

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

_____)	
STEVEN J. ROSEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-1256
)	Calendar 12
AMERICAN ISRAEL PUBLIC AFFAIRS)	Judge Erik P. Christian
COMMITTEE, INC., <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO STRIKE
PLAINTIFF'S OPPOSITION MEMORANDUM AND FOR SANCTIONS**

In the sole claim involved in this lawsuit, plaintiff Steven J. Rosen contends that the American Israel Public Affairs Committee, Inc. ("AIPAC") and its official designated spokesman, Patrick M. Dorton, intentionally and knowingly defamed him when they falsely stated to the *New York Times* in connection with an article published on March 3, 2008, that AIPAC had terminated plaintiff's employment, along with the employment of a coworker named Keith Weissman, because they "did not comport with standards that AIPAC expects of its employees," and that this was still AIPAC's view. Plaintiff has consistently claimed that this statement was false, and that AIPAC has known that it was false because, as the AIPAC Director of Research and Information and later as its Director of Foreign Policy Issues, Steve Rosen (along with his colleague, Keith Weissman) routinely was called upon to obtain and share with the AIPAC's leadership information about matters that were considered secret, sensitive, and not for wide distribution, concerning the foreign policy of the United States and of other countries and, because he had been highly successful in such efforts,

AIPAC had regularly praised and generously rewarded Mr. Rosen for his work. Despite these facts, when AIPAC was endangered with becoming a target of a criminal investigation by the Department of Justice for a possible violation of the Espionage Act, in an attempt to insulate itself and its top leadership from possible exposure to criminal sanctions, it fired Steve Rosen and Keith Weissman and then engaged in a campaign to portray both Messrs. Rosen and Weissman as a rogue employees who “did not comport with standards that AIPAC expects of its employees.”

On April 30, 2010, the Court entered a Protective Order that provided that under certain circumstances "documents produced by a party in this action, or by a third party in response to a subpoena" could be designated by the “Disclosing Party” as “Confidential” or “Attorneys’ Eyes Only.” The Protective Order also provided that the “Disclosing Party” could designate portions of "transcripts and exhibits, interrogatory answers, responses to requests for admission, and any portion of any court papers that quote from any of the foregoing" as “Confidential” or “Attorneys’ Eyes Only.” Plaintiff’s Exhibit 1 – the April 30, 2010 Protective Order.

Pursuant to the terms of the Protective Order, both parties produced documents and defendants did identify certain documents and portions of deposition testimony as “Confidential.” However, as shown below, none of the documents that were included in Plaintiff’s Opposition for Summary Judgment came from defendants’ production of documents designated as “Confidential.” Rather, the documents produced as attachments and exhibits to plaintiff’s opposition to summary judgment were overwhelmingly those produced in discovery by plaintiff. As such, plaintiff was the “Disclosing Party” under the terms of the Protective Order, and as “Disclosing Party,” plaintiff did not designate any of the produced documents as “Confidential.”

On November 5, 2010, defendants filed a motion for summary judgment. Rather than limiting their motion to a defense of the alleged false and defamatory statements about Steven Rosen, defendants laced their filing with salacious allegations about his sexual practices and then released it to the press. Mr. Rosen did respond in the press to defendants' filings and other derogatory statements about him.

On December 14, 2010, plaintiff filed his opposition to defendants' summary judgment motion, submitting record evidence that for more than twenty years it has been the practice of AIPAC to attempt to obtain information that was considered secret, sensitive, and not for wide distribution about the foreign policy of the United States, that it had occasionally come under scrutiny – including criminal investigation – by the United States Department of Justice for such actions, and that it had in the past promoted and otherwise rewarded employees who became involved in such activities. In addition, plaintiff submitted record evidence that his actions were approved by AIPAC's leadership, that he had not violated any AIPAC standard with regard to this activity, and that AIPAC had known all of this when it intentionally exposed him to criminal prosecution in 2005 – 2008 in order to placate Department of Justice officials regarding the ongoing Espionage Act investigation. Plaintiff supported his contentions with deposition testimony and documents that he had accumulated during his 23-year career with AIPAC – **none of which had been produced by defendants in this litigation pursuant to the terms of the Protective Order (or otherwise)**. When relying on deposition testimony that had been designated by defendants' counsel as "confidential," plaintiff assiduously redacted any such information so that it was not included in the public version of his documents filed in opposition to summary judgment.

The most notable thing about defendants' motions for sanctions is that, while defendants advance a series of conclusory statements, they make no effort to demonstrate that there has been a violation of the Protective Order. In fact, defendants do not even identify the documents about which they complain until paragraph 15 of the 16-paragraph memorandum in support of their motion. And that passing reference in paragraph 15 of the memorandum does not even claim that the documents at issue were produced by defendants pursuant to Protective Order and were marked "confidential" by defendants as the "Disclosing Party." There is a good reason for this omission. As demonstrated below, the "Disclosing Party" for each of the documents in question was plaintiff, not defendants. As such, defendants have no basis for asserting that there has been a violation of the Protective Order.

Defendants' claim that plaintiff has violated the Protective Order boils down to seven documents: Attachment Nos. 3, 4, 5, 6, and 29 to Plaintiff's Statement of Genuine Issues, and Exhibits A, B, and H to Plaintiffs Memorandum of Points and Authorities in Opposition to Defendants' Motion for Summary Judgment. *See* Defendant's Memorandum in Support of Motion for Sanctions (etc.), at ¶ 15. Since defendant has not identified these documents or their source, plaintiff will:

- Attachment No. 3. October 4, 2004 Memorandum From Abbe Lowell (Rosen and Weissman's Attorney) To the Rosen/Weissman Files (copies to AIPAC's attorneys, including Nat Lewin) re: "Inquiry Background Facts: Revised (Last Revised September 1, 2004)" – **Which is Document No. 37 in Plaintiff's Document Production to Defendant.** *See* Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 1-2.
- Attachment No. 4. October 5, 2004 Draft of "AIPAC Briefing Paper on the Allegations Reported in the Media Regarding AIPAC and Two AIPAC Employees" – **Which is Document No. 38 in Plaintiff's Document**

Production to Defendant. See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 2.

- Attachment No. 5. October 18, 2004 Draft of the "Narrative Post Task Force Weekend Revisions" of a Speech AIPAC's Executive Director Howard Kohr was Planning to Give to AIPAC's Most Important Members – **Which was Document No. 40 in Plaintiff's Production of Documents.** See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 2.
- Attachment No. 6. October 15, 2004 Draft of the "Narrative Post Task Force Weekend Revisions" of a Speech AIPAC's Executive Director Howard Kohr was Planning to Give to AIPAC's Most Important Members – **Which was Document No. 39 in Plaintiff's Production of Documents.** See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 2.
- Attachment No. 29. Bylaws of the American Israel Public Affairs Committee (Dated March 21, 1995) – **Which was Document No. 14 in Plaintiff's Production of Documents,** see Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 4.
- Exhibit A. Two Emails of February 19, 2005. One from Phil Friedman, AIPAC's General Counsel, to Richard Cullen, the Attorney AIPAC Retained to Represent its Executive Director in the Justice Department's Criminal Investigation into the Larry Franklin Disclosures, and one from Nat Lewin, AIPAC's Outside Counsel, to Richard Cullen – **Each of Which is Contained in Document No. 49 of Plaintiff's Document Production to Defendants.** See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 8.
- Exhibit B. March 10, 2005 Letter from Steven Rosen to Howard Kohr, *et al.* – **Which is Document No. 51 in Plaintiff's Document Production to Defendants.** See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 9.
- Exhibit H. Memorandum re: Matter of AIPAC Employees, by Viet D. Dinh and Brian A. Benczkowski, of Bancroft Associates, PLLC, re: Matter of AIPAC Employees (37 pp.) – **Which was Produced in Discovery as Document No. 48 as part of Plaintiffs Production of Documents.** See Plaintiff's Exhibit 2, Plaintiff's Responses to AIPAC's Request for Production of Documents, at 8.

