjected to verbal harassment, threats, and even violence.

76. MCA's ability to keep its records confidential also allows MCA to protect its members and students from the possibility that the government will target them for their exercise of First Amendment rights, including their rights to free speech, free association, and free exercise of religion.

77. Because of the likelihood that the FBI is using provisions of the Patriot Act to target MCA, its leadership, and its members, some MCA members are afraid to attend mosque, to practice their religion, or to express their opinions about religious and political issues. Several people have told MCA leaders that they do not attend mosque for fear that the FBI is surveilling MCA and intends to investigate those who are associated with the organization.

#### American-Arab Anti-Discrimination Committee

78. ADC is a non-profit civil rights organization committed to defending the rights and promoting the rich cultural heritage of people of Arab descent. ADC has members and volunteer-based chapters in many states. It is headquartered in Washington, D.C., and has staffed offices in New York City, Detroit, San Diego, and San Francisco.

79. Since the passage of the Patriot Act, ADC has spent a significant amount of time, staff resources, and funds in advocating against the civil rights encroachments authorized by the Act. ADC has co-sponsored congressional briefings in Washington, D.C., and held town hall meetings throughout the country to educate the public about the Act. Most recently, ADC was a major co-sponsor of a national congressional briefing held on Capitol Hill on June 4, 2003. The briefing, which was attended by several prominent senators and representatives, featured testimony from immigrants who had

suffered civil rights violations after September 11<sup>th</sup>. On June 2, 2003, ADC co-sponsored another congressional staff briefing focusing on the Act and other post-September 11 Department of Justice initiatives. ADC staff members have spoken about the Patriot Act at over 150 conferences, seminars, and university events around the nation. Additionally, ADC's National Conventions for 2002 and 2003 included several panels discussing the Patriot Act and other government programs and policies implemented after the Patriot Act became law. ADC spokespeople, including Communications Director Hussein Ibish, are among the leading advocates in national media against the Patriot Act. Moreover, the ADC Legal Department provides routine assistance to anyone contacting ADC for help concerning law enforcement or other activities related to the Patriot Act. Finally, ADC's Legal Department is an active participant in coalition-based policy advocacy to amend or repeal parts of the Act.

80. ADC monitors the due process and equal protection rights of all Arab-Americans, including those who were detained on by the INS after September 11<sup>th</sup> and those who have been caught up in terrorism investigations.

81. For example, ADC and its members publicly condemned the use of secret evidence in the detention of Dr. Mazen Al-Najjar, formerly a University of South Florida professor. Though incarcerated for over three years, Dr. Al-Najjar was never charged with any criminal offense. He was ultimately deported for visa violations.

82. ADC and its members have also made public statements of concern about due process issues in the case of Rabih Haddad, a community leader in Ann Arbor, Michigan who was detained by the INS in December 2001, imprisoned for approximately

nineteen months, and ultimately deported in July 2003 without having been charged with any crime.

83. Because of the relationship between ADC, its members, and persons questioned, detained, or deported since September 11<sup>th</sup>, ADC reasonably believes that the FBI has used or is currently using Section 215 to obtain records and personal belongings about it and its members.

84. ADC also reasonably believes that it could be served with a Section 215 order. ADC would then would have no ability to challenge the order before compromising the privacy rights of its members. ADC maintains a variety of records about members, including their names and names of family members, home and business mailing addresses, phone numbers, email addresses, credit card information, and checking account information. ADC has a policy of maintaining the confidentiality of its members and their private information. ADC does not disclose membership numbers or any other information about members.

85. Section 215 compromises ADC's ability to maintain the confidentiality of records pertaining to its members, and to protect members from harassment, threats, and violence. ADC has documented a substantial increase in hate crimes, discrimination, and harassment against Arab-Americans since the September 11<sup>th</sup> attacks. Many of these incidents are described in the ADC publication, "Report on Hate Crimes and Discrimination Against Arab Americans; The Post-September 11 Backlash." Over 700 violent incidents occurred in the first nine weeks following the attack, including several murders. In the first year after the attacks, ADC documented over 80 cases in which airlines had discriminated against passengers who were perceived to be Arab. There

were also over 800 cases of employment discrimination against Arab-Americans, an approximately four-fold increase over previous annual rates, and numerous instances of denial of service, discriminatory service and housing discrimination. These numbers remain significantly above pre-September 11<sup>th</sup> levels today. Were the confidentiality of ADC's records to be compromised or ADC's full membership list to become public knowledge, ADC's members could risk harassment, threats, and even violence.

