

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

AHMAD CHEBLI,
c/o American Civil Liberties Union Fund of
Michigan,
2966 Woodward Avenue
Detroit, Michigan 48201

Plaintiff,

v.

CHARLES KABLE, IV,
in his official capacity as DIRECTOR OF THE
TERRORIST SCREENING CENTER,
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

CHRISTOPHER WRAY,
in his official capacity as DIRECTOR OF THE
FEDERAL BUREAU OF INVESTIGATION,
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

MERRICK GARLAND,
in his official capacity as ATTORNEY
GENERAL OF THE UNITED STATES,
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

ALEJANDRO MAYORKAS,
in his official capacity as SECRETARY OF THE
DEPARTMENT OF HOMELAND SECURITY,
245 Murray Lane SW
Washington, DC 20528;

DAVID PEKOSKE,
in his official capacity as ADMINISTRATOR OF
THE TRANSPORTATION SECURITY
ADMINISTRATION,
6595 Springfield Center Dr
Springfield, VA 22150

Defendants.

No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

INTRODUCTION

1. For nearly two decades, the U.S. government has operated a No Fly List that indefinitely bars thousands of U.S. citizens and residents from flying to, from, within, or over the United States, and wrongly stigmatizes them as terrorism suspects. The government places people on the No Fly List based merely on a “reasonable suspicion” that unconstitutionally vague criteria are satisfied. U.S. citizens and residents on the No Fly List are disproportionately Muslim and those of Arab, Middle Eastern, or South Asian descent.

2. Ahmad Chebli is a thirty-two-year-old U.S. citizen of Lebanese descent who lives in Dearborn, Michigan with his wife and two young children. Starting in August 2018, agents from the Federal Bureau of Investigation (“FBI”) approached Mr. Chebli and asked him to participate in what became a series of meetings. Mr. Chebli did not think he could refuse to meet with the FBI agents, and hoped that talking with them would dispel any concerns the agents had about him. The agents questioned Mr. Chebli about his political and religious beliefs, associations, and the years he spent living in Lebanon as a student. They accused him of affiliation with a terrorist group, which shocked Mr. Chebli and which he vehemently denied. Throughout the meetings, the FBI agents attempted to recruit Mr. Chebli to work as an informant for the agency. Mr. Chebli repeatedly refused, explaining that he respected the FBI’s role in protecting the community but did not want to work for the agency. For Mr. Chebli, working for the FBI as an informant in his community would violate his personal ethics. The FBI agents told him that he faced a choice: he could remain in the United States and become an FBI informant, in which case the FBI’s suspicions would “go away,” or he could leave the United States. According to the FBI agents, if Mr. Chebli chose not to become an informant and remained in

the United States, he and his family would be subjected to increased FBI surveillance and investigation, including possible negative consequences for his wife's immigration status.

3. Under the FBI's threats and pressure, Mr. Chebli became increasingly worried for his family's safety and felt helpless to protect them. He sent his wife and children to Lebanon. Hoping to avoid further coercive FBI measures, Mr. Chebli later followed his family, after arranging with his employer to work part time for a month from abroad. When Mr. Chebli attempted to return home in November 2018, he was denied boarding. As a result, he was stranded in Lebanon for over a month, during which time the U.S. government confirmed that he had been placed on the No Fly List. Mr. Chebli was then able to obtain a one-time waiver to fly home.

4. Because the government has placed Mr. Chebli on the No Fly List, he is unable to travel to see family and friends. He cannot travel to fulfill his religious pilgrimage obligation, which is a tenet of his Muslim faith. Placement on the No Fly List initially meant Mr. Chebli was unable to return to work, and since his return, he fears his placement on the List and inability to fly will further negatively impact his employment. As a result, Mr. Chebli has been unable to exercise his constitutionally protected liberty interests in travel and freedom from government-imposed stigma.

5. More than two years ago, Mr. Chebli filed an administrative petition for redress, but the government has failed to provide any reason for placing him on the No Fly List or a fair process to challenge that placement. As a result, Mr. Chebli has been subjected to unreasonable and lengthy delays and an opaque redress process that has prevented him from clearing his name. In this way, Mr. Chebli's situation is similar to that of others seeking to challenge their placement on the No Fly List. Under the government's redress process, people seeking removal

from the No Fly List may never receive notice of the reasons for their placement on the List, evidence supporting—or undermining—any such reason, or a live hearing before a neutral decision-maker.

6. The government’s actions violate Mr. Chebli’s rights under the Constitution and federal law. Its placement of Mr. Chebli on the No Fly List and its refusal to provide a fair, meaningful, and timely process for him to challenge that placement violate the Fifth Amendment guarantee of due process and the Administrative Procedure Act. Its use of vague criteria to place Mr. Chebli on the No Fly List violates the Fifth Amendment. Its conduct in placing Mr. Chebli on the No Fly List after he rejected FBI agents’ repeated coercive pressure to work for the FBI as an informant constitutes retaliation in violation of the First Amendment. Its ban against Mr. Chebli’s travel for religious pilgrimage violates the Religious Freedom Restoration Act. Through this action for declaratory and injunctive relief, Mr. Chebli asks the Court to find that the government’s actions against him are unlawful, and order his removal from the No Fly List.

PARTIES

7. Plaintiff Ahmad Kamal Chebli is a thirty-two-year-old U.S. citizen. He was born in Chicago, Illinois, and resides in Dearborn, Michigan.

8. Defendant Merrick Garland is the Attorney General of the United States and heads the Department of Justice (“DOJ”), the department of the United States government that oversees the FBI. The FBI, in turn, administers the Terrorist Screening Center (“TSC”), which was created to consolidate the government’s counterterrorism-related watchlisting operations. The TSC develops and maintains the federal government’s consolidated Terrorist Screening Database (the “TSDB” or “watch list”), of which the No Fly List is a component. Defendant Garland is sued in his official capacity.

9. Defendant Christopher Wray is the Director of the FBI, which administers the TSC. Defendant Wray is sued in his official capacity.

10. Defendant Charles Kable, IV is the director of the TSC and is sued in his official capacity.

11. Defendant Alejandro Mayorkas is the Secretary of the U.S. Department of Homeland Security (“DHS”), the department of the United States government that oversees the Transportation Security Administration (“TSA”). Under 49 U.S.C. § 44926(a), the Secretary of Homeland Security is responsible for establishing a timely and fair redress process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under regimes used by DHS. Defendant Mayorkas is sued in his official capacity.

12. Defendant David Pecoske is the Administrator of the TSA, and is responsible under 49 U.S.C. § 44903(j)(2)(C)(iii)(I) for establishing a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the advanced passenger prescreening system determined that they might pose a security threat, to appeal that determination and correct information contained in the system. Defendant Pecoske is sued in his official capacity.

JURISDICTION AND VENUE

13. This is a complaint for injunctive and declaratory relief based upon civil rights violations committed by the TSC, FBI, DOJ, TSA, and DHS in violation of the First and Fifth Amendments to the United States Constitution, the Administrative Procedure Act (“APA”), and the Religious Freedom Restoration Act (“RFRA”).

14. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 702, which waives the sovereign immunity of the United States with respect to any action for injunctive relief under 28 U.S.C. § 1331.

15. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

16. Under the APA, 5 U.S.C. § 706, this Court has the power to compel agency action that is unlawfully withheld or unreasonably delayed and to hold unlawful and set aside the challenged agency actions. The Due Process Clause also provides this Court with authority to order the injunctive relief requested against Defendants.

17. This Court also has the authority to grant declaratory and injunctive relief under RFRA, 42 U.S.C. § 2000bb *et. seq.*

18. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Defendants are officers of agencies of the United States sued in their official capacity and because Defendants Garland, Wray, Kable, and Mayorkas perform their official duties and reside in this district.

FACTUAL ALLEGATIONS

19. Plaintiff Ahmad Chebli is a thirty-two-year-old U.S. citizen born in Chicago, Illinois. He lives with his wife and two young children in Dearborn, Michigan, and works as an engineer in the automotive industry.

20. In 2000, when Mr. Chebli was eleven years old, he moved with his family to Lebanon, where they lived for approximately nine years. Mr. Chebli completed high school and three years of college in Lebanon, studying engineering at Beirut Arab University from 2006 to

2009. He returned to the United States to complete his education at the University of Michigan, Dearborn.

21. After Mr. Chebli returned to the United States, he continued to make regular trips to Lebanon to visit family members there. Mr. Chebli traveled on those international flights without incident until the summer of 2015. At that time, Mr. Chebli was returning with his wife from Lebanon to the United States. When they went through the passport control booth, Mr. Chebli and his wife were selected for secondary inspection. They were then taken into a room and made to wait for approximately twenty minutes until a CBP agent arrived to question them, after which they were permitted to go home.

22. Following this incident, Mr. Chebli experienced invasive searches of his person and property at airports each time he traveled domestically or internationally. His boarding passes routinely displayed the notation “SSSS,” as a result of which TSA officers subjected him to extended searches at security checkpoints and then again at flight departure gates. When Mr. Chebli sought to reenter the United States following international travel, CBP officers subjected him to lengthy detention and invasive questioning. The questions often concerned the political and security situation in Lebanon and Mr. Chebli’s opinions on it, as well as the situation of Syrian refugees in Lebanon. On more than one occasion, CBP officers searched Mr. Chebli’s cell phones and laptops.

23. The prolonged detentions and questioning were humiliating for Mr. Chebli, especially when he traveled with his wife and children. When his wife traveled with him (but not when she traveled alone), she was also subjected to physical pat-downs and device searches. Mr. Chebli felt powerless to protect his family and worried about their ability to proceed through the

screening process safely and without the stigma that comes from being singled out by government agents.

A. The FBI's Pressure on Mr. Chebli to Work as an Informant

24. The FBI's initial contact with Mr. Chebli was deceptive. On August 21, 2018, Mr. Chebli received a call from an individual who identified himself as an employee of the Roseville, Michigan Building Department. The caller informed Mr. Chebli that a Roseville gas station that Mr. Chebli leased and helped to manage was in violation of city permit requirements and requested that Mr. Chebli come in to discuss the matter in person. Mr. Chebli was concerned about any such violation and wanted to clear it up.

25. On August 23, Mr. Chebli arrived at Roseville City Hall. He was led to a conference room where two men were waiting for him. They told Mr. Chebli that they wanted to talk to him and that he was free to leave whenever he wanted. The men then identified themselves as FBI agents. Mr. Chebli did not feel that he could voluntarily leave. The door to the conference room was closed during the entirety of the one and a half hour meeting. Mr. Chebli never heard from city officials about any city permit "violation," and it never came up again after this meeting.

26. The FBI agents asked Mr. Chebli to show he was not recording the meeting. They stated that they wanted to enlist Mr. Chebli's help in identifying and tracking people in his community who intended to harm the United States. The agents told Mr. Chebli that he would be useful as an informant because of his language skills, Lebanese background, and technical expertise as an engineer. When Mr. Chebli asked the agents to specify what they were asking him to do, they showed him a printed Facebook profile and said that someone "like" Mr. Chebli had helped the FBI catch the person through social media interactions.

