

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JAMES OWENS, et al.

Plaintiffs,

v.

TALIBAN a/k/a ISLAMIC EMIRATE OF
AFGHANISTAN

Defendant.

Civil Action No. 22-1949 (VEC)

**DECLARATION OF MATTHEW D. MCGILL
IN SUPPORT OF THE MOTION TO CONFIRM THE ORDER OF ATTACHMENT**

I, Matthew D. McGill, hereby declare as follows:

1. I am a partner at the law firm of Gibson, Dunn & Crutcher LLP, in Washington, D.C., and counsel for Plaintiffs in the above-captioned action. I am admitted to practice in the United States District Court for the Southern District of New York. I am over the age of 18, I have personal knowledge of the facts stated herein, and if called to testify, I could and would competently testify to these facts. I make this declaration in support of Plaintiffs' Motion to Confirm the Order of Attachment.

2. On March 8, 2022, Plaintiffs made an *Ex Parte* Emergency Motion for Order of Attachment under Federal Rule of Civil Procedure 64 and New York Civil Practice Law and Rules §§ 6201, 6211, and 6212. *See* Dkt. 4.

3. On March 21, 2022, this Court granted an Order of Attachment, ordered the U.S. Marshal to levy \$1,373,761,042.95 in funds held in the name of Da Afghanistan Bank at the Federal Reserve Bank of New York, and directed Plaintiffs to post a \$10,000 undertaking within fourteen days. The Court further directed that Plaintiffs move for confirmation of the order of

attachment ten days after the U.S. Marshal executed the levy. *See* Dkts. 32–33.

4. On March 22, 2022, Plaintiffs submitted the Order of Attachment to the U.S. Marshals Service and formally requested that it execute the levy upon the Federal Reserve Bank of New York.

5. On March 31, 2022, Plaintiffs timely posted the \$10,000 undertaking. Dkt. 37.

6. On April 21, 2022, the U.S. Marshal levied \$1,373,761,042.95 in funds held in the name of Da Afghanistan Bank at the Federal Reserve Bank of New York. Attached hereto as **Exhibit 1** is a true and correct copy of the process receipt and return from the U.S. Marshals Service.

7. The facts in support of this motion include those set forth in the Declaration of Matthew D. McGill in Support of the *Ex Parte* Emergency Motion for Order of Attachment and the accompanying exhibits. Dkt. 6.

8. In further support of the Motion to Confirm Order of Attachment, I am submitting the following exhibits:

a. Attached hereto as **Exhibit 2** is a true and correct copy of a statement made by President Biden about the War in Afghanistan. White House, *Remarks by President Biden on the End of the War in Afghanistan* (Aug. 31, 2021).

b. Attached hereto as **Exhibit 3** is a true and correct copy of a publication in the Texas National Security Review. Theo Farrell, *Unbeatable: Social Resources, Military Adaptation, and the Afghan Taliban*, 1 Tex. Nat'l Sec. Rev. 59 (2018).

c. Attached hereto as **Exhibit 4** is a true and correct copy of an article published by the New York Times on February 6, 2011. C.J. Chivers, *In Eastern Afghanistan, at War With the Taliban's Shadowy Rule*, N.Y. Times (Feb. 6, 2011).

d. Attached hereto as **Exhibit 5** is a true and correct copy of a the Expert Declaration of Alex B. Zerden, an expert consultant to the plaintiffs in *Havlish v. Taliban*, Case No. 03-cv-09848 (S.D.N.Y.), dated March 20, 2022, which was filed in that case as Dkt. 600.


9. As set forth in the accompanying memorandum of law and the documents submitted in support of the Motion, Plaintiffs readily meet the requirements under CPLR § 6211(b) for confirmation of the Attachment Order. Aside from the initial motion for an order of attachment filed on March 8, 2022, Plaintiffs have made no other applications for the relief requested in the Motion to Confirm Attachment Order, and no provisional remedy, aside from the Attachment Order, has been secured or sought in this action against the Taliban.

10. I remain unaware of any counterclaim that the Taliban might have against any of the Plaintiffs in any context or forum. Accordingly, the amount owed by the Taliban exceeds all potential known counterclaims. I remain equally unaware of any grounds upon which the Taliban could formulate a cause of action against any of the Plaintiffs and no demand has been made on any of the Plaintiffs by the Taliban in connection with any potential cause of action. Thus, the amount sought by Plaintiffs to be attached exceeds all claims known to me.

* * *

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 2, 2022
Washington, D.C.


Matthew D. McGill