Arab Community Center for Economic and Social Services

86. ACCESS is a human services organization committed to the development of the Arab-American community in the United States. Its staff and volunteers serve low-income families, help newly arrived immigrants adapt to life in the United States, and educate Americans about Arab culture. ACCESS provides a wide range of social, mental health, educational, artistic, employment, legal and medical services. ACCESS has more than 2500 members and approximately 150 full-time staff.

87. ACCESS provides over seventy different programs to more than a hundred thousand people of all ethnic and religious backgrounds. In the last fiscal year, ACCESS provided more than 57,290 services in the area of social and legal services, more than 12,600 counseling and psychiatric services, more than 60,300 in health and health education services, and more than 55,600 employment and vocational services. ACCESS also provided more than 256,590 hours of educational and recreational services to youths and their parents, and sponsored cultural events and activities attended by many thousands of people.

88. For example, ACCESS runs a Community Health and Resources Center that offers a wide range of medical, public health, mental health and family counseling

services and programs. Its division of Psychosocial Rehabilitation for Survivors of Torture and Refugee Family Strengthening provides mental health services to torture victims and refugees. ACCESS also provides specialized services to victims of domestic violence, administers a breast and cervical cancer control program, and provides HIV/AIDS and STD education, counseling and testing. The Center's research division has twice sponsored a National Conference on Health Issues in the Arab Community.

89. ACCESS's Department of Social Services offers emergency food assistance, immigration services, and homelessness prevention programs. Its Department of Employment and Training offers a variety of job training programs, language instruction, and family acculturation services to help immigrants integrate into their new society. The Youth and Education Department provides after school homework assistance to students, special programs for at-risk youth, and recreation programs and teen dialogue opportunities for young people.

90. Because of the relationship between ACCESS, its members and clients, and persons questioned, detained, or deported since September 11<sup>th</sup>, ACCESS reasonably believes that the FBI has used or is currently using Section 215 to obtain records or other personal belongings about it and its members and clients.

91. Some of ACCESS's members and clients have been individually targeted for investigation by the FBI.

92. For example, ACCESS member Ahmad Ali Ghosn was born in Lebanon in 1965. He has been a legal permanent resident of the United States since 1993. Mr. Ghosn's application for naturalization has been pending for over seven years. Mr. Ghosn first submitted his application in June 1996. The INS later informed Mr. Ghosn that it

had lost the application and advised him to submit two duplicate applications. Mr. Ghosn did so. He received an acknowledgement notice from the INS in January 1998 – over five years ago. Since January 1998, the INS has required Mr. Ghosn to be fingerprinted on multiple occasions but it has never sought to schedule a naturalization interview.

93. The INS most recently required Mr. Ghosn to be fingerprinted in February 2002. When Mr. Ghosn appeared as he had been asked to, he was greeted not only by an INS criminal investigator but also by two FBI agents, who questioned him for over two hours about his associations with various individuals and charitable organizations in Lebanon. The FBI agents informed Mr. Ghosn that he could be naturalized if he cooperated with them, but that if he did not, his children would be seized by the government and placed in foster care. Mr. Ghosn answered the FBI's questions to the best of his ability but refused their request that he become an FBI or INS spy. He was not advised of his right to counsel.

94. Because of the FBI's actions, Mr. Ghosn reasonably believes that the FBI has used or is currently using Section 215 to obtain his records or other personal belongings.

95. ACCESS also reasonably believes that it could be served with a Section 215 order. It would then have no ability to challenge the order before compromising the privacy rights of its members and clients. ACCESS maintains a wide range of highly personal, sensitive records relating to the services it offers to clients. For example, the Community Health and Research Center maintains medical records for torture victims and refugees, and for breast cancer, mental health, and HIV/AIDS patients. It also

maintains files on domestic violence victims and family counseling clients. ACCESS routinely assures its clients that the information they provide will be kept confidential.