27. Mr. Chebli did not recognize the person in the photo. He told the agents that he did not know what they were looking for, that his engineering background was less technical than managerial, and that he could not help them. The agents pressed Mr. Chebli to work with them. Mr. Chebli again told them that he was not interested in working with the FBI. He explained that he has a family and a steady job, and his priority is to provide a comfortable life for his family. He further explained that he respected the FBI's role in protecting the community but did not want to work for the agency. For Mr. Chebli, working for the FBI as an informant in his community would violate his personal ethics.

28. In response, the agents pulled out two newspaper articles about Hezbollah and told Mr. Chebli, "We know you are a Hezbollah agent and were sent here by Hezbollah."

29. Shocked by the FBI's accusation, Mr. Chebli vehemently emphasized that he is not and has never been affiliated with Hezbollah. Hezbollah operates as a political party in Lebanon, and also has a militant wing. The U.S. government has designated Hezbollah as a terrorist organization. The FBI agents emphasized to Mr. Chebli that lying to a federal agent is a felony, and pressed him to admit that he worked for Hezbollah. One agent asserted that he had a lot of friends who used to be Hezbollah agents, but nothing bad happened to them when they started working with the FBI. Anxious and concerned about the unfounded and inflammatory accusation and pressure, Mr. Chebli again repeated that he has no affiliation with Hezbollah.

30. The FBI agents continued to press Mr. Chebli, and despite his rising anxiety, Mr. Chebli continued to politely refute their assertions and reject the pressure to become an informant. The agents told Mr. Chebli he had three options: (1) he could stay in the United States and work for the FBI as an informant; (2) he could leave the United States and go to Lebanon, or (3) he could stay in the United States and not work with the FBI.

31. The agents told Mr. Chebli that if he worked for the FBI as an informant, their suspicion that he was a Hezbollah agent would “go away.” They told him that if he chose not to work with the FBI, the agency would continue investigating him, including by talking to his friends, family, and colleagues and placing him under surveillance. The agents also asserted that Mr. Chebli could be arrested, his wife could also be arrested, and their children taken away from them and sent to live with other family members. They further asserted that Mr. Chebli’s refusal to work with the FBI could have negative consequences for his wife’s immigration applications. These threats caused Mr. Chebli greater anxiety as well as fear.

32. The agents showed Mr. Chebli a document that they referred to as a “blue notice,” which looked to him like an official government document. The “blue notice” stated that the U.S. government had identified Mr. Chebli as a potential terrorist or involved in terrorist activity. The FBI agents explained that if Mr. Chebli did not either cooperate or leave the country, this notice could be disseminated to government agencies internationally.

33. Mr. Chebli understood the agents’ words and actions to be a threat. He believed that they were trying to pressure him either to work for the FBI as an informant or leave his own country. When he sought clarification, the agents told him that they did not want him to remain in the United States because they did not want to expend resources continuing to investigate him.

34. At the end of the meeting, Mr. Chebli was fearful and could not understand why the FBI was pressuring him and threatening him and his family. When the FBI agents asked to meet with him again, Mr. Chebli did not think he could refuse. He hoped that talking with the agents would persuade them that any FBI suspicions about him were unfounded and he would then be left alone. Fear of the FBI and desire to clear his name motivated Mr. Chebli to meet with the FBI agents several more times.

B. Mr. Chebli Sends his Family to Lebanon

35. After the second meeting, Mr. Chebli decided to send his wife and children to Lebanon because he thought it was the only way to protect them from also being harassed by the FBI. Mr. Chebli purchased flight tickets and made an appointment to obtain a passport for his then infant son.

36. When Mr. Chebli and his wife arrived at the Detroit passport office, two FBI agents were also there, including one who had been present at the previous meetings. One of the agents said that they wanted to ensure that Mr. Chebli would attend their next meeting, scheduled for later that day. Mr. Chebli felt intimidated by the agents' unexpected presence and was worried that the FBI would attempt to harass or threaten his wife and children.

37. On September 3, 2018, Mr. Chebli dropped his wife and children off at the airport. After their flight departed, he received a call from one of the FBI agents. The agent told him that he had been at the airport to ensure that Mr. Chebli's wife got through security without any problems. Mr. Chebli felt threatened because the FBI was monitoring him and his family.

C. Continued FBI Pressure and Threats

38. In total, Mr. Chebli had seven meetings with the FBI agents, over the course of several weeks. A total of four FBI agents participated in these meetings at various points. They introduced themselves to Mr. Chebli as Tony, Chris, Cody, and Nate.

39. Each meeting with the FBI agents took place in a private conference room, either at the Roseville City Hall or at a hotel near the Detroit airport. Mr. Chebli felt compelled to continue meeting with the agents because he thought it was the only way to assuage the FBI's threats, persuade them of his innocence, and ensure the well-being of his family.

40. The FBI agents repeatedly and extensively questioned Mr. Chebli about his time living in Lebanon and his political and religious views and associations. The FBI agents' questions were particularly focused on Hezbollah. The agents asked Mr. Chebli about the organization's influence in Lebanese politics, whether certain neighborhoods and buildings were Hezbollah-controlled, and whether he knew anyone who was a member. Mr. Chebli repeatedly and consistently stated that he did not know any Hezbollah members.

