

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

-----

ASSOCIATION OF EGYPTIAN  
AMERICAN SCHOLARS INC.,  
MOHAMED ATTALLA, MOHAMED  
HEGAB TAWFIK AYOUB, and ALY  
MANSOUR,

Plaintiffs,

v.

LOTFI GERIESH, and  
MAHMOUD FAWZY WAGDY,

Defendants.

-----

ORDER

09-cv-772-bbc

Plaintiffs Association of Egyptian American Scholars Inc., Mohamed Attalla, Mohamed Hegab, Tawfik Ayoub and Aly Mansour have brought a civil action for injunctive and monetary relief against defendants Lotfi Geriesh and Mahmoud Fawzy Wagdy, alleging that defendants took the association's funds and held themselves out falsely as representatives of the Association of Egyptian American Scholars.

ALLEGATIONS OF COMPLAINT

From the allegations of the complaint it appears that plaintiff association is a nonprofit corporation formed under Wisconsin law, operating in California and made up of scholars of Egyptian background. The stated mission of the association is to create a forum for scholars to encourage dialogue with their Egyptian counterparts to implement scholarly endeavors. Plaintiffs allege that in 2009, the association had an election of officers and that defendant Gereish was a candidate but was not elected. Since then, plaintiffs say, he has refused to turn over the association funds he controls and has informed association members that he was elected president. Plaintiffs add that defendants have made false statements to third parties that the present officers of the association are not members of the association and do not have authority to speak for it, that defendant Geriesh has suggested the duly-elected vice president will be subject to criminal charges and that Geriesh filed a false document with the Wisconsin Department of Financial Institutions that showed defendant Wagdy as the vice president of the association, when in fact plaintiff Attalla was the properly elected vice president at the time.

Plaintiffs allege that both defendants have disseminated false mailings to association members misrepresenting the association and have created a false and misleading website that purports to be the official web address of the plaintiff association. Plaintiffs add that defendants have deceived the public about the origin, sponsorship and approval of association services and commercial activities, all in violation of 15 U.S.C. §§ 1125 and

1116.

The case is before the court on defendant Wagdy's motion, filed under Fed. R. Civ. P. 12(b)(2), to dismiss for lack of personal jurisdiction. Defendant contends that he is not subject to the jurisdiction of any court sitting in Wisconsin because he does not live here, was not served here, does not have substantial, continuous and systematic contacts with the state and has never carried on any solicitation or service activities within this state. In response, plaintiffs contend that defendant Wagdy is subject to service under subsection (8) of Wis. Stat. § 801.05, Wisconsin's long-arm statute because he is listed with the Wisconsin Department of Financial Institutions as a director or officer of the Association of Egyptian-American Scholars, Inc., a Wisconsin corporation. Plaintiffs have attached a photocopy of a report filed in 2009 and signed by defendant Geriesh, showing Wagdy as a vice president and director of the association.

In his reply brief, defendant Wagdy denies ever having held himself out as being an officer or director of the association, or filed any documents with the Wisconsin Department of Financial Institutions relating to the association. He says that he never authorized anyone to file a document showing him to be an officer or director and he has filed a supplemental declaration in support of his allegations.

## DISCUSSION

On a motion to dismiss for lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2), the burden of proof rests on the party asserting jurisdiction. Hyatt International Corp. v. Coco, 302 F.3d 707, 713 (7th Cir. 2002). Unless the court holds an evidentiary hearing, a party meets this burden by making a prima facie showing that personal jurisdiction exists. Id. In other words, plaintiff may defeat the motion by a good faith pleading of legally sufficient allegations. Janzi v. Nissan Motor Co., Ltd., 148 F.3d 181, 184 (2d Cir. 1998). In deciding whether a plaintiff has made the necessary showing, the court may rely on the allegations of the complaint and also may receive and weigh affidavits submitted by the parties. Nelson v. Park Industries, Inc., 717 F.2d 1120, 1123 (7th Cir. 1983). All allegations are construed in the light most favorable to the plaintiffs, meaning that all undenied factual assertions in plaintiffs' submissions are accepted and all disputes concerning the relevant facts are resolved in favor of the plaintiffs. Id. at 1123.

Although one could argue that plaintiffs' filing of the Department of Financial Institutions report suffices to make a prima facie showing of personal jurisdiction over defendant Wagdy, I believe the matter should be set for an evidentiary hearing to resolve the issue. At the hearing, plaintiffs will bear the burden of proving that it more probable than not that defendant Wagdy played a part in defendant Geriesh's filing of the document with the department or acquiesced, explicitly or implicitly, to the use of his name as an officer and director of the association.

ORDER

IT IS ORDERED that an evidentiary hearing on defendant Mahmoud Fawzy Wagdy's motion to dismiss for lack of personal jurisdiction will be held in courtroom 260 of the courthouse on July 29, 2010 at 9:00 a.m.

Entered this 14th day of June, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge