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Manhattan U.S. Attorney Files Civil Action Seeking Forfeiture of Alavi Foundation's Interest in Fifth Avenue Office Tower Controlled by Iran

U.S. Attorney's Office
November 12, 2009

Southern District of New York
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PREET BHARARA, the United States Attorney for the Southern District of New York, announced today the filing of an amended civil Complaint seeking forfeiture of the Alavi Foundation's interest in a 36-story office tower located at 650 Fifth Avenue in Midtown Manhattan (the "Building"). The Building is owned by 650 Fifth Avenue Company, a partnership between the Alavi Foundation and Assa Corporation. The original Complaint, which was filed in December 2008 and amended today, sought forfeiture of Assa Corporation's interest in the Building.

The amended Complaint alleges that the Alavi Foundation has been providing numerous services to the Iranian Government and transferring funds from 650 Fifth Avenue Company to Bank Melli, a bank wholly owned and controlled by the Government of Iran.

In addition to the Building, the amended Complaint seeks forfeiture of all other assets of the Alavi Foundation and Assa Corporation, including bank accounts owned by 650 Fifth Avenue Company, the Alavi Foundation, and Assa Corporation; and real properties owned by the Alavi Foundation in New York, Maryland, Virginia, Texas, and California. The Amended Complaint alleges that the properties are forfeitable as the proceeds of violations of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701 et seq., together with Executive Orders and United States Department of Treasury regulations, and as property involved in and the proceeds of money laundering offenses. As alleged in the amended civil forfeiture Complaint filed today in Manhattan federal court:

Overview

The Alavi Foundation has been providing numerous services to the Iranian Government, including managing the Building for the Iranian Government, running a charitable organization for the Iranian Government, and transferring funds from 650 Fifth Avenue Company to Bank Melli. Likewise, Assa Corporation and Assa Company Limited ("Assa Co. Ltd.") have been providing numerous services to Bank Melli in contravention of IEEPA and the Iranian Transactions Regulations promulgated thereunder, including transferring rental income generated from 650 Fifth Avenue Company to Bank Melli, following Bank Melli's instructions with regard to Assa Corporation's affairs, reporting back to Bank Melli on Assa Corporation's financial situation and business dealings, and managing the affairs of Assa Corporation for the benefit of Bank Melli.

IEEPA confers upon the President the authority to take certain actions, defined in 50 U.S.C. § 1702, in response to declared national emergencies. The President has declared national emergencies with respect to the actions and policies of the Government of Iran: Executive Orders 12957, 12959, and 13059, and with respect to the proliferation of weapons of mass destruction ("WMD"), Executive Orders 12938 and 13382. The Treasury Department's Iranian Transactions Regulations ("ITR"), 31 C.F.R. Part 560, and Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 C.F.R. Part 544, implement these Executive Orders.

The Building was constructed in the 1970s by the Pahlavi Foundation, a non-profit organization operated by the Shah of Iran to pursue Iran's charitable interests in the United States. The Building's construction was financed by a substantial loan from Bank Melli.

Following the Iranian revolution of 1979, the Islamic Republic of Iran established the Bonyad Mostazafan, also known as the Bonyad Mostazafan va Janbazan ("Bonyad Mostazafan"), to centralize, take possession of, and manage property expropriated by the revolutionary government. The Bonyad Mostazafan was created in or about March 1979 by order of the Ayatollah Khomeini and approved by the Revolutionary Council of the Islamic Republic of Iran, and is controlled by the government of Iran. The Bonyad Mostazafan sought to take control of the Shah's property, including the assets of the Pahlavi Foundation. The Bonyad Mostazafan reports directly to the Ayatollah.

Between approximately October 1978 and approximately October 1979, all five previous directors of the Pahlavi Foundation resigned, and four new directors took their places. On or about February 25, 1980, an amended Certificate of Incorporation for the Pahlavi Foundation was filed renaming the Foundation "The Mostazafan Foundation of New York." The Mostazafan Foundation of New York later renamed itself the Alavi Foundation.

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The Government of Iran's Involvement In The Management Of The Building

In 1989, the Alavi Foundation and Bank Melli formed a partnership, 650 Fifth Avenue Company, in order to avoid paying federal taxes on rental income from the Building. Bank Melli's ownership interest in 650 Fifth Avenue Company, however, was disguised through the creation of two shell companies. The Alavi Foundation transferred 35 percent of 650 Fifth Avenue Company to Assa Corporation, an entity wholly owned by Assa Co. Ltd. Assa Co. Ltd. is a Jersey, Channel Islands, United Kingdom, entity owned by Iranian citizens who represent the interests of Bank Melli. In conjunction with the transfer of the 35 percent interest in 650 Fifth Avenue Company to Assa Corp., Bank Melli cancelled its loan on the Building. Today, the Alavi Foundation owns 60 percent of 650 Fifth Avenue Company, and Bank Melli owns 40 percent of 650 Fifth Avenue Company, through Assa Corp. and Assa Co. Ltd.

