



FEDERAL DISTRICT COURT ORDERED TO RECONSIDER TERROR VICTIMS' CASE AGAINST SWISS BANK



terrorist attacks perpetrated by Iran-sponsored extremist groups.

The plaintiffs allege that UBS knowingly provided United States currency and banking services to the Iranian government in violation of the American laws that prohibited any financial interactions with the Iranian regime. The plaintiffs claim that UBS knew that the US dollars provided to Iran, which are needed by terrorist groups such as Hamas, Islamic Jihad, and Hezbollah to carry out their criminal operations, would be given by Tehran to the terrorist groups it sponsors to perpetrate attacks. The victims contend that providing hard cash dollars to Iran, which then forwards them to the terror groups, is no different than aiding the terror groups directly.

Judge Rakoff had previously rejected the plaintiffs' arguments, holding that UBS' transactions with Iran were not directly linked to the terrorist groups and were thus too far attenuated from the terrorists to allow people injured by the terrorists to sue. Judge Rakoff had held that cash dollars have multiple legitimate uses besides funding terrorism, and the plaintiffs' claims were therefore too speculative. Thus, under Judge Rakoff's approach, if an American terror victim cannot trace the actual dollars used to finance an attack that injured him back to UBS, he would be prohibited from holding UBS accountable for carrying out prohibited transactions with Iran. The families of the victims then appealed the case.

In its decision, the Court of Appeals noted that Judge Rakoff had made his decision before the United States Supreme Court handed down its decision in *Holder v. Humanitarian Law Project*. In that case, the Supreme Court held it illegal for an American human rights group to provide advocacy and consulting services to foreign organizations designated as terrorist entities by the State Department. The human rights group had argued in its defense that it was only assisting the humanitarian activities of the terrorist organizations, not their terrorist wings, and were counseling them on such matters as how to represent themselves in the United Nations and other purely non-violent and non-criminal activities.

The Supreme Court rejected these distinctions and held that material support to terrorist groups need not be weapons, training, or funds, and could constitute something as mundane as providing advice. The Supreme Court recognized that supplying any sort of assistance to a designated terrorist organization lightens its financial burdens and allows it to devote more of its resources and efforts to terrorist activities. According to the Supreme Court, if an organization is engaged in terrorism, then anything it does to advance its cause, seemingly benevolent or not, is illegitimate and cannot be supported.

In light of Holder decision, the Second Circuit Court of Appeals sent the case back to Judge Rakoff with a directive to reconsider his earlier decision!

We here at Shurat HaDin – Israel Law Center are hopeful that this time around the district court will recognize that that if a human rights group's provision of simple advice to a terrorist group makes it liable for aiding terrorists, then certainly illegally providing millions of dollars of cash transactions to an outlaw regime that wantonly, brazenly, and proudly supports Hamas and Hezbollah makes UBS liable for aiding terrorists.