

THE CASE OF RICHARD A. CHICHAKLI

FACTS:

1. On April 26 2005 The Office of Foreign Assets Control (OFAC) determined that Richard A. Chichakli (Chichakli) is subject to Executive Order 13348 (EO), and accordingly froze his assets and named him as a Specially Designated National (SDN).
2. The name of Richard A. Chichakli did not appear in the Annex of the Executive Order 13348 and it was not the president of the United States who made the determination that Chichakli should be subject to the EO. It should be clear that OFAC is solely responsible for making the determination and subjecting Chichakli to the said EO nine months after its issuance, and therefore, OFAC is the party that may have made an error in making such determination.
3. OFAC declared that Richard Chichakli was determined to be subject to EO-13348 by OFAC's own assessment, because he is acting or purporting to act, directly or indirectly, for or on behalf of Viktor Bout (Bout), a person whose name appeared in the Annex of EO-13348, AFTER July 13, 2004 being the day the EO in concern was issued.
4. Chichakli was not questioned nor was he afforded the opportunity to provide evidence and defend himself prior to the issuance of OFAC's determination, and the closing of his business, and freeze of his assets.
5. Richard Chichakli had categorically and repeatedly denied that he is acting or purporting to act, directly or indirectly, for or on behalf of Viktor Bout after 7/13/2004, the day Bout was designated under the EO and he communicated his denial to OFAC on several occasions.
6. Richard Chichakli was a practicing CPA in good standing in the State of Texas, an honorably discharged disabled US Army veteran with no prior conviction of any crime, and an upstanding member of the community.
7. The evidences provided by OFAC to Chichakli as justification for his designation consists mainly of magazine articles and entries found on the Internet. All of which are based on hear-say and are untraceable to any person who can stand in court and testify under oath to have first-hand knowledge.
8. When speaking to the media about Bout, Chichakli clearly identified himself as a "friend and brother" and has never presented himself as the spokesperson of Bout or a representative or agent to Bout or any of his businesses contrary to OFAC's allegation. Chichakli's statement of opinion is a protected right under the US Constitution. Furthermore,
9. OFAC did not produce a single proof supporting its allegations or showing evidence that Chichakli has violated the EO signed in July 2004, and all the evidence used by OFAC is dated several years before Bout was designated.
10. Prior to the issuance of the EO there was not any legal reason barring American entities from doing business with Bout.

11. On 4/26/2005, the day Chichakli was designated, OFAC supported by FBI raided the residence and the offices of Richard Chichakli and seized all records, documents, and computers in the absence of Chichakli and has denied the Plaintiff since then access to any of his documents, records, and files needed for his defense.
12. On 4/26/2005, the day Chichakli was designated, OFAC froze all of Chichakli's personal and business assets and all of his personal and businesses bank accounts and since that date has denied him access to any fund to maintain his living expenses, or medical expenses, or legal expenses, or to pay for utilities, property taxes or homeowners association dues.

Repudiation of OFAC's allegations:

Plaintiff contends that OFAC's allegations that Chichakli is acting or purporting to act, directly or indirectly, for or on behalf of Bout are invalid, groundless, and unsupported by any valid evidence because:

- 1) All the evidence provided by OFAC to substantiate its decision to designate Chichakli were dated 10 to four years prior to the designation of Bout in July of 2004, particularly:**
 - a. OFAC based its designation mainly on the UN report S/2000/1225 and which alleged that Chichakli was an employee of Bout for more than a decade on the date it was issued being 12/18/2000
 - i. The UN report S/2000/1225 was issued 4-years prior to the date of the EO and the designation of Bout
 - ii. The information stated in the UN report S/2000/1225 about Chichakli's alleged employment/association with Bout is invalid and incorrect given:
 1. Richard Chichakli was not an employee or associate of Bout as alleged because it is proven with conclusive evidence that during the stated decade which ended in 2000, Chichakli was:
 - a. Serving on active duty in the United States Army from 1990 to 1993
 - b. Employed as General Manager for Al-Agroobi, a private enterprise in the United Arab Emirates in 1994
 - c. Employed as Commercial Manager for Sharjah Free Zone Authority, a government entity of the United Arab Emirates in 1995 and 1996
 - d. Full-time student in Dallas County Community Colleges in the United States in 1997 and half of 1998
 - e. Full-time student at the University of Texas at Dallas in 1998, and part-time student in 1999 and 2000