Each of the documents about which defendants complain in their motion for sanctions was produced in discovery by plaintiff, not defendants. Accordingly, is plaintiff who is the “Disclosing Party” of each of these documents; and as the “Disclosing Party,” plaintiff never designated any of these documents as “Confidential Information” or “Attorneys’ Eyes Only.” As to the information obtained from the portions of deposition testimony marked as “Confidential” by court reporters on instructions from defendants’ counsel, plaintiff has scrupulously adhered to the regime set out in paragraph 10 of the Protective Order in the papers filed in opposition to summary judgment. In short, plaintiff has fully complied with the terms of the Protective Order.

Furthermore, defendants have failed to meet their burden of showing "with some specificity how it may be harmed by the disclosure of a particular document or piece of information." *Mampe v. Ayerst Lab.*, 548 A.2d 798, 804 (D.C.1988). "Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning" are insufficient. *Id.* (quoting *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3d Cir.1986) (citations omitted)). In addition, "the harm must be significant, not a mere trifle." *Id.* Here, defendants have not provided the court with any allegation of harm and certainly not specific examples of "significant" harm from the public disclosure of any of the documents. Moreover, they have failed to show that any of the documents "contain confidential or proprietary information, or other commercially sensitive or personally sensitive information of a nonpublic nature," as required for protection by the order in this case. See paragraph 1(a) of the Protective Order (permitting "Disclosing Party" to designate as Confidential documents that). Because defendants "ha[ve] not shown how [they] would be harmed or

embarrassed by public disclosure of particular documents," defendants' Motion to Strike Plaintiff's Opposition Memorandum and for Sanctions is utterly without merit. *Mampe*, 548 A.2d at 804.

Conclusion

For these reasons, defendants' motion to strike plaintiff's opposition to summary judgment and grant the defendants' motion for summary judgment as a sanction must be soundly denied.

Respectfully Submitted,

/s/

David H. Shapiro
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT the foregoing opposition to defendants' motion to strike plaintiff's memorandum in opposition to summary judgment and to grant defendants summary judgment as a sanction (together with the attached Exhibits 1 and 2 thereto), and a proposed order denying defendants' motion to strike (etc.), are being electronically filed with the Clerk of the Superior Court for the District of Columbia using the Court's CaseFile Express system (which will automatically serve a copy of said filing via email to counsel of record for defendants, Thomas L. McCally (tlm@carmaloney.com) and Allie M. Wright (amw@carmaloney.com), of Carr Maloney, P.C., 2000 L Street, N.W., Suite 450, Washington, DC 20036), on this 30th day of December 2010.

/s/
Ellen K. Renaud
SWICK & SHAPIRO, P.C.

Plaintiff's Exhibit 1

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

STEVEN J. ROSEN	:	
	:	
Plaintiff	:	
	:	
v.	:	Case No.: 09 CA 001256 B
	:	Judge Erik P. Christian
AMERICAN ISRAEL PUBLIC	:	Next Event: Discovery Close 6/11/2010
AFFAIRS COMMITTEE, INC., <i>et. al</i>	:	
	:	
Defendants	:	

STIPULATED PROTECTIVE ORDER

This Stipulated Protective Order (“Order”) shall govern the use and disclosure of all Confidential Information (as hereinafter defined) produced in this action by or on behalf of any party, or furnished by any person associated with the any party, on or after the date of this Order, including Confidential Information produced or provided in depositions, interrogatory answers, responses to requests for admissions, document productions, and other discovery proceedings.

1. Definitions.

(a) “Confidential Information” when used in this Order shall encompass information that is designated “Confidential” or “Attorneys’ Eyes Only.” “Confidential Information” includes any documents produced by a party in this action, or by a third party in response to a subpoena, which are, in good faith, determined by the Disclosing Party to contain confidential or proprietary information, or other commercially sensitive or personally sensitive information of a non-public nature. In some instances, the disclosure of certain information may be of such a highly confidential nature that it requires greater protection than that afforded to information designated “Confidential.” Any information may be designated by a Disclosing Party as “Attorneys’ Eyes Only” if, in the discretion of the Disclosing Party, it is determined in good

faith: (1) to contain non-public information of a competitively or commercially sensitive, proprietary, financial, or trade secret nature, or to involve or implicate the privacy interests of persons who are not a party to this lawsuit; and (2) that disclosure of such information to the other Party may be unduly detrimental to the Disclosing Party's or third party's interests.

Such documents may be designated as Confidential Information, and so marked, by stamping each page of the document "Confidential" or "Attorneys' Eyes Only." If the document is more than 25 pages in length, stamping the front page "Confidential" or "Attorneys' Eyes Only" shall be sufficient to cover the entire document under this Protective Order. The parties shall act in good faith and on a reasonable basis when designating any material as being "Confidential" or "Attorneys' Eyes Only", including, but not limited to the following:

- (i) Personnel files of employees, applications for employment and other employee-related information;
- (ii) References;
- (iii) Payroll information;
- (iv) Home or personal addresses and phone numbers;
- (v) Dates of birth;
- (vi) Social Security numbers;
- (vii) Medical records and healthcare information;
- (viii) Information obtained from and regarding the parties' customers, clients, or representation firms;
- (ix) Information of a competitively or commercially sensitive proprietary or trade secret nature; and
- (x) The financial information of either party to the extent it is not subject to public disclosure.

(b) “Documents,” when used in this Order shall mean all written, recorded, electronic, or graphic matter whatsoever, including, but not limited to, materials produced pursuant to Sup. Ct. Civ. P. Rule 34, by subpoena or by agreement, deposition transcripts and exhibits, interrogatory answers, responses to requests for admission, and any portion of any court papers that quote from any of the foregoing.

(c) “Parties” shall mean Plaintiff, Defendant, and any third party who agrees to be bound by this Order. “Disclosing Parties” shall mean Plaintiff, Defendant, and any third parties who give testimony or produce Documents or other information covered by this Order, including those Parties’ officers, directors, employees, and agents.

2. In designating information as Confidential or Attorneys’ Eyes Only, a Disclosing Party shall make such a designation only as to materials that the party in good faith believes constitute Confidential Information under the definition herein. Confidential Information marked and disclosed by a Disclosing Party shall be used by the receiving party (the “Recipient”) solely for conducting this litigation, and not for any other purpose whatsoever.