41. The agents also asked Mr. Chebli about the high school and mosque he attended in Lebanon, and about his classmates and their political beliefs. Mr. Chebli stated that, to his knowledge, none of his classmates were Hezbollah members.

42. During the fourth meeting, the agents shocked Mr. Chebli when they told him they suspected he was collecting material for explosives and had received training to do so. They provided no evidence for this suspicion. Mr. Chebli emphatically responded that the suspicion was baseless. He explained that he would never engage in any such action.

43. Other topics the FBI questioned Mr. Chebli about included his sources for political and international news, and his views on the war in Yemen.

44. Throughout this time period, Mr. Chebli lived in a state of high anxiety, stress, and fear for his family's safety and his own. He worried constantly about the best course of action based on the choices the agents had presented him and continued to press on him. The anxiety caused him to experience insomnia and significant weight loss.

45. During the last three meetings, Mr. Chebli felt that the agents were pressuring him to meet more regularly and quickly decide whether he would stay in the United States and work for the FBI as an informant, or leave the country. He felt helpless during this time, and came to

believe that he did in fact have to choose between protecting his family and himself or leaving the country.

46. Mr. Chebli told the FBI agents that he would be willing to go to Lebanon for a month to see his wife and children, work at his U.S. job part time, and determine if he could find a job and make a life for his family in Lebanon. The agents responded with enthusiasm and pressed him to travel quickly. They did not explain the reason for speed. One of the agents told Mr. Chebli to alert the FBI before traveling back to the United States. The same agent gave Mr. Chebli his email address and told Mr. Chebli if he wanted to talk to an FBI agent while in Lebanon, someone would fly out to meet him there. Mr. Chebli responded that he didn't expect to talk with an FBI agent while in Lebanon. The FBI agent responded that it was an option for Mr. Chebli.

47. On October 18, 2018, Mr. Chebli travelled to Lebanon. He did not contact the FBI while he was there.

D. Mr. Chebli is Barred from Flying Back to the United States.

48. Because of the difficult economic situation in Lebanon, Mr. Chebli did not think he could find employment that would allow him to provide for his family. His U.S. employer also expected him to return to work in the United States full-time, and he decided to return home.

49. On November 24, 2018, Mr. Chebli attempted to fly back to the United States. When he arrived at the Beirut Rafic Hariri International Airport, he handed his passport to the check-in agent, and noticed an alert come up on the agent's screen. The agent called a supervisor, who informed Mr. Chebli that she had received an email from the United States government indicating that he could not board the plane, and he needed to consult the U.S.

Embassy. When Mr. Chebli sought more information about why he was being denied boarding, the supervisor repeated that he should contact the embassy.

50. The next day, Mr. Chebli called the U.S. Embassy in Lebanon. Because it was a weekend, he called the embassy's emergency line. An employee told Mr. Chebli that he should call back during working hours.

51. Mr. Chebli contacted the embassy again on Monday, November 26. He was connected to an employee with Citizen Services who provided him the link to the DHS Traveler Redress Inquiry Program ("DHS TRIP") website.

52. Mr. Chebli also contacted the FBI agent who had provided Mr. Chebli with his contact information. The FBI agent told Mr. Chebli to contact the U.S. Embassy. He added that he would try to find out which U.S. government agency was responsible for preventing Mr. Chebli from boarding his flight, but never did so.

53. Mr. Chebli was concerned that he had been denied boarding because he had been placed on the No Fly List.

E. Mr. Chebli Files a DHS TRIP Request and Receives Confirmation that He Has Been Placed on the No Fly List

54. On November 26, 2018, Mr. Chebli submitted a redress request to DHS TRIP. After he submitted his inquiry, DHS TRIP assigned Mr. Chebli a Redress Control Number.

55. On December 20, 2018, Mr. Chebli received confirmation from DHS TRIP that he was on the No Fly List. The DHS TRIP letter stated that Mr. Chebli could "request additional information about your placement on the No Fly List and have the opportunity to respond to any information provided if you believe that the above determination is in error." The letter further stated that if Mr. Chebli wished to request additional information, he was required to contact DHS TRIP within 30 days.

56. Mr. Chebli's family had planned to fly home to Michigan on December 20, and was able to do so.

57. On December 23, 2018, Mr. Chebli emailed DHS TRIP to request additional information about the reason for his placement on the No Fly List.

58. Mr. Chebli had also contacted the ACLU and obtained assistance in securing a one-time waiver that permitted him to fly home. On December 31, 2018, Mr. Chebli returned to the United States.

59. During the month between his attempted travel home and his actual return, Mr. Chebli was unable to fulfill his employer's expectation that he would be back at work full-time in the United States. Mr. Chebli attempted to work remotely, but was unable to carry out his job responsibilities, which included site visits and direct interactions with customers. While waiting for the DHS TRIP response and the one-time waiver to fly home, Mr. Chebli could not provide his employer with any assurance of a timeframe for his return.

60. On February 1, 2019, DHS TRIP sent Mr. Chebli an interim response via email, confirming receipt of his request for more information. The email stated that "[o]nce the review of your request is complete, we will send you a written response via electronic mail."

61. On February 7, 2019, DHS TRIP informed Mr. Chebli via email that the letter DHS TRIP sent by certified mail on December 20, 2018, was returned to the DHS TRIP office as undeliverable on January 23, 2019. DHS TRIP asked Mr. Chebli to confirm his mailing address.

62. On February 21, 2019, Mr. Chebli provided his mailing address to DHS TRIP via email. He received no further information.