#### Bridge Refugee & Sponsorship Services

96. Bridge is an ecumenical, non-profit organization that helps refugees and asylum-seekers become and stay self-sufficient.

97. Bridge is affiliated with Church World Service (“CWS”), which is the relief, development, and refugee assistance ministry of 36 Protestant, Orthodox, and Anglican denominations in the United States, and with Episcopal Migration Ministries (“EMM”), which is the arm of the Episcopal Church that advocates for the protection of the refugees.

98. Bridge employs eight staff members and has offices in Knoxville, Chattanooga, and Bristol, Tennessee.

99. Bridge generally obtains clients in either of two ways. In some cases, a person residing in the United States asks Bridge to assist a relative whom the United States has granted refugee status but who has not yet arrived in the United States. In these cases (called “family reunification” cases), Bridge begins working with the refugee’s family while the refugee is still outside the United States. In other cases, Bridge is assigned refugees’ files by affiliate organizations such as CWS and EMM. These cases (called “free” cases) usually involve refugees who do not have family in the United States.

100. Historically, Bridge has served approximately 200 new refugees and asylum seekers in a year. Bridge’s current caseload, which includes refugees who arrived in the United States over the last five years, includes approximately 500 files.

101. Bridge ordinarily serves its clients through individual sponsors, whom Bridge recruits from local churches, mosques, and synagogues.

102. Sponsors sign confidentiality agreements. Bridge staff explain and review the confidentiality agreement in sponsor training sessions.

103. Bridge provides its clients with a broad spectrum of resettlement services. For example, Bridge staff and sponsors ensure that new refugees have accommodations, furniture, clothing, and food; accompany new refugees to the Department of Health for medical examinations and immunizations; provide English language tutors to refugees who require them; ensure that refugee children enroll in school; provide cultural counseling to educate new refugees about American customs; assist new refugees in finding employment as quickly as possible; assist new refugees in complying with immigration requirements; assist refugees in applying for permanent residence and citizenship; direct refugees to social services provided by other organizations or by the federal and state governments; and counsel refugees about personal problems, including substance abuse, sexual abuse, discrimination at work or school, domestic violence, family planning, and divorce.

104. Bridge maintains various records pertaining to its clients, including records of clients' names, telephone numbers, and residential addresses. Bridge also keeps records of its clients' dates of arrival in the United States.

105. In many cases, Bridge's files also include case notes taken by Bridge staff. Case notes may document medical conditions from which the client has suffered in the past or that the client suffers currently. Case notes may also document the nature of the persecution that the client faced in her home country.

106. In some cases, clients consult Bridge staff about personal problems, including substance abuse, sexual abuse, discrimination at work or school, domestic violence, family planning, and divorce. In one case, for example, Bridge counseled a client about a venereal disease that she had acquired as a result of rape by a soldier. In another case, Bridge counseled an elderly client who was being mistreated by his daughters. Bridge's case notes include documentation of conversations relating to these and similarly intimate, personal problems.

107. In many cases, Bridge's refugee clients can obtain the assistance they need only from Bridge. There is no other resettlement services organization in East Tennessee whose staff have the relevant language and professional skills. When Bridge's clients decide that they cannot afford to entrust their personal information to Bridge, those clients generally do not obtain the help that they need from anywhere. They simply deal with their problems – including serious medical and personal problems – on their own.

108. Bridge is concerned that Section 215 compromises its ability to maintain the confidentiality of its clients' records. Bridge regularly assures its clients that the information they provide will be kept confidential, and explains that, under state law, the confidentiality of the information that clients provide is protected by a social worker privilege. Bridge provides its clients with a confidentiality agreement that assures clients that Bridge will disclose their records only "to facilitate the continuation of proper medical treatment and social services."

109. Bridge reasonably believes that it could be served with a Section 215 order. Bridge would then would have no ability to challenge the order before compromising the privacy rights of its members.