3. Confidential Restrictions. In the absence of prior written permission from the Disclosing Party, or an order of the Court, information designated as Confidential Information shall be used by the Recipient solely for the purposes of litigation between the parties hereto, and may be disclosed only to the following persons:

- (a) The parties and their officers, directors, agents, employees, in-house counsel, and representatives who have need for such information or who provide clerical or other support for purposes of this litigation;
- (b) Counsel for the parties, including corporate in-house counsel, in this proceeding and other attorneys, paralegals, law clerks, or clerical staff working with those attorneys;
- (c) Independent investigators, experts and/or consultants, retained by any party, who have a need for such information to assist in this litigation;

- (d) Any witness and their counsel during deposition or trial for whom disclosure is necessary to the testimony of such witness;
- (e) The Court, jury, court personnel, court reporters and similar Court personnel;
- (f) Court reporters and videographers employed to record depositions in this action;
- (g) Insurers for Defendant, if any, who have a need to review the information in connection with this action; or
- (h) Any person identified from the four corners of the information, document or thing itself as having authored or previously received the information, document or thing; (2) any party to this action; and (3) any non-party witness at a deposition, hearing, or trial, if (A) it appears from the face of the document, or from other documents or testimony, to have been used by the witness; or (B) if the witness is employed by the producing party, and provided that said witness has executed a certification in accordance with Exhibit A below;
- (i) Any other person only with the prior written consent of the Disclosing Party.

4. Attorneys' Eyes Only Restrictions. Confidential Information designated as Attorneys' Eyes Only shall not be disclosed, except by the prior written consent of the Disclosing Party or pursuant to further order of this Court, to any person or entity other than:

- (a) The attorneys of record for any party in this action, including the employees and associates of the party's attorneys who are involved in this action.
- (b) Defendant's in-house counsel.
- (c) Officers of the Court and supporting personnel or officers of any appellate court to which an appeal may be taken or in which review is sought, including necessary stenographic and clerical personnel (e.g., deposition and court reporters).
- (d) Deposition, trial or potential witnesses in this action and their counsel, provided that the conditions of Section 5 are met.

- (e) Independent experts and consultants (and their employees and support staff) retained by the attorneys for any party for purposes of assisting in this action, provided that the conditions of Section 5 are met.
- (f) With the prior written permission of the Disclosing Party, the officers, directors, agents, or employees and representatives of the Recipient, on a document-by-document basis.
- (g) Outside litigation support vendors of the parties, including commercial photocopying vendors, scanning services vendors, coders, and keyboard operators.

Any person other than officers of the Court and attorneys of record for any party who is to be provided with Confidential Information designated Attorneys' Eyes Only or access thereto under the terms of this Order must first execute and return to counsel of record for the party from whom the person is receiving such Confidential Information or access thereto the Agreement appended hereto as Exhibit A.

5. Attorneys' Eyes Only Restrictions. For purposes of Section 4(d) and 4(e), the Recipient shall give the Disclosing Party three (3) business days' written notice prior to disclosure of Confidential Information designated Attorneys' Eyes Only by the Disclosing Party to any potential witness, expert or consultant, or the attorneys, staff, employees, representatives, or agents of the same. Written notice shall include the name, employment, and affiliations of the person or entity to which the Information is sought to be disclosed. This provision shall not apply to potential witnesses, experts, consultants or their attorneys, staff, representative or agents who are authors or recipients of the "Attorneys Eyes Only" Confidential Information or who received the material prior to or separate from the litigation.

If during the three (3) business day period the Disclosing Party objects to the disclosure, then no disclosure shall be made until the Recipient obtains from the Court an Order compelling

such disclosure. The parties shall confer in good faith to resolve any such disagreements prior to bringing any motion to compel disclosure.

6. The Recipient of any Confidential Information provided under this Order shall maintain such information in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use, and/or dissemination of such information as is exercised by the Recipient with respect to its own confidential information. Confidential Information shall not be copied, reproduced, summarized, or abstracted, except to the extent that such copying, reproduction, summarization, or abstraction is reasonably necessary for the conduct of this lawsuit. All such copies, reproductions, summarizations, extractions, and abstractions shall be subject to the terms of the Order, and labeled in the same manner as the designated material on which they are based.

7. Deposition testimony that one of the parties reasonably believes will contain Confidential Information or Attorneys' Eyes Only shall only be taken in front of persons entitled to access to such information under paragraphs 3 and 4 of this Protective Order and may be designated as Confidential or Attorneys' Eyes Only by the Disclosing Party making an appropriate statement on the record, in which case the reporter shall stamp or write "Confidential" or "Contains Confidential Information" or "Attorneys' Eyes Only" on each and every page of the printed and electronic transcript and shall stamp or write "Contains Confidential Information" or "Attorneys' Eyes Only" on the cover of the relevant transcript.

8. Parties (and deponents) may, within fifteen days after receiving the transcript of a deposition taken after the entry of this Order, designate pages of the transcript (and exhibits thereto) as "Confidential" if the material so designated is entitled to be designated as "Confidential" under the terms of this Protective Order. Confidential Information within the

deposition transcript may be designated by underlining the transcript lines that contain Confidential Information and marking such pages with “Confidential” and serving copies of the marked pages on counsel for all other parties. If no party or deponent timely designates Confidential Information in a deposition, then none of the transcript or its exhibits will be treated as confidential; if a timely designation is made, the confidential portions and exhibits shall be filed under separate seal from the portions and exhibits not so marked.

9. If a party (or aggrieved entity permitted by the Court to intervene for such purpose) disagrees with the designation of any particular document or other material designated as either of the two classes of “Confidential Information,” the parties shall attempt in good faith to resolve the dispute by agreement. If they cannot, then the party who disagrees with the designation of either of the two (2) classes of “Confidential Information” may file a motion to have the designation modified or removed. The burden remains on the designating party to demonstrate that the material in question contains the designated class of Confidential Information, or Confidential Information of any type, as described in paragraph 1 of this Order. Until a motion is filed and resolved by the Court, all materials designated as containing “Confidential Information” of either class shall be treated as such in accordance with this Order.

If no motion challenging the designation is made, the designation shall continue in full force and effect.

10. A party filing or tendering into evidence as part of a motion, pleading or hearing in this action or in any other court proceeding, any information, document, transcript or paper containing Attorneys’ Eyes Only or Confidential Information shall file such document, transcript or paper under seal. If only a portion of any document, transcript, or paper filed with the Court

contains material designated “Confidential” or “Attorneys’ Eyes Only,” any sealing shall apply only to that portion.

If either party desires to introduce a “Confidential” or “Attorneys’ Eyes Only” document, or deposition excerpt, in open court (at trial or otherwise), the parties agree that (i) nothing in this Order shall prevent the presentation of relevant evidence to the Court or trier of fact, and (ii) the parties will cooperate to facilitate the introduction in evidence of such document(s) or portions as are relevant while preserving the confidentiality of other information contained in the document(s), by such means as redaction, an agreed statement of the facts contained therein, closing the courtroom for publication of the confidential matter, or other similar means. A party intending to introduce such evidence shall provide notice to the other parties at the pretrial conference, if possible, or if not, then sufficiently in advance of its introduction to enable the parties to confer and seek a ruling from the Court on the method of introduction.

11. Nothing in this Order shall preclude any of the parties or their attorneys (a) from showing a document designated as Confidential Information to an individual who either prepared the document prior to the filing of this action, or is identified on the face of the document as an addressee or copy addressee, or (b) from disclosing or using, in any manner or for any purpose, any information or documents from the party’s own files which the party itself has designated as Confidential Information, or (c) from disclosing or using any information or documents which were already in possession of such party prior to the commencement of this action.