F. Mr. Chebli Attempts to Fly Domestically and is Threatened By FBI Agents

63. On October 8, 2020, Mr. Chebli attempted to fly domestically from Detroit to New York City. He experienced a long delay at the check-in counter because the airline employee said they needed to seek “approval” before issuing his boarding pass.

64. While he was waiting for his boarding pass, Mr. Chebli was paged over the airport’s public announcement system and told to contact a TSA agent. Mr. Chebli learned he had inadvertently dropped his passport, and it had been found. A police officer returned the passport to Mr. Chebli, and in doing so, asked, “Are you aware you’re on the No Fly List?” Mr. Chebli responded that he was not sure if he was still on the List. Although Mr. Chebli received a boarding pass, he saw that it carried the “SSSS” notation.

65. At the security checkpoint, TSA officers subjected Mr. Chebli to heightened screening and delays. They shut down an entire screening lane to other passengers and focused it exclusively on searching Mr. Chebli and his belongings. After passing through that screening, Mr. Chebli was subjected to another screening and search at the airline gate.

66. Later that day, on his return trip from New York’s LaGuardia Airport to Detroit, Mr. Chebli encountered similar delay and heightened scrutiny during the check-in process. TSA officers again shut down an entire screening lane and devoted it to searching Mr. Chebli—a process that took approximately 25 minutes. Near the end of the screening process, a man who identified himself as an FBI agent named Tony approached him. Mr. Chebli had not previously met this agent. The FBI agent took Mr. Chebli to an empty airline lounge, where they were joined by a second FBI agent, identified as Tony’s supervisor. The FBI agents told Mr. Chebli that they were “glad” he had come to them because they had wanted to pay him a visit in Michigan, that he needed to answer their questions, and asserted that he would not be able to fly home that day. They asked about Mr. Chebli’s travel, and also whether he had ever been

associated with a terrorist organization or activities. Now fully aware of his rights and determined not to be coerced, Mr. Chebli answered the FBI agents' questions about his travel but refused to respond to any other questions. The agents then asked Mr. Chebli who was taking care of his children. Mr. Chebli questioned why they were asking about his children. One of the FBI agents named a man Mr. Chebli did not know, and said, "You need to cooperate with us. He has two daughters similar in age to your kids, and they're safe right now because he chose to cooperate with us." The agents also asserted that they would denaturalize Mr. Chebli's wife. Mr. Chebli knew they could not take this action because his wife was not yet a U.S. citizen, but he also knew that a decision on her naturalization application had been inexplicably delayed for months. Concerned about the FBI's threats, Mr. Chebli asked if he was free to leave, and when he did not get a straight answer, he called his ACLU lawyer, who asked to speak with the FBI agents. At that point, the FBI agents told Mr. Chebli he could leave. At the gate, TSA officers subjected him to an additional search of his documents and belongings.

67. On December 17, 2020, Mr. Chebli attempted to fly domestically again. At the airport, Mr. Chebli was again subjected to prolonged delays as a result of additional security screening and was forced to miss his flight.

G. Mr. Chebli Attempts to Fly to Lebanon Again

68. After the interaction with the FBI agents, Mr. Chebli thought that despite their threats and his refusal to cooperate with them, he might be able to fly because he had received a boarding pass. On December 26, 2020, Mr. Chebli sought to travel with his wife and children from Detroit to visit family in Lebanon. When Mr. Chebli attempted to check in, airline personnel told him that he could not board and that they could provide him with no more

information. His wife and children were also denied boarding. An airline agent advised Mr. Chebli to try rebooking the flight.

69. Mr. Chebli re-booked his and his family's flight for the following week, on January 2, 2021. Again, when Mr. Chebli tried to board, airline personnel told him that he and his family could not board. The airline personnel told Mr. Chebli that his wife and children would be able to fly if they rebooked a flight without him. According to the airline personnel, Mr. Chebli would not be able to re-book his flight and fly, and would need to contact the government to resolve the issue.

H. Mr. Chebli's Second DHS TRIP Request and Other Attempts to Obtain Information from the Government

70. On January 15, 2021, Mr. Chebli submitted another redress request to DHS TRIP. After he submitted this request, DHS TRIP assigned Mr. Chebli a new Redress Control Number. Because he still had not received a response to his two-year-old DHS TRIP request from November 2018, Mr. Chebli requested a response within 20 days of receipt of this second request.

71. On February 4, 2021, Mr. Chebli received a letter from DHS TRIP stating that the request would be closed as duplicative and that the first request would be updated with his most recent travel experiences. The letter affirmed that DHS TRIP was still processing Mr. Chebli's November 2018 request for administrative redress. He has received no further information.

72. No government agency has provided Mr. Chebli with any notice of the reason for his placement on the No Fly List, any evidence supporting such a reason, or a hearing to contest his placement on it. There is no deadline by which DHS TRIP must respond to Mr. Chebli.

73. Mr. Chebli has also been unable to obtain information using other means available under federal law. In June 2019, he submitted Freedom of Information Act and Privacy

Act requests, seeking any records about him maintained by the FBI, CBP, and TSA. In January 2021, he submitted renewed requests that included facts about his most recent travel experiences. The FBI has stated that it is withholding all records pertaining to Mr. Chebli, claiming that its records are exempt from disclosure and would reveal investigative techniques and procedures. To date, Mr. Chebli has received no other information of any kind.

74. Mr. Chebli has never been charged with a crime. He presents no threat to aviation security. He knows of no reason for his placement on the No Fly List, except for his repeated refusals to work for the FBI as an informant. He is concerned that even if he is taken off the List, he could be placed on it again without notice or any adequate opportunity to obtain prompt redress.

