

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COURTNEY LINDE, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 04 2799 (NG/VVP)

PHILIP LITTLE, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 04 5449 (NG/VVP)

ORAN ALMOG, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 04 5564 (NG/VVP)

ROBERT L. COULTER, SR.,
FOR THE ESTATE OF JANIS
RUTH COULTER, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 05 365 (NG/VVP)

MICHAEL BENNETT, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 05 3183 (NG/VVP)

ARNOLD AND FRIMET ROTH, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 05 3738 (NG/VVP)

GILA AFRIAT-KURTZER, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 05 388 (NG/VVP)

STEWART WEISS, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 05-1623 (NG/VVP)

JOSEPH JESNER, et al.

Plaintiffs,

-against-

ARAB BANK, PLC,

Defendant.

Case No. CV 06-3869 (NG/VVP)

**DEFENDANT’S MOTION FOR ISSUANCE OF LETTERS
OF REQUEST TO PERMIT PRODUCTION
OF DOCUMENTS PROTECTED BY FOREIGN FINANCIAL PRIVACY LAWS**

Defendant Arab Bank, plc (“Arab Bank” or the “Bank”), appearing through undersigned counsel, hereby submits this motion for issuance of Letters of Request, in the form attached hereto as Exhibits 1-3, addressed to courts of the Palestinian Authority, the Hashemite Kingdom of Jordan, and the Republic of Lebanon.

In support of this motion, Arab Bank states as follows:

I. APPLICABLE FINANCIAL PRIVACY LAWS

Plaintiffs in these actions seek discovery and production of certain classes of documents, as set forth in plaintiffs’ discovery requests, in order to pursue their claims against Arab Bank for, among other things, alleged rendering of material assistance to acts of international terrorism. Plaintiffs and the Bank agree that there is no dispute that certain classes of the documents in question are covered by financial privacy laws in force in the Palestinian Territories, the Hashemite Kingdom of Jordan and the Republic of Lebanon. (July 20, 2006 Tr., at 40:1-14.) Those laws forbid the disclosure of certain information relating to banking activities and, *inter alia*, impose criminal penalties for improper disclosure. Specifically, Article 26 of Palestinian Monetary Law No. 2, enacted in 2002, provides that:

All present and former directors and employees of the banks shall keep confidential all information, and documents regarding their customers. The directors and employees of the banks are prohibited from informing third parties of any information or permitting these third parties to have access to it unless: (A) The customer waives the bank secrecy in writing, or (B) a judicial decision has been rendered. Any person who violates the provisions of this article will be punished pursuant to the sections mentioned in this law.

Articles 72 through 75 of the Jordanian Banking Law No. 28 of 2000 impose “Banking Confidentiality” duties on financial institutions. Article 72 provides that:

A bank shall observe full confidentiality regarding all accounts, deposits, trusts, and safe-deposit boxes of its customers, it shall be prohibited from providing directly or indirectly any information thereon except upon a written consent of the owner of such account, deposit, trust or the safe-deposit box, or an heir of his, upon decision issued by a competent judicial authority in a current litigation, or due to one of the permissible situations pursuant to a provision of this law. This prohibition shall remain in effect even if the relationship between the bank and the client has terminated for any reason whatsoever.

Article 73 provides that:

All present and former administrators of the bank shall be prohibited from providing any information or data on the clients or their accounts, deposits, trusts, safe-deposit boxes, or any of their transactions, or disclosing or enabling others to have access to such information and data in situations other than those permitted under this law. Such prohibition shall apply to anyone who by virtue of his profession, position or work, directly or indirectly, may have access to such information and data, including employees of the Central Bank and auditors.

No “permissible situation” applies to permit disclosure of the documents in the instant cases.

(Art. 74.)

In Lebanon, Article 2 of the Law of September 3, 1956, provides that

Managers and employees of the banking establishments referred to in article 1 as well as all persons who, through their position of function, by one means or another, have knowledge of the bank’s books, operations and correspondence, are bound to absolute secrecy in favor of the bank’s clients and may not disclose to

anyone whatsoever, whether a private individuals or an administrative military or judicial authority, the names of clients, their assets and facts of which they are aware, except with the written authorization of the client of his heirs or legatees, or in the case he is declared bankrupt, in the event of a dispute between the clients and the bank resulting from banking relations.