12. The inadvertent or unintentional disclosure of the party producing Confidential Information or Attorneys’ Eyes Only information, regardless of whether the information was so designated at the time of disclosure, shall not be deemed to constitute in whole or in part a waiver of, or estoppel as to, the party’s right to claim in this action or thereafter that said

information is Confidential. If a claim of inadvertent production is made, pursuant to this paragraph, with respect to information then in the custody of another party, such party shall promptly return to the claiming party or person that material as to which the claim of inadvertent production has been made. The party returning such material may then move the Court for an order compelling production of the material, but said motion shall not assert as a ground for entering such an order the fact or circumstances of the inadvertent production.

13. The parties hereto agree that an injunction shall issue to prevent violations of this Protective Order. The agreement to injunctive relief does not preclude any party from also obtaining damages that reasonably flow from a breach of this Order.

14. Any information, document or thing mistakenly produced or disclosed without a "Confidential" "Attorney's Eyes only" designation may be subsequently designated by the producing party as "Confidential" at any time pursuant to the terms of this paragraph without waiving the confidential nature of the document or information. In each such case, the designating party shall provide to the other party notice, either orally followed by written notice within five (5) business days or by written notice, of that subsequent designation and a copy of the document or thing marked in accordance with this paragraph.

15. The parties shall take all reasonable precautions to prevent the disclosure of any Confidential Information or Attorneys' Eyes Only information received by them to any persons who are prohibited under this Protective Order from receiving Confidential Information or Attorneys' Eyes Only information; provided, however, that the Recipient shall not be in violation of this Order with respect to use or disclosure of such document(s) prior to notice of the Confidential or Attorneys' Eyes Only designation.

16. Within thirty (30) days of the termination of litigation between the parties, all Confidential Information, and all copies thereof shall be returned to the party who produced it upon such party's request and at his or her cost, with certification from counsel that all copies have been so returned. Counsel for each party shall be entitled to retain all pleadings, motion papers, legal memoranda, correspondence, and work product.

17. Except as specifically provided herein, the terms, conditions, and limitations of this Order shall survive the termination of this action.

18. This Order is without prejudice to the right of any party to seek relief from the Court, upon good cause shown, from any of the provisions contained in this Order.

19. This Order shall remain in force and effect until modified, superseded, or terminated on the record by writing of the parties hereto or by order of the Court.

20. This Order shall not be construed as waiving any right to assert a claim of privilege, relevance, over breadth, burdensomeness, or other grounds for not producing material called for, and access to such material shall be only as otherwise provided by the discovery rules and other applicable law. Nothing in this agreed Order shall be construed to be an admission against a party or constitute evidence of any fact or issue in this case.

21. Subpoena by Other Court or Agencies. If another court or an administrative agency subpoenas or orders production of Confidential Information which a party or other person has obtained under the terms of this Order, such party or person shall as soon as practicable notify the party or person who designated the document or information as Confidential Information of the pendency of such subpoena or order.

22. Client Consultation. Nothing in this order shall prevent or otherwise restrict counsel from rendering advice to their clients and, in the course thereof, relying generally on the examination of Confidential Information.

23. Modification Permitted. Nothing in this Order shall prevent any party or other person from seeking modification of this Order, contesting the designation of information or documents as Confidential, or from objecting to discovery that it believes to be otherwise improper.

24. Responsibility of Attorneys. The attorneys of record are responsible for employing reasonable measures to control, consistent with this Order, duplication of, access to, and distribution of copies of Confidential Information.



Judge

Signed on April 30, 2010

Agreed to this 29th day of March, 2010

By: _____/s/
Thomas L. McCally, Esq. Carr
Maloney P.C. 1615 L Street, NW,
Suite 500 Washington, DC 20036
Counsel for Defendants

By: _____/s/ [with consent to file on counsel's behalf]
David H. Shapiro, Esq. Swick &
Shapiro, P.C. 1225 Eye Street,
NW, Suite 1290 Washington, DC
20005 *Counsel for Plaintiff*

Plaintiff's Exhibit 2

No. Description of Produced Document

AIPAC's President, in which Rosen described a "secret National Security Decision Directive #99 calling on the Armed Services and the Secretary of Defense to explore the potential for stepped-up strategic cooperation" with Israel and said "we provided some materials on a confidential request."

4. May 8, 1984, The Washington Post, "Legality at Issue: FBI Probing Libyan Aid to Black Activists," BYLINE: By John M. Goshko and Joe Pichirallo, Washington Post. [This document is related to an incident involving the AIPAC Board of Directors and classified information about Libya in 1984.]
5. June 18, 1984, letter from AIPAC board member praising Rosen plan for Executive Branch lobbying
6. August 3, 1984, The Washington Post, "FBI Investigates Leak on Trade To Israel Lobby," BYLINE: By Stuart Auerbach, Washington Post , SECTION: First Section; A1 This article concerns the leaking of a classified U.S. International Trade Commission report, which was entitled "Probable Economic Effect of Providing Duty-Free Treatment for U.S. Imports from Israel, Investigation No. 332-180 (re-designated TA-131(b)-10)," and had a "confidential" classification stamp on each of the 300+ pages, dated 1984. The article reports that, "A spokesman for AIPAC...acknowledged that the organization had a copy of the [classified] report but said the lobbying group did nothing illegal... 'There was nothing illegal about our having something that was not solicited.'" [No member of the AIPAC Board criticized the staff for receiving this classified information in 1984.]
7. August 3, 1984, The Associated Press, "FBI Investigating How Trade Document Leaked," Byline: By Michael J. Sniffen, reports that AIPAC "spokeswoman Lisa Behren said, 'We had a copy [of the classified ITC report] and we turned it over to the U.S. government at their

No. Description of Produced Document

request.” [No member of the Board criticized the staff for receiving this classified information in 1984.]

8. September 6, 1985, “Report to the AIPAC Board of Directors’ Strategic Planning Committee” on “Lobbying the Executive Branch,” by Steven J. Rosen, in which plaintiff warned the AIPAC Board of Directors in 1985 that an energetic program of Executive Branch Lobbying would inevitably come in contact with government secrets. In this document, Rosen said: “Unlike Congressmen, ... [Executive Branch officials] work for secretive rather than open institutions and agencies... The Executive Branch is... secretive, veiled in security... A serious program to transform our relations with the Executive Branch ... requires changes in some of the principles of policy that have guided us until now... We may decide that the costs and risks exceed the benefits... We should make a set of conscious choices with discussion of the implications.”
9. April 23, 1986 "U.S. Interception of the 'Cold River' Command," detailed material on U.S. signal intelligence intercepts of the PLO, provided by AIPAC Board of Directors member (and later AIPAC President) Mayer Mitchell to Senate Committee Chairman Senator Jeremiah Denton, published on pages 165-167 as an appendix to “Legal Mechanisms to Combat Terrorism,” Hearing before the Subcommittee on Security and Terrorism of the Committee on the Judiciary, United States Senate, Ninety-ninth Congress, Second Session, “Hearing On the Availability of Civil and Criminal Actions Against Yassir Arrafat's Palestine Liberation Organization (PLO),”, 332 pages (S. Hrg. 99-822).
10. July 6, 1987 New York Times report on "Lobbying For Israel: The American Israel Public Affairs Committee" By David K. Shipler, saying, “A classified list of proposed arms sales that

No. Description of Produced Document

the United States regularly compiles is provided by the Administration each year - at least orally - to AIPAC officials."