- f. Employed as an accountant on a part-time basis by Account Temps in the Dallas area in the years 1997, 1998, and 1999
 - g. Part-time student of Collin County Community College district in 1997
 - h. Employed by the United States Department of Justice – INS, on full-time basis in 1998
 - i. The owner and operator of Daytona Pools, Inc, a swimming pool maintenance service company in the Dallas-Ft Worth area in 1998
 - j. Full-time practicing CPA in the State of Texas personally serving hundreds of tax, payroll, and bookkeeping clients from two offices in Plano, Richardson, and Grand Prairie since 1999
 - k. Part-time faculty at Collin County Community College district in 2000
 2. It is impossible for Chichakli to be, as OFAC alleged, the key-manager directing the day-to-day activities of a business empire located overseas while he was in the US.
 3. OFAC alleged that its argument is based on an unsigned resume for the Plaintiff stating that Chichakli was an employee of Bout in 1997. Plaintiff contends that despite the alleged date of employment being 1997, seven years prior to the designation of Bout, the allegation of such employment cannot be true or valid because during that time Chichakli was in the US not in South Africa as proven by:
 - a. travel records
 - b. school attendance records
 - c. employment and tax records
 4. The information stated in the UN report S/2000/1225 was included without verification or substantiation in violation of the “evidence rule” stated in paragraph-6 of the report itself
 5. Chichakli was not interviewed, questioned, or given the opportunity to prove the falsity of the allegations stated in the said UN report, contrary to what was stated by the reporting entity in the report itself
- b. In response to OFAC’s allegation of Chichakli being an officer of San Air, one entity of Bout that allegedly violated sanctions against Liberia, the Plaintiff contends:
 - i. Chichakli established a branch of San Air General Trading (SanAir-UAE) in the US at the request of Bout in June of 2000,

4 years prior to the date of the EO and the designation of Bout, and six months prior to the issuance of the questionable UN report S/2000/1225

- ii. The purpose of establishing the US branch was to manufacture aircraft interior plastic panels as clearly stated in the application form filed by Chichakli with the Secretary of State
 - iii. In June of 2000 there was no legal reason barring dealing with Bout, nor was there any available information or report alleging the involvement of SanAir-UAE in any questionable activities.
 - iv. The US branch of SanAir as can be proven by records, did not participate in any of the activities of SanAir-UAE, nor was it used to conduct any financial or commercial activities on behalf of SanAir-UAE
 - v. Chichakli is not an employee or director of SanAir-UAE and he was not aware, nor can he become aware of the on-going activities of SanAir-UAE. Chichakli established the branch of the company at the request of Bout, similar to what he customarily does in his business. The CPA office of Richard Chichakli has created hundreds of companies on behalf of clients in the State of Texas
 - vi. Chichakli was not ever an officer or director of SanAir-UAE, and had never participated in the financial activities of SanAir-UAE, nor has he sent or received payment or money for or on behalf of SanAir-UAE.
 - vii. None of the payments OFAC alleged to have been made to SanAir-UAE for the alleged illegal activities were passed, received, serviced, or maintained in the account of SanAir-USA
 - viii. Chichakli has never, directly or indirectly, been involved in managing or participating in the business conducted by SanAir-UAE, and has never, directly or indirectly, communicated, assisted, serviced, or signed for or on behalf of SanAir-UAE for any of the alleged questionable transactions.
 - ix. SanAir USA maintained one bank account at the Community Credit Union in Richardson and which records can clearly substantiate Plaintiff's statement and refute OFAC's allegations.
 - x. SanAir-USA was a shelf-company that had no offices, no employees, and no telephone service
- c. OFAC further alleged that Chichakli's businesses in the State of Texas are "Front Companies" to Bout businesses, controlled by Bout, or maintain interest for Bout and accordingly froze these businesses and disposed of their assets during the course of investigation, and prior to issuing its final determination. OFAC did not provide any valid evidence to this allegation and Plaintiff contends that:

- i. All of the businesses owned by Chichakli are his own alone or along with his wife or the partners stated in the Corporate and tax documents.
- ii. None of the businesses controlled by Chichakli maintain interest whatsoever, nor are they related by any means to Victor Bout
- iii. None of the businesses are controlled by or associated with any designated person, nor are they engaged or associated in any questionable or illegal activities, and that at the day they were frozen they were all in good standing, had paid all taxes and filed all required reports
- iv. All of these businesses maintain complete, correct, and detailed record of all its activities and such records are supported by third-party corroborations

2) I, Richard Chichakli hereby affirm that OFAC's allegations that I have presented my self to he media to be a spokesperson for Victor Bout and/or his organization or businesses are false and groundless because:

- a. During every interview I had with he media I never presented myself as a spokesperson or agent of Victor Bout or his businesses
- b. I was always clear in stating hat Victor Bout was a person I met in my course of work and he was to me a friend and a brother
- c. Victor Bout was and still is a person who has not been indicted or tried for any wrong doing, and my notion that he is innocent until proven guilty is a statement of opinion protected under the United States constitution
- d. I further contend hat OFAC statement is groundless and cannot be supported by evidence, nor was presented any evidence by OFAC in support of its allegations