These provisions on their face apply to information and documents that the Court has ordered produced in its March 3, 2006 Document Production Order. The Bank has notified the Court of the categories of documents covered by that Production Order yet subject to foreign bank secrecy laws, and the Court is considering Plaintiffs' motions requesting the Court to overrule Arab Bank's bank secrecy objections.¹

II. PROCEDURAL BACKGROUND

As the Bank has reported to the Court, it has undertaken substantial efforts to obtain permission to disclose the documents and information requested by plaintiffs. The Court has recognized the good faith efforts of the Bank. The Bank wishes to continue to pursue all available means to obtain relevant documentation without violating the laws in countries in which the Bank operates.

Early in these cases, Arab Bank sought permission from the relevant authorities to disclose documents and information notwithstanding the financial privacy laws of the Palestinian Authority, Jordan and Lebanon. Specifically, the Bank retained local counsel in the Palestinian Territories, Jordan and Lebanon. Local counsel, in coordination with the Bank's U.S. counsel, prepared and submitted requests for consent to disclosure to the appropriate authorities, including local courts and/or regulatory authorities, which considered and acted on the Bank's applications.

¹ By filing this motion and seeking legal authority to produce documents covered by local financial privacy laws in the Palestinian Authority, the Hashemite Kingdom of Jordan, and Lebanon, Arab Bank in no way intends to waive, withdraw or otherwise alter its objections to the plaintiffs' discovery requests, which objections are incorporated herein by reference and reasserted.

Palestinian Authority. By order dated October 1, 2005, the Court of First Instance of Ramallah denied an application by Arab Bank seeking permission to disclose account records that were the subject of this Court's July 27, 2005 Production Order (Docket No. 81). The Bank appealed that ruling to the Appellate Court in Ramallah, which confirmed the ruling of the Court of First Instance on June 17, 2006. A further appeal to the Court of Cassation is proceeding. Additionally, on October 5, 2005, Arab Bank sought permission directly from the Palestinian Monetary Authority ("PMA") itself to authorize disclosure of the account records subject to the Court's July 27, 2005 Production Order. On October 19, 2005, the PMA denied Arab Bank's request.

Jordan. In Jordan, the Bank made an initial application to the Jordanian court of original jurisdiction for permission to disclose records of a single bank account in Jordan that was the subject of this Court's Production Order of July 27, 2005. That application was granted on September 27, 2005. The Court's decision was challenged, however, by the individual account holder, and was reversed by the Jordanian Appellate Court in Amman on October 9, 2005.

Lebanon. In Lebanon, the Bank applied for permission from the Lebanese Special Investigation Commission ("LSIC") to disclose information relating to a single bank account in Lebanon that was the subject of this Court's July 27, 2005 Production Order, as well as a subsequent Stipulation of the parties signed by the Court on November 8, 2005 (Docket No. 20). On January 25, 2006, the LSIC granted Arab Bank's application, and records from the account in question have been produced to plaintiffs.

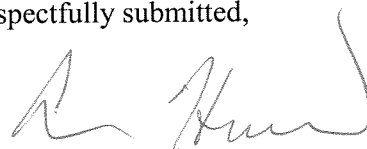
In light of Arab Bank's limited success, despite extensive efforts to obtain permission to disclose account records covered by foreign financial privacy laws, the Court has suggested at two recent status conferences that an official request by the Court for judicial

assistance transmitted by the United States Department of State to the appropriate governmental entities in the Palestinian Territories, the Hashemite Kingdom of Jordan and the Republic of Lebanon may be more successful in obtaining permission for Arab Bank to disclose information. Arab Bank wishes to pursue all available means to be able to comply with this Court's orders without breaching the criminal laws of other states, including its home jurisdiction. Accordingly, Arab Bank respectfully requests that this Court approve and sign the attached Letters of Request, and process them through the appropriate channels of the U.S. Department of Justice, or the Administrative Office of Courts, and the U.S. Department of State for transmission to the courts of the Palestinian Authority, the Hashemite Kingdom of Jordan and the Republic of Lebanon.

WHEREFORE, Defendant respectfully requests that this motion be granted, that the attached Letters of Request be executed by this Court, authenticated by the Clerk, and transmitted to the appropriate office of the U.S. Department of Justice for further authentication and subsequent transmission to the courts of the Palestinian Authority, the Hashemite Kingdom of Jordan and the Republic of Lebanon.

Dated: October 20, 2006
New York, New York

Respectfully submitted,



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