110. The FBI has approached Bridge for information about its clients on at least two occasions. In early November 2002, the FBI approached Bridge to ask it to disclose all records relating to its Iraqi-born clients. Bridge declined to disclose the records because the records included sensitive, personal information, including medical information.

111. On November 12, 2002, Bridge was served with a Subpoena To Testify Before Grand Jury, ordering the production of “Any and all records of Bridge . . . relating to any and all Iraqi-born people who have been assisted by Bridge Refugee and Sponsorship Services, Inc., including records that provide the name, address, telephone number, employer, and personal circumstances of such persons.” Bridge moved to quash the subpoena but withdrew its motion when the FBI agreed not to seek more information than Bridge’s clients would already have provided to the INS. The FBI made clear, however, that it might eventually demand more information. The FBI did not indicate what form such a demand might take.

112. Bridge client Muwafa Albaraqi was born in 1968 in Najaf, Iraq, where he lived until 1991. In 1991, at the encouragement of the United States, Mr. Albaraqi participated in an uprising against the government of Saddam Hussein. Although the uprising was successful in Najaf, American support did not materialize and ultimately the city fell again to the Iraqi Republican Guard. Those who had participated in the uprising were labeled traitors and were tortured, imprisoned, or killed. Mr. Albaraqi fled to Saudi Arabia.

113. Mr. Albaraqi lived in a United Nations-administered refugee camp in Saudi Arabia from March 1991 to September 1994. He applied for political asylum in the United States while living at the camp.

114. Mr. Albaraqi came to the United States in September 1994. His file, which was initially assigned to another refugee organization, was transferred to Bridge when Mr. Albaraqi decided that he would reside in Tennessee, where he had friends.

115. Bridge assisted Mr. Albaraqi in adjusting to life in Tennessee. For example, Bridge showed Mr. Albaraqi around Knoxville, pointing out where he could buy groceries and clothing, and showed him how to use the bus system. Bridge helped Mr. Albaraqi find a place to live, paid his first month's rent and utilities, and bought him groceries for his first week in the country. Bridge also helped Mr. Albaraqi apply for federal assistance, including food stamps and social security. Bridge accompanied Mr. Albaraqi to the Department of Health, where Mr. Albaraqi was given a medical examination and immunizations. Bridge also helped Mr. Albaraqi with his application for permanent residence and, eventually, his application for citizenship.

116. Mr. Albaraqi became a United States citizen in 1999. Mr. Albaraqi now works as a check-out clerk at a grocery store in Knoxville, Tennessee. He is also a part-time student in electrical engineering at the University of Tennessee.

117. The FBI came to Mr. Albaraqi's workplace in January 2003, stating that they wanted to talk to him. Mr. Albaraqi was not told that the interview was optional or voluntary or that he had a right to contact an attorney and have an attorney present at the interview.

118. During the interview, the FBI asked, among other questions, whether anyone associated with the Iraqi government had asked him to engage in terrorism against American targets; what he would do if an Iraqi agent asked him to engage in terrorism; and whether he might act differently if the Iraqi agent cut off his brother's finger and sent it to him in the mail.

119. Mr. Albaraqi would not have sought Bridge's assistance for sensitive, personal matters had he thought that the FBI could easily access Bridge's records under Section 215. Based on his own experience as a refugee, he believes that other refugees will be less likely to seek help from Bridge because the FBI can obtain their sensitive, personal records even when they have done nothing wrong.

#### Council on American-Islamic Relations

120. CAIR is a non-profit, grassroots organization dedicated to enhancing the public's understanding of Islam and Muslims. CAIR is the largest Islamic civil liberties organization in the United States. CAIR's national office in Washington, D.C., has a permanent staff of about 25 people. Approximately the same number of people are employed by CAIR's state and local chapters.

121. Since the passage of the Patriot Act, CAIR has spent a significant amount of time, staff resources, and funds in advocating against the civil rights encroachments authorized by the Act. CAIR hosts an annual conference each March. At both the 2002 and 2003 conferences, multiple speakers explained the Patriot Act and discussed its import for Muslims in the United States. CAIR hosts an annual dinner each October. At both the 2001 and 2002 dinners, speakers explained the Patriot Act and discussed its import for Muslims in the United States. CAIR regularly distributes e-mail "Action

Alerts” to members and others who have subscribed to CAIR’s Action Alert list. Since the Patriot Act became law, CAIR has distributed numerous Action Alerts related to the Patriot Act. CAIR has also issued numerous news releases related to the Patriot Act.