11. May 13, 1988, letter to AIPAC from President Ronald Reagan.
12. January 23, 1990, AIPAC Benefits and Personnel Policies.
13. June 13, 1991, report on Howard Kohr hiring a stripper at AIPAC, The Lobbyists From AIPAC, Girding for Battle in the New World Order, The Washington Post, by Lloyd Grove.
14. March 21, 1995, Bylaws of the American Israel Public Affairs Committee.
15. August 1, 1995, "More Complaints About Housing Discrimination by Mitchell Brothers," by Edmund Tsang, The Harbinger.
16. April 9, 1996, "Mitchell Brothers Faces a Third Housing Discrimination Lawsuit While Near Settlement in Another," by Edmund Tsang The Harbinger.
17. June 13, 1996, "Rental Manager Pays Record \$ 1.8 Million in Racial Bias Case," By Michael J. Sniffen, Associated Press Writer.
18. June 13, 1996, Department of Justice Press Release: "Mitchell Brothers Inc. Agrees To Pay Record \$1.8 Million For Allegedly Refusing To Rent To African Americans."
19. October 7, 1997. "Mitchell Brothers Wants Aetna Insurance to Pay Housing Discrimination Costs," by Edmund Tsang, The Harbinger.
20. February 19, 1998, Department of Justice Press Release: "Justice Department Sues Mobile Apartment Complex Owners For Discriminating Against African Americans."
21. November 17, 1998, "It Pays to Discriminate?? Circuit Court Judge Orders Aetna to Pay Mitchell Brothers for the Housing Discrimination Lawsuits and Then Some," by Edmund Tsang, The Harbinger.
22. "Battling Over Lawyers Fees in AIPAC case," JTA.

- | <u>No.</u> | <u>Description of Produced Document</u> |
|------------|---|
| 23. | October 25, 2000, From: James J Welsh, To: John Rood@kyl.senate.gov, Sent: Wednesday, October 25, 2000, 9:04 PM , Subject: Statement of James J. Welsh on Khartoum; memorandum provided to one of AIPAC's registered lobbyists by the office of Senator Jon Kyl, which Kyl's Assistant John Rood had received from James J. Welsh, containing classified signal intelligence information. |
| 24. | AIPAC Benefits and Personnel Policies, dated December 1, 2000. |
| 25. | September 22, 2001, Washington Post, "Saudis Balk at US Use of Key Facility." |
| 26. | October 1, 2001, "Confidential Memorandum to Senior Staff" from AIPAC staff member Rafi Danziger, re: "Lunch with Lisa Johnson of the NSC," dated October 1, 2001, describing secret understandings with Saudi Arabia and intelligence findings about links between Osama Bin laden and Hezbollah and Hamas. |
| 27. | November 18, 2002, "Impact of the BRCA on Contribution Limits for Individual Contributors," written by AIPAC's General Counsel, Philip Friedman. |
| 28. | December 3, 2002, "Political Activities of AIPAC Members," written by AIPAC's General Counsel, Philip Friedman. |
| 29. | January 20, 2003, "Thompson Memorandum" on "Principles of Prosecution of Business Organizations" (which document prosecutors told AIPAC should guide its actions toward Rosen and Weissman). |
| 30. | February 24, 2004, memo from Steven Rosen to AIPAC counsel Nat Lewin, informing him that AIPAC had hired legal counsel in 1984 to advise the organization about how to deal with an FBI investigation of its possession of allegedly classified information. [The incident is important because no member of the Board criticized the staff for receiving such classified information in 1984.] |

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31. March 2, 2004, Steven Rosen email to Abbe Lowell regarding a conversation with a journalist about the incident in which AIPAC received classified information about Libya in 1984, which had led to an FBI investigation.
32. July 21, 2004, email from "Keith Weissman" (KWeissman@aipac.org) To: "Howard Kohr" (Hkohr@aipac.org), dated Wed, July 21, 2004, saying "In a conversation with someone familiar with US intelligence, I learned the following information:..."
33. August 30, 2004, "Spy Case Not What Originally Claimed by 'Gotcha' Media," New York Sun.
34. Aug. 31, 2004, The New York Times, "F.B.I. Interviews 2 Suspected of Passing Secrets to Israel," By David Johnston.
35. August 31, 2004, "FBI Questions Israeli Lobbyists in Spying Probe," By Richard B. Schmitt and Tyler Marshall, L.A. Times Staff Writers.
36. September 7, 2004, AIPAC September 2004 Fund-raising Letter.
37. October 4, 2004, Memorandum From: A.D. Lowell, to: The Rosen/Weissman Files, cc: P. Friedman, N. Lewin,, J. Campbell, "AIPAC Inquiry Background Facts: Revised, Last Revised September 1, 2004."
38. October 5, 2004, "AIPAC Briefing Paper on the Allegations Reported in the Media Regarding AIPAC and Two AIPAC Employees," informing the AIPAC Board of Directors and Executive Director that "Mr Franklin said [to Keith Weissman in their July 21, 2004 "sting" meeting] that some of his information was sensitive or classified" (page 13).
39. October 15, 2004, "Narrative Post Task Force Revisions October 15, 2004," consisting of a draft speech that was prepared by a team headed by Deputy Executive Director Richard Fishman, for a speech tentatively planned for delivery by Executive Director Howard Kohr.

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[Page 7 of the draft Kohr speech states that Franklin told Weissman that he was providing "sensitive or classified information from an intelligence source," and the draft speech reported that Weissman and Rosen then re-transmitted this information to others and defended this action as appropriate.]

40. October 18, 2004, "Narrative Post Task Force Weekend Revisions" adds to the October 15 draft speech.
41. November 1, 2004, USG Standards for a Corporate Legal Compliance Program, United States Sentencing Commission, Guidelines Manual §8B2.1, 2. Effective Compliance and Ethics Program, on the responsibility of a corporation to provide legal counsel and guidance to its employees to avoid infractions of the law.
42. December 2, 2004, "FBI Seizes Files of Pro-Israel Group," Washington Post.
43. December 5, 2004, 'Post' exclusive: "How the FBI set up AIPAC" By Janine Zacharia, Jerusalem Post. [This article, which was the subject of an AIPAC Board of Directors conference call the same day, stated that Steven Rosen and another AIPAC employee were "set up by the FBI "...FBI agents used a courier, Pentagon analyst Larry Franklin, to draw two senior AIPAC officials who already knew him into accepting what he described to them as 'classified' information, reliable government and other sources intimately familiar with the investigation have told the Post. One of the AIPAC pair then told diplomats at the Israeli Embassy in Washington about the 'classified' information...The agents' hope, plainly, was that the AIPAC pair would be so troubled by the apparent life-and-death content of the information from Franklin as to risk a breach of US espionage statutes and transfer what they believed to be classified material to a foreign power, Israel." Subsequent to this article, the AIPAC Board and

