



# CAIR's Familiar Dance: Denial and Deflection in the Face of Scrutiny

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Program on  
Extremism

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The Council on American Islamic Relations (CAIR) is no stranger to twisting facts to fit their narratives, and late last week they did just that. On October 14, 2025, Senator Tom Cotton and Representative Elise Stefanik sent a letter to the Department of Treasury, requesting that Treasury initiate an investigation into CAIR, for any potential ties between CAIR and Hamas (the “Congressional Letter”).<sup>1</sup> CAIR responded with a letter of its own wherein it states, “CAIR is not and has never been an agent, affiliate, offshoot, subsidiary, supporter, partner, funder, representative, supporter, or pen pal of any militant group.”<sup>2</sup>

Doubling down on that narrative, CAIR stated that the Congressional Letter “regurgitates long-debunked conspiracy theories and guilt by association smears.” CAIR attacks the “Bush administration’s improper listing of over 250 organizations as unindicted co-conspirators in the deeply flawed and widely criticized trial of the Holy Land Foundation.” According to CAIR, the government’s identification of these groups as co-conspirators was ruled “unconstitutional” by the Fifth Circuit Court of Appeals.

Not quite. In 2004, the government brought criminal charges against the Holy Land Foundation for Relief & Development (HLF) and seven of its top officials, for their financial support of Hamas, a well-known designated Foreign Terrorist Organization. Prior to trial, the government submitted a trial brief that addressed potential legal issues that might arise during the trial, including the admission of out-of-court statements, commonly known as hearsay, specifically statements made during the course of the conspiracy. Federal Rule of Evidence 801(d)(2)(E) allows for the admission of relevant statements made by an uncharged co-conspirator if the government establishes that: a) there was a conspiracy; b) the defendant and the co-conspirator were members of the conspiracy; and c) the statements of the co-conspirator were made in furtherance of the conspiracy. If satisfied,

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<sup>1</sup> Letter from Sen. Tom Cotton and Rep. Elise M. Stefanik to Hon. Scott Bessent, Secretary of the Treasury, Oct. 14, 2025, <https://files.constantcontact.com/81b76c35801/4f8e2529-a69f-4745-87fa-6de3215c488d.pdf?rdr=true>

<sup>2</sup> Letter from Robert S. McCaw, Director of Government Affairs Department, Council on American-Islamic Relations to Hon. Scott Bessent, Secretary of the Treasury, Oct. 15, 2025, <https://islamophobia.org/wp-content/uploads/2025/10/CAIR-Letter-to-Treasury-Department-10-15-25-PDF.pdf>

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the court will allow the admission of the co-conspirator statements contingent upon the government's evidence at trial.

In the government's trial brief and an attached list, CAIR and others were identified as co-conspirators and joint venturers, and the brief and list were filed publicly.

CAIR and others sought relief from the Court and collectively, through separate motions, requested that their names be expunged from the any public filing of the list, a public declaration that its Fifth Amendment rights were violated, and an injunction preventing the government from identifying them as co-conspirators in any context except to the extent the Court allows. In its ruling, the District Court found that the list should have been filed under seal and the Court proceeded to seal its own order.<sup>3</sup> Significantly, however, the Court refused to expunge the entities names from the list and instead found that "the government has produced ample evidence to establish the associations of CAIR [and others] with HLF, the Islamic Association for Palestine ("IAP"), and with Hamas." In denying their request to expunge their names from the list, the District Court went on to hold that "maintaining the names of the entities on the List is appropriate in light of the evidence proffered by the Government."

One of the parties appealed the district court order, and the Appellate Court found that the government made a "procedural error" in failing to file the list under seal but that the government did not err in attempting to characterize the scope of the conspiracy or in attempting to lay the groundwork for the admission of co-conspirator statements, nor did the Appellate Court find the District Court abused its discretion in not expunging certain parties from the list. The Appellate Court only directed the District Court to unseal its order.<sup>4</sup>

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<sup>3</sup> Memorandum Opinion Order, *United States v. The Holy Land Foundation for Relief & Development, et al.*, 3:04-cr-240-P (N.D. Tex. July 1, 2009), Document #1356.

<sup>4</sup> *United States v. The Holy Land Foundation for Relief & Development et al., North American Islamic Trust, Movant-Appellant*, No. 09-10875 (5<sup>th</sup> Cir. Oct. 20, 2010), Document #113-1.

Whether the unindicted co-conspirator list should have been filed under seal or not is irrelevant. The procedural error by the government does not diminish the substantive evidence presented at trial as well as the District Court's ruling on CAIR's motion - that CAIR was associated with the HLF and others in supporting Hamas.