122. CAIR monitors the due process and equal protection rights of all Muslims living in the United States, including those detained on immigration charges after September 11th and those caught up in terrorism investigations. In 2002, CAIR issued a 54-page “Civil Rights Report” that, among other things, examined the impact that “anti-terrorism” policies, including the Patriot Act, had had on the civil liberties of American Muslims. CAIR issued a similar Civil Rights Report in 2001 and issued a new Civil Rights Report in July 2003.

123. Because of the relationship between CAIR, its members, and persons questioned, detained, or deported since September 11<sup>th</sup>, CAIR reasonably believes that the FBI is currently using Section 215 to obtain records and personal belongings of CAIR and its members.

124. For example, CAIR member Magda Bayoumi was born in Cairo, Egypt, in 1956. She came to the United States in 1977 and became a United States citizen in 1988. Mrs. Bayoumi has been a member of CAIR for approximately four years.

125. Mrs. Bayoumi is married and has three children, of whom the youngest is 10 and the eldest 17. Mrs. Bayoumi's husband was also born in Cairo, Egypt. He became a United States citizen in 1991. All of Mrs. Bayoumi's children are United States citizens. Mrs. Bayoumi and her family live in Syracuse, New York.

126. Mrs. Bayoumi works as a volunteer for several community organizations. She currently chairs the board of the Parents Advisory Group for the Special-Education

Director of the Syracuse School District. She serves as a board member of the Central New York Parent's Coalition for Children With Special Needs. She co-founded and serves on the board of the of Autism Support Group. She founded and serves on the board of the Ed Smith School's Support Group for Children With Special Needs.

127. Mrs. Bayoumi and her husband co-founded and serve on the board of the Central New York Chapter of the American Muslim Council, an organization that was established in 1990 to increase the effective participation of American Muslims in the political process.

128. Two FBI agents came to Mrs. Bayoumi's home on February 26, 2003. They first informed Mrs. Bayoumi that they wanted to question her husband. When Ms. Bayoumi told the agents that her husband was not at home, however, they began to question her instead.

129. The FBI's questioning focused on a donation that Mrs. Bayoumi and her husband had made to a charity called Help the Needy. Mrs. Bayoumi and her husband had donated several hundred dollars to the organization the previous year.

130. The agents asked Mrs. Bayoumi how much money she and her husband had contributed to the charity, whether she had attended a dinner that Help the Needy had recently hosted, whether she knew what the donation was being used for, and whether she would be upset if the money had been used to build a mosque. Mrs. Bayoumi told the FBI that she and her husband had donated a few hundred dollars to the charity in each of the previous few years, had attended the recent dinner, and had assumed that the donation would be used to provide food and medicine for needy people in Iraq.

131. The FBI did not inform Mrs. Bayoumi how they had learned that she and her husband had made a donation to Help the Needy.

132. On the same day that the FBI questioned Mrs. Bayoumi, the Department of Justice announced that a federal grand jury in Syracuse, New York, had returned an indictment charging Help the Needy and four individuals associated with it of transferring funds to persons in Iraq without having obtained the proper license. While Help the Needy was not accused of having providing anything other than humanitarian aid to people living in Iraq, the Justice Department's press release accused Help the Needy of attempting to undermine the President's efforts "to end Saddam Hussein's tyranny and support for terror."

133. Mrs. Bayoumi reasonably believes that because of her religion, her ethnicity, and her earlier support for Help the Needy, the FBI has used and is currently using Section 215 to obtain her records and other personal belongings.

134. CAIR also reasonably believes that it could be served with a Section 215 order. CAIR would then would have no ability to challenge the order before compromising the privacy rights of its members. CAIR maintains a variety of records about members, including their names, home and business mailing addresses, phone numbers, email addresses, credit card information, and checking account information. CAIR has a policy of maintaining the confidentiality of its members and their private information. CAIR does not disclose membership numbers or any other information about individual members.