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- senior staff expressed support for the actions taken by Rosen and Weissman, in spite of the alleged transmission of classified information.]
44. December 16, 2004, Letter from four members of Congress to President Bush, describing Rosen and Weissman as "dignified individuals" who were entrapped by "a questionable sting operation...an incredulous operation to entrap otherwise innocent Americans."
45. January 2005 (exact date unknown) Notes of a briefing about the appearance of four AIPAC staff members before a Grand Jury.
46. January 3, 2005, Employee Performance Review of Keith Weissman for his work during calendar year 2004, in which Weissman was given top ratings for the year, cosigned by James Haynes, Chief Financial Officer. [Weissman was also given a bonus in excess of \$3,000, and a raise in his salary for 2005.]
47. January 31, 2005, copy of AIPAC check number #058869, dated, conveying a job performance bonus of \$7,000 to Steven J. Rosen for good performance during calendar year 2004.
48. February 7, 2005, Viet Dinh, Bancroft Associates, PLC, "Matter of AIPAC Employees," which Mr. Dinh discussed with AIPAC's General Counsel, Philip Friedman. [See Document No. 89 below.]
49. Email String – February 18, 2005, from: "Cullen, Richard" (rcullen@mcguirewoods.com), Howard Kohr's then attorney, to nat@lewinlewin.com, AIPAC's then attorney, sent: Fri, 17:49:27 -0500 ,Subject: RE: Conference call on next steps; Feb 19 2005 From: "psf" psf@consumerlawhelp.com, Philip Friedman, AIPAC's General Counsel, to: "Cullen, Richard" rcullen@mcguirewoods.com [Howard Kohr's then attorney], Sent: 00Subject: ...; February 19, 2005 From: nat@lewinlewin.com [AIPAC's attorney], Sent: Saturday, , To: Cullen, Richard [Howard Kohr's attorney]; February 19, 2005 From: Cullen, Richard

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- [mailto:rcullen@mcguirewoods.com] [Howard Kohr's attorney], Sent: Saturday, 9:51 AM, To: Lowell, Abbe David [Rosen's attorney]; February 19, 2005 From: Lowell, Abbe David [Rosen's attorney], Sent: Saturday, 11:29 AM, To: 'psf@consumerlawhelp.com' [Philip Friedman, AIPAC's General Counsel], Subject: RE: RE: Conference call on next steps; February 24, 2005, TO: nat@lewinlewin.com, alyza@lewinlewin.com, From: Rosen20817@aol.com, Copies: adlowell@chadbourne.com, jcampbell@chadbourne.com, psf@consumerlawhelp.com, Anelson@chadbourne.com, Kweissman@aipac.org, Subject: AIPAC policy on classified information; March 22, 2005 From: Nathan Lewin [mailto:nat@lewinlewin.com] [AIPAC's attorney], Sent: Tuesday, 6:25 PM, To: 'Campbell, Julie' [another Rosen attorney]; 'Philip Scott Friedman' [Philip Friedman, AIPAC's General Counsel]; 'Nat Lewin (nat@lewinlewin.com)' [AIPAC's attorney], Cc: 'Lowell, Abbe David' [Rosen's attorney]; 'Howard Kohr'; Rfishman@aipac.org [Howard's Deputy Executive Director]; 'Cullen, Richard' [Howard Kohr's attorney]; 'Alyza Lewin' [another AIPAC attorney], Subject: RE: DiGregory [deputy U.S. Attorney for the Eastern District of Virginia] meeting -- ; March 25, 2005 5:34:31 PM Eastern Standard Time , From: ADLowell@chadbourne.com [Rosen's attorney], To: Rosen20817@aol.com, Jcampbell@chadbourne.com.
50. February 25, 2005, debrief of conversation between Nat Lewin, AIPAC attorney, and Kevin DiGregory, prosecutor in the Office of the United State Attorney for the Eastern District of Virginia.
51. March 10, 2005, Steven Rosen's memorandum to members of the Advisory Committee of the AIPAC Board of Directors.
52. April 20, 2005, The Forward.

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| 53. | April 20, 2005, emails from Abbe Lowell and John Nassikas. |
| 54. | April 21, 2005, defamatory statement in the New York Times: "Israeli Lobby Reportedly Fires 2 Top Aides in Spying Inquiry." |
| 55. | April 21, 2005, defamatory statement: "2 Senior AIPAC Employees Ousted" By Dan Eggen and Jerry Markon of The Washington Post. |
| 56. | Apr 29, 2005, "FBI Affair Costs Lobby Dynamic Director Rosen," by Ori Nir, The Forward. |
| 57. | May 19, 2005, "Pro-Israel Lobbying Group Holds Meeting Amid Worries," by Jeffrey H. Birnbaum, The Washington Post. |
| 58. | May 20, 2005, The Nation (Magazine), Hall of Mirrors, by Laura Rozen. |
| 59. | May 20, 2005 "Impacting on AIPAC" by Nathan Guttman, Ha'aretz. |
| 60. | May 23, 2005 "AIPAC: Franklin affair won't harm our work," By Nathan Guttman Ha'aretz. |
| 61. | May 23, 2005, defamatory statement NY Sun - "Aipac Leaders Will Address FBI Probe," By Eli Lake |
| 62. | June 18, 2005, "AIPAC Suspects Shared Info With Boss," Jerusalem Post. [Detailed how Rosen and Weissman fully briefed Howard Kohr on the Weissman/Franklin meeting.] |
| 63. | June 20, 2005, "New Revelations in AIPAC Case Raise Questions about FBI Motives," JTA. |
| 64. | July 4, 2005, defamatory statement New Yorker Magazine. |
| 65. | July 14, 2005, The Big Chill by Laura Rozen The Nation magazine. |
| 66. | August 4, 2005, "Former Lobbyists Charged in Pentagon Probe; Suspects had been Fired from Pro-Israel Group for 'Conduct,'" CNN. |
| 67. | August 5, 2005, "Israel Lobbyists Facing Charges in Secrets Case," by David Johnston, New York Times. |

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68. August 5, 2005, "U.S. Indicts 2 in Case of Divulged Secrets," by Dan Eggen and Jamie Stockwell, The Washington Post (at A05).
69. August 12, 2005, "Indictment of ex-AIPAC staffers called chilling," by Ron Kampeas and Matthew E. Berger, JTA (originally posted August 5, 2005).
70. August 12, 2005, "Indictments Shed Light on Aipac 'Spying' Probe," by E.J. Kessler, The Forward.
71. August 12, 2005, "What Did AIPAC Know, And When Did It Know It?: Report of internal memo suggests lobbyist indicted for federal security breaches may have acted with boss' knowledge," by Larry Cohler-Esses, New York Jewish Week.
72. August 17, 2005, "Former pro-Israel lobby chief says he was aware of aide's access to secret info in '83," by Larry Cohler-Esses, Editor-At-Large, NY Jewish Week.
73. August 17, 2005, "Former AIPAC staffers indicted for passing information," The New Standard.
74. August 18, 2005, "U.S. Diplomat is Named in Secrets Case," by David Johnston and James Risen, New York Times.
75. August 18, 2005, "New Revelations in AIPAC Case Raise Questions about FBI Motives," JTA.
76. August 26, 2005, Neal Sher quoted in The Forward.
77. September 8, 2005, defamatory statement by Howard Kohr, Cleveland Jewish News.
78. September 23, 2005, "AIPAC Givers Sought To Fund Job For Fired Top Official," New York Jewish Week.
79. September 26, 2005, "Restructuring at AIPAC," By Ron Kampeas, JTA.
80. September 30, 2005, "Guilty Plea Planned in Secrets Case", by Jerry Markon, The Washington Post.