75. Because Defendants have barred Mr. Chebli from flying on commercial aircraft to, from, within, or over U.S. airspace, he is unable to exercise his constitutionally protected liberty interest in travel and is subject to government-imposed stigma. He is unable to travel for family, social, legal, business, and employment reasons. Mr. Chebli wants to fulfill his religious obligation to perform the Hajj pilgrimage, which is a tenet of his Muslim faith, but the government's placement of him on the No Fly List bars him from doing so. He fears negative employment consequences stemming from his continued placement on the No Fly List.

I. The Federal Government's Terrorist Watch List

76. In September 2003, Attorney General John Ashcroft established the Terrorist Screening Center to consolidate the government's approach to terrorism screening. The TSC, which is administered by the FBI, develops and maintains the federal government's Terrorist Screening Database ("TSDB" or "master watchlist"). The TSDB has several subsets: the "No Fly List," the "Selectee List," and the "Expanded Selectee List." Individuals on the Selectee List and

Expanded Selectee List must undergo invasive security screening before entering the secure area of an airport or boarding an aircraft, and often additional searches and questioning again at airport gates. Individuals on the No Fly List are prohibited from boarding a U.S. commercial aircraft or from flying to, from, within, or over U.S. airspace. The U.S. government also shares information from the TSDB with at least 60 foreign countries.

77. According to the TSC, an individual's placement on the No Fly List must be based on a "reasonable suspicion" that an individual meets at least one of the following criteria: the individual poses (1) a threat of committing an act of international terrorism or domestic terrorism with respect to an aircraft (including a threat of piracy, or a threat to airline, passenger, or civil aviation security); (2) a threat of committing an act of domestic terrorism with respect to the homeland; (3) a threat of committing an act of international terrorism against any U.S. government facility abroad and associated or supporting personnel, including U.S. embassies, consulates and missions, military installations, U.S. ships, U.S. aircraft, or other auxiliary craft owned or leased by the U.S. government; or (4) a threat of engaging in or conducting a violent act of terrorism and is operationally capable of doing so. The criteria do not define conduct that constitutes a "threat."

78. These criteria do not appear in any statute or regulation and have not been subject to notice and comment rulemaking. The government could change these criteria at any time with no notice.

79. The "reasonable suspicion" standard and the No Fly List criteria establish a vague and very low threshold for placement on the No Fly List. Under the government's Watchlisting Guidance, "concrete facts are not necessary" to satisfy the "reasonable suspicion" standard, and uncorroborated information of questionable or even doubtful reliability can serve as the basis for

putting an individual on a watchlist. These criteria give officials wide discretion to place people on the No Fly List, and they increase the likelihood that the No Fly List includes people who are neither known nor validly suspected to be terrorists.

80. The TSC exercises control over individuals' placement on, or removal from, the No Fly List.

81. Two government entities are primarily responsible for "nominating" individuals for placement on the No Fly List: (1) the National Counterterrorism Center ("NCTC"), which processes nominations of "known and suspected international terrorists" and (2) the FBI, which submits nominations of "known and suspected domestic terrorists" directly to the TSC.

82. The TSC reviews the nominations and makes the final decision on whether a nominated individual meets the requirements for placement on the No Fly List. If the TSC accepts a nomination, the TSC creates a record in the TSDB, or master watchlist, for that individual and determines the sublists (*i.e.*, No Fly, Selectee, or Expanded Selectee List) on which the record will be placed.

83. The TSC sends records from the TSDB to other government agencies, such as the TSA, CBP, and U.S. Citizenship and Immigration Services, that perform screening functions, and the National Crime Information Center, which makes information available to state, local, and tribal law enforcement agencies nationwide. The TSC also shares watchlist information with at least sixty foreign governments and numerous private entities.

84. In making its decisions to place and maintain people on the No Fly List, the TSC has failed to ensure a rigorous process so that individuals who do not meet the criteria are not placed on the List or are promptly removed from it.

85. Publicly available information shows that as of June 2017, the TSDB contained approximately 1,160,000 people, a number that has grown significantly and steadily since June 2013, when there were approximately 680,000 people in the TSDB. From 2008 through 2017, the TSC added a total of 1,137,254 people to the TSDB, and during that period, it rejected only 16,987 nominations—a rejection rate of only 1.4 percent. Government documents show that as of 2014, nearly half the people on the TSDB had no recognized terrorist-group affiliation. As of June 2016, there were approximately 5,000 U.S. citizens and residents in the TSDB. Government documents show that as of 2014, people in Dearborn, Michigan, which has a significant Muslim and Arab population, were disproportionately watchlisted. Like the TSDB, the No Fly List has also grown significantly. In 2001, the U.S. government reportedly banned fewer than 20 people from flying. Following creation of the watchlist system in 2003, that number rapidly expanded to approximately 3,400 in 2009, to about 10,000 people in 2012, to about 21,000 people in 2012. As of June 2016, there were approximately 81,000 people on the No Fly List, about 1,000 of whom were U.S. citizens or residents. There is no publicly available information about the number of people in the TSDB after 2017, or on the No Fly List after June 2016.

86. The Inspector General of the Department of Justice has criticized the TSC for employing weak quality assurance mechanisms and for failing to remove people from the TSDB when information did not support their placement on it. Public reports also confirm that the government has placed or retained people on government watchlists, including the No Fly List, as a result of human error.

J. Inadequacy of the Redress Process

87. Defendants have not provided travelers with a fair and effective means to challenge the TSC's decision to place them on the No Fly List.