135. Section 215 compromises CAIR's ability to maintain the confidentiality of records pertaining to its members, and to protect members from harassment, threats, and

violence. CAIR has documented a substantial increase in hate crimes, discrimination, and harassment against Muslim and Arab-Americans since the September 11th attacks. Many of these incidents are described in CAIR's 2001, 2002, and 2003 Civil Rights Reports. Were the confidentiality of CAIR's records to be compromised and CAIR's membership list to become public knowledge, CAIR members could risk harassment, threats, and even violence.

Islamic Center of Portland, Masjed As-Saber

136. The Islamic Center of Portland, Masjed As-Saber ("ICPMA"), is a non-profit organization that owns and administers a mosque known as Masjed As-Saber and an Islamic school known as the Islamic School of Portland. Approximately 450 people attend services at the mosque each Friday; as many as 3500 attend services on religious holidays. ICPMA employs approximately 16 people. Approximately 60 students are enrolled at the school.

137. Because of the relationship between ICPMA, its community members and leaders, and persons and organizations investigated, questioned, detained, or arrested since September 11th, ICPMA reasonably believes that the FBI has used or is currently using Section 215 to obtain records and personal belongings pertaining to it and its community members and students.

138. Some ICPMA community members have been individually targeted for investigation by the FBI.

139. In October, 2002, a federal grand jury in the District of Oregon indicted six individuals and charged them with various counts of conspiracy to wage war against the United States and to provide material support to Al Qaeda; a seventh individual was

indicted on similar charges in April 2003. A trial is currently scheduled for January 2004 in this case, which is known as the “Portland 7” case. Some of the defendants, Jeffrey Leon Battle, Patrice Lumumba Ford, and Habis Abdulla al Saoub, attended the ICPMA. In an affidavit submitted in support of the indictment of the defendants, Police Officer Thomas W. McCartney stated that a wired informant recorded conversations inside the Islamic Center of Portland, Masjed As-Saber, on June 6, 2002. The electronic surveillance was authorized under another Patriot Act amendment to FISA. The affidavit also states that the government obtained a number of records relating to the investigation. The affidavit does not state the legal authority utilized in obtaining these records. The government has stated publicly that the investigation into the alleged conspiracies is ongoing.

140. The FBI has also sought records from ICPMA. In March 2003, the ICPMA was served with a subpoena seeking financial records related to the defendants and their spouses in the Portland 7 case. ICPMA retained lawyers who moved to quash the subpoena because of the impact on the privacy rights of ICPMA’s constituents, but was ultimately required to disclose the records. Some of ICPMA’s constituents are now afraid to donate to ICPMA because they fear their donations will provoke FBI investigation and harassment. The FBI has also served subpoenas to over 25 people in the Portland area, some of whom attend ICPMA and other local mosques. The FBI has interviewed some ICPMA community members and has asked questions about other worshipers and their political and religious views.

141. In addition, some of ICPMA’s leaders appear to be under investigation by the FBI but have not been charged with any crime.

142. For example, ICPMA president Alaa Abunijem was born in Saudi Arabia and came to the United States in 1989. He became a U.S. citizen in 1996. Mr. Abunijem is married to a U.S. citizen and has four children. He holds a B.S. degree in Electrical Engineering and an M.S. in Engineering and Technology Management. He currently works as an engineer for a Fortune 100 company, and has lived in Portland, Oregon, since 1999.

143. On December 17, 2002, Mr. Abunijem was stopped at the Seattle airport by U.S. Customs and questioned by both U.S. customs and FBI officials regarding the purpose of his trip to Saudi Arabia. The officials searched his documents, business cards, and credit cards for thirty minutes before returning them to him. On his return from Saudi Arabia on January 9, 2003, his luggage and documents were searched for over an hour and a half, and he was questioned by officials about his trip.

144. On February 26, 2003, an FBI agent called Mr. Abunijem at his work place and questioned him about a donation he had made to a charity called Help the Needy. Mr. Abunijem had made donations of several hundred dollars to the organization over the past few years. The FBI did not inform Mr. Abunijem how they had learned that he made a donation to Help the Needy. Mr. Abunijem told the FBI agent that he did not feel comfortable talking to the FBI without a lawyer.