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| 81. | October 10, 2005, Morris Amitay, quoted in The New Republic. |
| 82. | November 12, 2005, defamatory statement in The Washington Post. |
| 83. | December 9, 2005, 2:08:04 PM Eastern Standard Time email from:
<u>Nassikas.John@Arentfox.Com</u> [Weissman's attorney]. |
| 84. | December 13, 2005, "Battling Over Lawyers Fees in AIPAC Case," Jewish Telegraphic Agency. |
| 85. | December 23, 2005, "Indicted Officials Consider Suing Pro-Israel Lobby", by Ori Nir, The Forward. |
| 86. | Early 2006 notes beginning "first meeting Nat and Richard Cullin and Howard with prosecutors." |
| 87. | January 11, 2006, "Attorneys for Former AIPAC Officials are Battling to Recoup Legal Costs," The New Standard. |
| 88. | January 20, 2006, "Pentagon Analyst Gets 12 Years for Disclosing Data," by David Johnston. |
| 89. | February 14, 2006, "Former Official Backs Lobbyists in AIPAC Leak Case", by Walter Pincus, The Washington Post. [See related material in "The Power Player Who Faces Charges for Talking", by Jeffrey H. Birnbaum, The Washington Post, April 21, 2006, who reported that: "Defense lawyers... have enlisted a surprising ally: Viet D. Dinh, former head of the Justice Department's Office of Legal Policy and an author of the Bush administration's USA Patriot Act. Dinh helped write a memorandum that called for the dismissal of the Espionage Act charges against the lobbyists. The memo said that in the 90 years since the act was drafted, 'there have been no reported prosecutions of persons outside government for repeating information that they obtained verbally.' The memo also said that in receiving leaked classified information and relaying it to others, the lobbyists were doing what journalists, |

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- think-tank scholars and congressional staff members 'do perhaps hundreds of times every day.' AIPAC dispute[s] those assertions. 'Rosen and Weissman were dismissed because they engaged in conduct that was not part of their jobs, and because this conduct did not comport with the standards that AIPAC expects and requires of its employees,' AIPAC spokesman Patrick Dorton said." See Document No. 48 above.]
90. March 5, 2006, "Pro-Israel Lobbying Group Roiled by Prosecution of Two Ex-Officials," by Scott Shane and David Johnston, New York Times.
91. March 8, 2006, defamatory statement in The Baltimore Sun.
92. April 21, 2006, defamatory statement, "The Power Player Who Faces Charges for Talking", by Jeffrey H. Birnbaum, The Washington Post.
93. May 23, 2006, "FBI Questioned Jewish Leaders In Aipac Case," by Josh Gerstein, Staff Reporter, New York Sun.
94. June 2006 "AIPAC and Israel: The Rosen-Weismann Scandal Sheds Light on the Complex Relationship Between the Lobby and Israel," by Nathan Guttman, Moment Magazine.
95. June 29, 2006, "Ruling on Legal Bills at KPMG Could Be a Boon to Aipac Pair," New York Sun.
96. July 18, 2006, Defendants' Motion To Dismiss The Indictment Or For Other Relief Due To The Government's Infringement Of Defendants' Rights Under The Fifth And Sixth Amendments Of The United States Constitution.
97. July 18, 2006, Sworn Affidavit of Abbe Lowell of Chadbourne and Parke, submitted to U.S. District Court for the Eastern District of Virginia, in support of "Defendants' Motion to Dismiss the Indictment" in the case of U.S. v. Rosen and Weissman.

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98. July 18, 2006, Sworn Affidavit of Laura Lester of Arent Fox, submitted to U.S. District Court for the Eastern District of Virginia, in support of "Defendants' Motion to Dismiss the Indictment" in the case of U.S. v. Rosen and Weissman.
99. July 19, 2006, defamatory statement in Jewish Telegraphic Agency.
100. August 3, 2006, "When solidarity turns to profiteering," by Douglas Bloomfield, Washington Jewish Week.
101. August 18, 2006, "Lobby's Calls for Donations Debated," by Rebecca Spence, The Forward.
102. September 22, 2006, Defendants' Reply Memorandum in Support of their Motion to Dismiss the Indictment or other Relief, unsealed by the Court March 22, 2007.
103. November 20, 2006, email from: Philip Friedman [<mailto:psf@consumerlawhelp.com>] sent: Monday, 2:21 PM, to: Lowell, Abbe David, Subject: RE: Update, I don't think there are any illusions among anyone that there is "something not kosher here." But I also don't think that vitiates "the conduct cannot be condoned" element of Steve and Keith's dismissal, or the continued willingness to pay legal fees if we had a release.
104. November 21, 2006, email from Lowell, Abbe David , sent Tuesday, 7:22 AM, to 'psf@consumerlawhelp.com' (Philip Friedman, AIPAC's General Counsel).
105. March 27, 2007, "Filing Sheds Light on AIPAC Probe," by Ron Kampeas, Jewish Telegraphic Agency.
106. May 11, 2007, defamatory statement in the Jewish Telegraphic Agency article "Judge: Government pressured AIPAC."
107. August 17, 2007, email Subject: AIPAC , Date: 87:59:39 P.M. Eastern Daylight Time, From: jvanwesel@hotmail.com, reply to: rosen20817@aol.com.
108. August 17, 2007, defamatory statement in the Jerusalem Report,

- | <u>No.</u> | <u>Description of Produced Document</u> |
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| 109. | December 15, 2007, email: Subject: RE: nu? , Date: 8:08:28 A.M. Eastern Standard Time ,
from ADLowell@mwe.com , to Rosen20817@aol.com . |
| 110. | January 2008, defamatory statement in the Washingtonian Magazine, "FBI Stings Two DC
Lobbyists," by Mark Matthews. |
| 111. | March 3, 2008, defamatory statement in the New York Times article "Trial to Offer Look at
World of Information Trading," by Neil A. Lewis. |
| 112. | May 4, 2008, Abbe Lowell on the AIPAC Case and the Jewish Community interviewed by
Rabbi Shmuel Herzfeld of Temple Ohev Sholom for a Washington area radio program
webcast. |
| 113. | May 22, 2008, "Lawyer of Accused Ex-Aipac Official Says Community Forsaking Its Own;
Civil Liberties Groups Step In, Take Up Rosen, Weissman Cause." by Nathan Guttman, The
Forward. |
| 114. | Jun. 2, 2008, "Is AIPAC showing some cracks?" by Calev Ben-David , The Jerusalem Post. |
| 115. | October 14, 2008, defamatory statement in email, from Nathan Guttman , Date: 6:56:04 P.M.
Eastern Daylight Time , from: guttman@hotmail.com , to rosen20817@aol.com . |
| 116. | February 12, 2009, report in JTA that AIPAC's fund-raising nearly doubled in four years. |
| 117. | February 23, 2009, "Should AIPAC Decide What's Classified?," by Grant F. Smith,
Antiwar.com . |
| 118. | February 23, 2009, Press Release, "Documents Reveal AIPAC Trade Secrets Leak Leading to
\$71 Billion Export Loss." |
| 119. | March 5, 2009, "The 'AIPAC Two' aren't the only ones on trial," by Douglas M. Bloomfield,
New Jersey Jewish News. |

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120. March 11, 2009, "Ex-AIPACer Suing Former Employer for Defamation," by Ron Kampeas, Jewish Telegraphic Agency.
121. March 18, 2009, "Advocacy Operations Spared Amid Crash," by Nathaniel Popper, The Forward.
122. July 31, 2009, contract with Public Affairs Press for book on the AIPAC/ Rosen/Weissman case.
123. August 25, 2009, letter from Public Affairs Press transmitting advance payment of \$8,500 for book on the AIPAC/Rosen/Weissman case.
124. November 2, 2009, "Confessions of an AIPAC Veteran" by Helena Cobban, The Nation.
125. Undated "Rosen's Reputation."
126. Undated: "The Contribution of Steven Rosen to the Establishment of the U.S.-Israel Strategic Alliance."
127. Undated: "AIPAC's Culpability for failure to provide legal guidance."
128. Undated: "AIPAC, Espionage and the US-Israel Free Trade Agreement: Documents," <http://www.irmep.org/ila/fta/>.
129. Undated: "AIPAC Knew All the Key Facts in October [2004] and Defended Them."
130. Undated: "Phil: Disclosure of importance the 2nd disclosure."
131. Undated: "Phil debriefs Ester."
132. March 9, 2009, letter from the Office of the U.S. Trade Representative confirming that the document AIPAC admitted receiving in 1984 is still "classified in its entirety."