The decision to convert Bank Melli's mortgage on the Building into a partnership interest in 650 Fifth Avenue Company was discussed and approved by high-level Iranian government officials. Among others, the head of the Bonyad Mostazafan (also the Deputy Prime Minister of Iran), the Office of the Prime Minister of Iran, the director of the Central Bank of Iran, and the general director of Bank Melli, as well as other Bonyad Mostazafan and Bank Melli officials, discussed and approved the partnership between the Alavi Foundation and Bank Melli. After the Alavi Foundation and Assa Corporation entered into the 650 Fifth Avenue Company partnership agreement, a Bonyad Mostazafan official forwarded the agreement to a Bank Melli official, noting that "the partnership is based on prior agreements between the Ministry of Finance, Bank Melli Iran, and the Bonyad Mostazafan, with the only change being the building will be valued at two million dollars less than as previously agreed"

The Iranian Government's control of the Alavi Foundation has continued. In 1989, KAMAL KHARRAZI was named as the new Iranian Ambassador to the United Nations. As a result of tension between the new Ambassador and the Alavi Foundation president, the Ambassador eventually demanded the president's resignation. According to the minutes of a May 16, 1991, board meeting held in Zurich, Switzerland, the head of the Bonyad Mostazafan explained that, as directed by the Supreme Leader, several board members were to resign. In a letter, the Alavi Foundation's president described how, a few days later, the Ambassador called the president and another board member to his office. The Ambassador said that "the Foundation from here on out is under the oversight of Haj Agha, not Mr. Rafighdoost [then the head of the Bonyad Mostazafan]. . . . [F]rom now on, the role of the Managing Director and the role of the Board of Directors will be just a formality and he [the Ambassador] will be conducting all of its [the Foundation's] affairs." The president of the Alavi Foundation then wrote a letter to the Ayatollah cautioning that although the Ambassador's "appointment to a position of responsibility connected to the Foundation's affairs presents enormous political, security, and economic dangers, we feel assured that the Supreme Leader has made this decision with discernment, unique insight, and a thorough knowledge of all pertaining aspects." In July 1991, the president resigned his position and he was replaced that August by an individual who served as president until the summer of 2007.

In 1992, the Alavi Foundation's new president met in New York and in Tehran with Bank Melli officials concerning \$1.7 million in real estate taxes owed by 650 Fifth Avenue Company and \$2.2 million in unpaid distributions owed by the partnership to Assa Corp. The Tehran meeting was attended by a Bank Melli board member, the head of Bank Melli's Overseas Network Supervisory Department, the head of Bank Melli's New York branch, and the head of Bank Melli's Foreign Affairs. The head of the board of directors and managing director of Bank Melli forwarded the minutes of the Tehran meeting to the head of the Bonyad Mostazafan along with a cover letter stating, among other things, that "It is hoped that your firm instructions and the extra attention of the brothers from that esteemed Foundation, who are responsible for the Alavi Foundation of New York, will resolve the partnership's mutual problems quickly"

Iranian Ambassadors to the U.N. continued to direct the affairs of the Alavi Foundation and to attend meetings of the Alavi Foundation board. In the late 1990s, two Bank Melli employees sought Ambassador KHARRAZI's permission for Assa Corp. to sell its interest in 650 Fifth Avenue Company. The Ambassador informed Bank Melli that the Building would be sold when the real estate market improved. Ambassador SEYED MOHAMMAD HADI NEJAD HOSSEINIAN, KHARRAZI's successor, originated the Alavi Foundation's project funding formula. In 2004, Hosseinian's successor told the Alavi Foundation to settle a lawsuit with a company controlled by a former Alavi Foundation president for \$4 million.

In October 2007, Alavi Foundation board members met with the Ambassador and another former Iranian government official to address issues relating to the Building's management and Alavi's charitable services. According to notes taken by a board member, the Ambassador stated, among other things, that it was necessary to increase the profit from the Building; the Ambassador was worried about Assa Corporation's 40 percent share; the Foundation should only allocate to Shiites; and that the Ambassador would determine the composition of the board. The Ambassador ordered a study about the possibility of increasing the Foundation's revenue and profit, stating that a business plan and comparative analysis had to be done. The Ambassador instructed: "I have to definitely see the proposed allocations before a final decision is reached. I have to be kept informed and I have to be able to state my opinion in order for you to make a decision." The Ambassador told the board members that "[i]f there is an issue that needs to be conveyed to Tehran, let me know, I will convey it."

The Original Complaint

On December 17, 2008, this Office filed a civil Complaint seeking forfeiture of the 40 percent interest held by Assa Corporation in 650 Fifth Avenue Company. In the Amended Complaint, the United States seeks to forfeit all right, title and interest in 650 Fifth Avenue Company, including the Alavi Foundation's 60 percent interest in the company. The United States also seeks to forfeit the contents of bank accounts held by 650 Fifth Avenue Company, the Alavi Foundation, and Assa Corporation, as well

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as other real properties owned by the Alavi Foundation.

The Obstruction of Justice Allegations Against The Former President Of The Alavi Foundation

On December 19, 2008, FARSHID JAHEDI, who at the time was the president of the Alavi Foundation, was arrested for obstruction of justice for allegedly destroying documents required to be produced under a grand jury subpoena concerning the Alavi Foundation's relationship with Bank Melli Iran and the ownership of the Building. The charges and allegations contained in the Indictment against JAHEDI are merely accusations, and he is presumed innocent unless and until proven guilty.

Mr. BHARARA praised the investigative work of the Federal Bureau of Investigation, the Internal Revenue Service, Criminal Investigation Division, and the Police Department of the City of New York. He also thanked the Counterterrorism Section of the Department of Justice National Security Division and the Manhattan District Attorney's Office for their initiation and assistance in this case.

Mr. BHARARA said, "As today's complaint alleges in great detail, the Alavi Foundation has effectively been a front for the Government of Iran. For two decades, the Alavi Foundation's affairs have been directed by various Iranian officials, including Iranian ambassadors to the United Nations, in violation of a series of American laws. The Alavi Foundation's former President remains under investigation for alleged obstruction of justice, and both the criminal and civil investigations are ongoing."

Assistant United States Attorneys SHARON COHEN LEVIN, ANNA ARREOLA, and MICHAEL D. LOCKARD are in charge of the civil forfeiture action.

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