145. On the same day that the FBI questioned Mr. Abunijem, the Department of Justice announced that a federal grand jury in Syracuse, New York, had returned an indictment charging Help the Needy and four individuals associated with it of transferring funds to persons in Iraq without having obtained the proper license. While Help the Needy was not accused of having providing anything other than humanitarian

aid to people living in Iraq, the Justice Department's press release accused Help the Needy of attempting to undermine the President's efforts "to end Saddam Hussein's tyranny and support for terror."

146. Since 1999, Mr. Abunijem has served as a board member of the Islamic Assembly of North America ("IANA"), a non-profit organization dedicated to educating the public about Islam. IANA organizes conferences, publishes religious books, and supplies Qurans to incarcerated Muslims. The FBI raided IANA's offices in Michigan in or about February 2003, seizing computers and taking photographs of books. The computers contained information about Mr. Abunijem. The government has not charged IANA with any crime, but has arrested one of the organization's former presidents, Bassem K. Khafagi, on federal bank fraud charges. Assistant U.S. Attorney Terry Derden of Boise, Idaho has stated publicly that "the investigation could expand to other directors and Islamic Assembly employees."

147. Mr. Abunijem has not been charged with any crime and strongly maintains his innocence.

148. Mr. Abunijem reasonably believes that because of his religion, his ethnicity, his place of birth, his leadership role in ICPMA and IANA, and his donations to Help the Needy, the FBI is currently using Section 215 to obtain his records and personal belongings.

149. ICPMA reasonably believes that it could be served with a Section 215 order. It would then have no ability to challenge the order before compromising the privacy rights of its members. ICPMA maintains a variety of records about community members, including their names and the names of family members, home and business

mailing addresses, phone numbers, email addresses, credit card information, and checking account information. ICPMA also retains records of services it provides to community members, including Islamic marriage contracts, and records of divorce proceedings and financial assistance given to needy families. The Islamic School of Portland retains health, financial and educational records pertaining to all of its students and staff. ICPMA has a policy of maintaining the confidentiality of all records pertaining to its community members, staff and students.

150. Section 215 compromises ICPMA's ability to maintain the confidentiality of its records, and to protect community members and students from harassment, threats, and violence. Since the September 11th attacks, ICPMA community members and other Arab-Americans have repeatedly been the target of harassment. Were the confidentiality of ICPMA's records to be compromised and ICPMA's community list or other records to become public knowledge, ICPMA's community members and students could risk verbal harassment, threats, and even violence.

151. ICPMA's ability to keep its records confidential also allows ICPMA to protect its community members from the possibility that the government will target them for their association with ICPMA, including their rights to free speech, free association, and free exercise of religion.

152. Because ICPMA community members believe that the FBI is currently using provisions of the Patriot Act to target ICPMA, and because the FBI has recorded conversations and services inside the mosque and sought records from ICPMA, many ICPMA community members are afraid to attend mosque, practice their religion, or express their opinions about religious and political issues.

## **CAUSES OF ACTION**

153. Section 215 violates the Fourth Amendment by authorizing the FBI to execute searches without criminal or foreign intelligence probable cause.

154. Section 215 violates the Fourth Amendment by authorizing the FBI to execute searches without providing targeted individuals with notice or an opportunity to be heard.

155. Section 215 violates the Fifth Amendment by authorizing the FBI to deprive individuals of property without due process.

156. Section 215 violates the First Amendment by categorically and permanently prohibiting any person from disclosing to any other person that the FBI has sought records or personal belongings.

157. Section 215 violates the First Amendment by authorizing the FBI to investigate individuals based on their exercise of First Amendment rights, including the rights of free expression, free association, and free exercise of religion.

## **PRAYER FOR RELIEF**

WHEREFORE Plaintiff respectfully requests that the Court:

1. Declare that Section 215 is unconstitutional under the First, Fourth, and Fifth Amendments.
2. Permanently enjoin Defendants from using Section 215.
3. Award Plaintiff fees and costs pursuant to 28 U.S.C. § 2412.
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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