Each document being produced is responsive to the numbered document request under which that document's number appears:

Response to Document Request No. 1: See documents 1, 8, 12, 14, 24, 26, 27, 28, 32, 36, 37, 38,

39, 40, 46, 47, 48, 49, 50, 86, 103, 130, and 131.

Response to Document Request No. 2: See documents 1 through 132.

Response to Document Request No. 3: See documents 1 through 132.

Response to Document Request No. 4: See documents 1 through 132.

Response to Document Request No. 5: See documents 1 through 132.

Response to Document Request No. 6: See documents 1 through 132.

Response to Document Request No. 7: See documents 1, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 37, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 55, 56, 60, 62, 63, 69, 71, 72, 76, 77, 78, 79, 81, 83, 84, 85, 86, 87, 89, 90, 92, 95, 96, 97, 98, 102, 103, 104, 105, 109, 112, 113, 118, 120, 1127, 128, 129, 130, 131, and 132.

Response to Document Request No. 8: See documents 1-132.

Response to Document Request No. 9: See documents 1, 8, 12, 14, 24, 26, 27, 2832, 36, 37, 38, 39, 40, 46, 47, 48, 49, 50, 86, 103, 130, and 131

Response to Document Request No. 10: See documents 1 through 132.

Response to Document Request No. 11: See documents 1 through 132.

Response to Document Request No. 12: See documents 1 through 132.

Response to Document Request No. 13: This item is not in plaintiff's possession.

Response to Document Request No. 14: Plaintiff had no employment contract; but see documents 1, 8, 12, 14, 24, 26, 27, 2832, 36, 37, 38, 39, 40, 46, 47, 48, 49, 50, 86, 103, 130, and 131.

Response to Document Request No. 15: See documents 1 through 132.

Response to Document Request No. 16: See document 1.

Response to Document Request No. 17: Plaintiff objects to this document request on attorney-client privilege and attorney work product grounds. Without waiving these objections, plaintiff notes that no decision has been made as to trial exhibits.

Response to Document Request No. 18: Documents responsive to this document request are not currently in plaintiff's possession, but have been requested from his health care provider.

Response to Document Request No. 19: Documents responsive to this document request are not currently in plaintiff's possession, but have been requested from his health care provider.

Response to Document Request No. 20: Documents responsive to this document request are not currently in plaintiff's possession, but have been requested from his health care provider.

Response to Document Request No. 21: See documents 1 through 132.

Response to Document Request No. 22: Other than divorce proceedings, which plaintiff objects to producing on relevance grounds and on the grounds that such items are not calculated to lead to admissible evidence, plaintiff has not been a party to any lawsuits.

Response to Document Request No. 23: All employment inquiries and responses to them were oral, and plaintiff has no written records pertaining to them.

Response to Document Request No. 24: Plaintiff has not yet completed the assembly of his financial records, but will provide them when he has done so.

Response to Document Request No. 25: Plaintiff has not yet completed the assembly of his income tax returns, but will provide them when he has done so.

Response to Document Request No. 26: No such document exists.

Response to Document Request No. 27: No such document exists.

Response to Document Request No. 28: See documents 122 and 123.

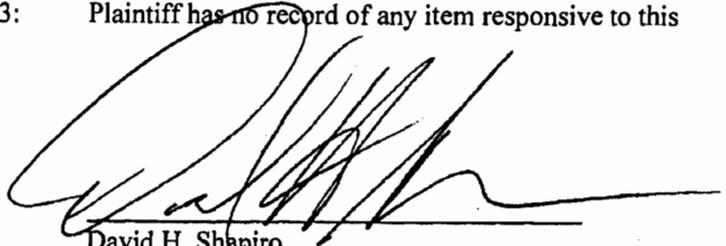
Response to Document Request No. 29: To the best of plaintiff's knowledge, no such item exists.

Response to Document Request No. 30: Though plaintiff was interviewed by Israel Channel 10 television news, which interview appeared on May 6 and 7, 2009, to the best of his knowledge copies of this interview are not available.

Response to Document Request No. 31: No document responsive to this request exists.

Response to Document Request No. 32: As plaintiff has never been deposed, no document responsive to this request exists.

Response to Document Request No. 33: Plaintiff has no record of any item responsive to this request.

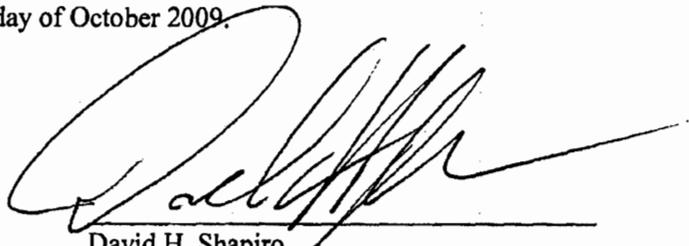


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Attorney for Plaintiff

Certificate of Service

I HEREBY CERTIFY THAT the plaintiff's responses to defendant AIPAC's first set of document requests have been served upon defendants by sending a copy thereof to their attorneys of record, Thomas L. McCally and Allie M. Wright, of Carr Maloney P.C., at 1615 L Street, N.W., Suite 500, Washington, DC 20036, on this 30th day of October 2009.



David H. Shapiro
SWICK & SHAPIRO, P.C.

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

STEVEN J. ROSEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-1256
)	Calendar 12
AMERICAN ISRAEL PUBLIC AFFAIRS)	Judge Erik P. Christian
COMMITTEE, INC., <i>et al.</i> ,)	
)	
Defendants.)	
)	

ORDER

UPON CONSIDERATION OF defendants' motion to strike plaintiff's opposition memorandum and for sanctions, the memoranda in support thereof and in opposition thereto and the exhibits submitted with those memoranda, and that entire record herein, it is by this Court this ___ day of January 2011

ORDERED that defendants' motion to strike plaintiff's opposition memorandum and for sanctions be and the same hereby is DENIED, as plaintiff did not violated the Protective Order.

HON. ERIK P. CHRISTIAN,
ASSOCIATE JUDGE,
D.C. SUPERIOR COURT

Send copies of signed Order to:

David H. Shapiro
SWICK & SHAPIRO, P.C.
1225 Eye Street, N.W.
Suite 1290
Washington, DC 20005
dhshapiro@swickandshapiro.com

and

Thomas L. McCally
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and

Allie M. Wright
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