88. Congress tasked the TSA Administrator with establishing a process through which individuals delayed or prohibited from boarding a flight because they are deemed to pose a security threat may appeal this determination. Individuals who seek redress after they are barred from flying must complete a standard form and submit it to DHS TRIP. The TSC does not accept redress inquiries directly from the public, nor does it directly provide final orders or disposition letters to individuals who have submitted redress inquiries.

89. Under the original No Fly List redress process, a traveler would submit an application for redress through DHS TRIP, which would then determine whether the traveler was an exact or near match to an individual in the TSDB. If the person was an exact match, DHS would forward the inquiry to TSC, which would review the information and determine whether that individual should remain in the TSDB. Following TSC's determination, DHS TRIP would send a letter to the individual stating that the review process was complete. DHS TRIP would not inform individuals whether they had ever been on the No Fly List or if they remained on the List following the redress process.

90. In April 2015, the government instituted a revised redress process in response to a court ruling that held the original redress process unconstitutional.

91. According to the government, under the revised redress process, a U.S. person who purchases a ticket, is denied boarding at the airport, and applies for redress through DHS TRIP will now be informed of his or her No Fly List status.

92. If the individual is on the No Fly List, the individual may then request more information from DHS TRIP. According to the government, after DHS TRIP receives such a request, DHS TRIP informs TSC, which then coordinates with the relevant nominating agencies and requests that the agency or agencies prepare an unclassified summary supporting the

individual's placement on the No Fly List. DHS TRIP and TSC do not have authority to compel nominating agencies to disclose information—including unclassified information—to the individual seeking redress.

93. According to the government, the individual will receive a response letter stating the No Fly List criterion or criteria that serve as the basis for the individual's placement on the List. The letter may, but will not necessarily, include an unclassified summary of information supporting the individual's status; it will only do so "to the extent feasible, consistent with the national security and law enforcement interests at stake." According to TSC, "TSC remains involved at each stage of the new redress process."

94. DHS TRIP is not required to provide information in response to travelers within any set period of time. DHS TRIP will often take months or years to respond to requests for more information, and it may decide not to inform the individual of any reason, all reasons, or any other information supporting the individual's placement. DHS TRIP may decide not to provide the individual with any evidence underlying any reason for the individual's placement on the No Fly List. DHS TRIP may also decide not to provide any exculpatory evidence. The failure of DHS TRIP to provide this information means that individuals seeking redress are unable to rebut or challenge their placement on the No Fly List.

95. According to the government, once DHS TRIP provides information to an individual seeking redress, the individual has the opportunity to submit any information they think is relevant to that determination. Individuals who do not receive a reason or full statement of reasons for placement on the No Fly List, and/or the evidence supporting it, are left to guess what information to provide to refute the government's suspicions or allegations.

96. After an individual chooses to submit additional information to DHS TRIP, DHS TRIP forwards the response and any enclosed information to TSC. According to the government, TSC reviews these materials and other available information. On information and belief, if TSC determines that the individual should not remain on the No Fly List, TSC may remove that individual. If TSC determines that the individual should remain on the No Fly List, it provides a recommendation to the TSA Administrator as to the individual's continued status and a summary of reasons or information TSC deems material to that decision.

97. The TSA Administrator then reviews the TSC's recommendation and either issues an order maintaining the individual on the No Fly List or removing the individual from it, or remands the case to TSC for additional information or clarification.

98. The TSA Administrator will then issue the "final" determination. At no time does the individual seeking redress receive a live hearing before a neutral decisionmaker.

99. On information and belief, if the TSA Administrator determines that the individual should be removed from the No Fly List, only TSC has the authority to implement that decision.

100. The TSC's recommendation and reasons supporting that recommendation become part of the administrative record, as does any information the individual seeking redress chooses to provide. But TSC does not necessarily include all information relevant to its decision in the administrative record, and it does not necessarily include information TSC considered and then disregarded.

FIRST CLAIM FOR RELIEF

Violation of Procedural Due Process—Fifth Amendment to the U.S. Constitution

101. Defendants' placement of Plaintiff on the No Fly List interfered with and unreasonably burdened his ability to travel domestically and internationally.

102. Plaintiff has a protected liberty interest in traveling domestically and internationally to, from, within, or over U.S. airspace free from unreasonable burdens.

103. Plaintiff has the right to be free from false governmental stigmatization as an individual who is "known or suspected to be" a terrorist, or who is otherwise associated with terrorist activity, when that harm arises in conjunction with the deprivation of his liberty interest under the Fifth Amendment in travel free from unreasonable burdens.

104. Plaintiff was denied boarding on commercial flights, promptly sought to challenge his placement on the No Fly List, and is entitled to a constitutionally adequate legal process that provides him notice of the reason and bases for his placement on the No Fly List and a meaningful opportunity to contest that placement. Defendants have deprived Plaintiff of a meaningful opportunity to challenge his placement on the No Fly List through their unreasonable delay and failure to provide Plaintiff with (i) a full statement of the reason or bases on which Defendants relied to place and maintain him on the No Fly List; (ii) the evidence supporting that placement; (iii) any exculpatory evidence Defendants possess; (iv) the opportunity to challenge his placement through a live hearing before a neutral decisionmaker; and (v) other procedures as Due Process may require.

105. By failing to provide Plaintiff with a constitutionally adequate means to challenge placement on the No Fly List, Defendants have deprived Plaintiff of his protected liberty interests, and thus have violated Plaintiff's constitutional rights without affording him due process of law. Defendants will continue to do so if Plaintiff is not afforded the relief requested below.

SECOND CLAIM FOR RELIEF

Violation of Substantive Due Process—Fifth Amendment to the U.S. Constitution

106. Mr. Chebli has constitutionally projected liberty interests in travel and freedom from government-imposed stigma. Because Mr. Chebli is neither a known nor appropriately suspected terrorist, Defendants' conduct in placing and maintaining him on the No Fly List without any legitimate basis violates his right to substantive due process under the Fifth Amendment to the U.S. Constitution.

107. Defendants violated Mr. Chebli's constitutional rights and have caused an injury that is not justified by any legitimate government interest and that will continue to subject him to further harm absent the relief requested below.

THIRD CLAIM FOR RELIEF

Unconstitutional Vagueness—Violation of the Fifth Amendment to the U.S. Constitution

108. Defendants' No Fly List criteria are unconstitutionally vague under the Fifth Amendment to the U.S. Constitution, facially and as applied to Plaintiff, because they fail to provide Mr. Chebli or any individual with fair notice of what conduct is prohibited, they encompass constitutionally protected expression and association, and they invite arbitrary and discriminatory enforcement.

FOURTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706

109. Defendants' actions in placing Plaintiff on the No Fly List and in refusing to provide him with a constitutionally adequate process for obtaining redress for that placement constitute final agency action within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701 et seq.

110. Defendants' actions in instituting a process for contesting placement on the No Fly List that lacks adequate procedural protections and fails to provide timely and meaningful redress are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with the law, and contrary to constitutional rights, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

111. Defendants' failure to provide Plaintiff with notice of the reasons for his placement on the No Fly List, a meaningful opportunity to contest his placement on it, and the consequences thereof, are arbitrary, capricious, an abuse of discretion, otherwise not in accordance with the law, and contrary to constitutional rights, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

112. Because Plaintiff is neither a known nor appropriately suspected terrorist, Defendants' conduct in placing him on the No Fly List is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with the law, and contrary to constitutional rights, and should be set aside as unlawful pursuant to 5 U.S.C. § 706.

FIFTH CLAIM FOR RELIEF

Retaliation – Violation of the First Amendment to the U.S. Constitution

113. Plaintiff engaged in First Amendment-protected speech and activity when he abided by his personal ethical beliefs by repeatedly refusing to work for the FBI as an informant in his community despite Defendants' numerous attempts to compel him through repeated and persistent questioning, threats of surveillance and investigation, and other threats of adverse actions against him and his family.

114. Defendants' conduct in placing and maintaining Plaintiff on the No Fly List constitutes retaliatory action against Plaintiff for exercising his First Amendment-protected right

to refuse to work for the FBI as an informant in his community, and would dissuade a reasonable person in Plaintiff's position from exercising that right.

115. A causal connection exists between Plaintiff's protected right to refuse to work for the FBI as an informant, and the retaliatory action because of the very close temporal proximity between Plaintiff's protected activity and Defendants' adverse action of placing him on the No Fly List.

116. Defendants, acting in their official capacity and under color of authority, were and remain responsible for promulgating, implementing, maintaining, administering, supervising, compiling, or correcting the No Fly List. Defendants are tolerating and failing to remedy the use of the No Fly List to unlawfully retaliate against Plaintiff for the exercise of his constitutionally-protected rights.

117. As a result of Defendants' retaliation, Plaintiff suffered injury to his constitutional rights and will continue to suffer absent the relief requested below.

SIXTH CLAIM FOR RELIEF

Violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.*

118. Plaintiff holds a sincere religious belief that he must perform Hajj, a pilgrimage to Mecca, Saudi Arabia, in accordance with the tenets of his Muslim faith. Defendants' conduct in placing Plaintiff on the No Fly List substantially burdens his religious exercise because it bans him from international travel for this religious purpose.

119. Under RFRA, Defendants cannot impose a substantial burden on Plaintiff's exercise of religion unless they can establish that the burden is the least restrictive means of furthering a compelling government interest.

120. Defendants have no compelling interest in burdening Plaintiff's right to perform Hajj because Plaintiff is neither a known nor appropriately suspected terrorist and poses no threat to aviation security.

121. As a result of Defendants' actions, Plaintiff suffers injury to his fundamental religious exercise rights protected by RFRA and will continue to suffer injury absent the relief requested below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. A declaratory judgment that Defendants have violated Plaintiff's rights under the First and Fifth Amendments to the United States Constitution, the Administrative Procedure Act, and the Religious Freedom Restoration Act;
2. A declaratory judgment that the No Fly List criteria are unconstitutionally vague facially and as applied to Plaintiff under the Fifth Amendment and are therefore set aside;
3. An injunction that:
 - a. requires Defendants to remedy the constitutional and statutory violations identified above, including by removing Plaintiff from the No Fly List;
 - b. enjoins Defendants from re-adding Plaintiff to the No Fly List on any future date based on the same reasons and evidence on which Plaintiff's placement is currently based;
 - c. enjoins Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from applying the No Fly List criteria to Plaintiff and to all others; and

- d. requires Defendants to provide Plaintiff with a duly promulgated process that affords him complete and timely notice of the reasons and bases for his placement on the No Fly List and a meaningful opportunity to contest his placement;
4. An award of attorneys' fees, costs, and expenses of all litigation, pursuant to 28 U.S.C. § 2412; and
5. Such other and further relief as the Court may deem just and proper.

Dated: April 6, 2021

Respectfully submitted,

/s/ Hina Shamsi

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**Admission pending*