

Chadbourne, Boies Square Off as U.S. Guards Iran Secrets

By Jan Wolfe

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Abbe Lowell of Chadbourne & Parke and Lee Wolosky of Boies, Schiller & Flexner LLP are no strangers to sensational, high-profile cases. Exhibit A: the defamation lawsuit that Greek billionaire Victor Restis brought against the powerful nonprofit United Against Nuclear Iran, which was thrown back into the headlines over the weekend by the government's plea to toss the case.

The case has always been one to watch. Not only did Restis demand billions of dollars in damages from UANI, but the litigation may shed light on whether Restis and other wealthy businessmen are illegally helping the Republic of Iran export oil, as UANI has alleged as part of a "name and shame" campaign.

Things got even more interesting on Friday, when the U.S. government urged a judge to throw out the case based on the state secrets privilege. In a motion filed on Friday in federal court in Manhattan, the U.S. Department of Justice argued that it should be allowed to intervene in the case for purposes of seeking its dismissal. The government claims that discovery in the case could lead to the disclosure of confidential information relating to national security.

Wolosky, who represents UANI, didn't comment on the government intervention in statement he issued on Saturday. But Lowell, who represents Restis, told Politico that UANI has no defense and is hoping the government will make the case disappear. "The bigger question now turns to why the government is doing UANI's bidding and exactly what relationship UANI has with the government, other countries and its web of undisclosed financial supporters," Lowell said.

Civil liberties groups are already accusing the government of overreach. There's some precedent for the Justice Department invoking the state secrets privilege to shut down litigation between private parties, but its interest is usually clear-cut. For instance, in 1978, after a government scientist sued Penthouse for defamation because it accused him of espionage, the government invoked the privilege to protect its confidential research. In *Restis v. United against Nuclear Iran*, it's not apparent why the government wants to shield UANI's files.

"I have never seen anything like this," American Civil Liberties lawyer Ben Wizner told The New York Times. "If there's something in their files that would disclose a state secret, is there any reason it should be in their files?"

The government's involvement is also likely to fuel speculation that UANI, a private organization, is cozy with government officials in the U.S. and abroad. Founded in 2008, UANI lobbies for legislation and economic sanctions to thwart Tehran's nuclear ambitions. It also publicly shames companies that it believes are doing business with Iran's government. UANI's advisory board includes former politicians and



Lee Wolosky

leaders of intelligence agencies in the U.S., Europe and Israel.

In a May 2013 public letter, UANI alleged that two of Restis' companies are providing shipping and financial services to the Iranian regime and facilitating its oil industry. UANI says that Restis didn't respond to requests that it refute ties to Iran and permit an audit of his businesses.

Chadbourne's Michael Bhargava and Kerrie Campbell (formerly of Manatt Phelps & Phillips) sued UANI on Restis' behalf in July 2013. Alleging "reputation destruction tactics," their complaint pegged damages at more than \$3 billion.

Despite being the plaintiff, Restis offered earlier this year to pay UANI \$400,000 to make the case go away. Restis also offered to appoint one of UANI's leaders, former diplomat Mark Wallace, on the board of his shipping company. As Alison Frankel of Reuters reported, Restis says it proposed the payment because it supports humanitarian efforts in Iran. Wolosky of Boies Schiller blasted the settlement overtures, writing in a letter to U.S. District Judge Edgardo Ramos in Manhattan that Restis is worried about discovery revealing the true extent of business dealings with Iran.

In a statement on UANI's website, Wolosky and cocounsel Brian Stack of Stack Fernandez Harris & Anderson indirectly responded to accusations that the organization is too cozy with foreign officials. The duo wrote that "no UANI advisory board member was consulting in connection with or direct any of UANI's concerns relating to Restis' Iran dealings." They also wrote that UANI hasn't received donations from foreign individuals.