

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

AMERICAN FREEDOM DEFENSE
INITIATIVE; PAMELA GELLER; and
ROBERT SPENCER,

Plaintiffs,

-v.-

METROPOLITAN TRANSPORTATION
AUTHORITY (“MTA”); THOMAS F.
PRENDERGAST, individually and in his official
capacity as Chairman and Chief Executive
Officer of the MTA; and JEFFREY B. ROSEN,
individually and in his official capacity as the
Director of the MTA Real Estate Department,

Defendants.

Case No. 14-cv-7928

COMPLAINT

[42 U.S.C. § 1983]

Plaintiffs American Freedom Defense Initiative (hereinafter referred to as “AFDI”), Pamela Geller, and Robert Spencer (collectively referred to as “Plaintiffs”), by and through their undersigned counsel, bring this Complaint against Defendants Metropolitan Transportation Authority (“MTA”), Thomas F. Prendergast, Chairman and Chief Executive Officer of the MTA, and Jeffrey B. Rosen, Director of the MTA Real Estate Department (hereinafter collectively referred to as “Defendants” or “MTA”), their employees, agents, and successors in office, and in support thereof allege the following upon information and belief:

INTRODUCTION

1. This case seeks to protect and vindicate fundamental constitutional rights. It is a civil rights action brought under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983, challenging Defendants’ restriction on Plaintiffs’ right to engage in protected speech in a public forum created by Defendants based on the content and viewpoint of Plaintiffs’ message. Defendants prohibited Plaintiffs from displaying an advertisement (hereinafter referred to as the “*Hamas Killing Jews Advertisement*”) on MTA

property based on Defendants' assertion "that it is reasonably foreseeable that the display of the 'Killing Jews' ad in its current form at this time would 'imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations'" in violation of MTA's advertising standards (hereinafter "Advertising Standards"), which operate as a prior restraint on Plaintiffs' speech (hereinafter "Speech Restriction").

2. Plaintiffs seek a declaration that Defendants violated their clearly established constitutional rights as set forth in this Complaint; a declaration that Defendants' Speech Restriction violates the United States Constitution and 42 U.S.C. § 1983 as set forth in this Complaint; a preliminary and permanent injunction enjoining the enforcement of Defendants' Speech Restriction as set forth in this Complaint; and nominal damages for the past loss of Plaintiffs' constitutional rights. Plaintiffs also seek an award of reasonable costs of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and other applicable law.

JURISDICTION AND VENUE

3. This action arises under the Constitution and laws of the United States. Jurisdiction is conferred on this court pursuant to 28 U.S.C. §§ 1331 and 1343.

4. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this court. Plaintiffs' claim for nominal damages is authorized by 42 U.S.C. § 1983.

5. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

PLAINTIFFS

6. Plaintiff AFDI is a nonprofit organization that is incorporated under the laws of the State of New Hampshire. AFDI is dedicated to freedom of speech, freedom of conscience, freedom of religion, and individual rights.

7. AFDI achieves its objectives through a variety of lawful means, including through the exercise of its right to freedom of speech under the United States Constitution.

8. AFDI exercises its right to freedom of speech and promotes its objectives by, *inter alia*, purchasing advertising space on transit authority property in major cities throughout the United States, including New York City. AFDI purchases these advertisements to express its message on current events and public issues, including issues such as Islam's hatred of Jews (hereinafter referred to as "AFDI's advertising campaign").

9. Plaintiff Pamela Geller is the president of AFDI, and she engages in protected speech through AFDI's activities, including AFDI's advertising campaign.

10. Plaintiff Robert Spencer is the vice president of AFDI, and he engages in protected speech through AFDI's activities, including AFDI's advertising campaign.

DEFENDANTS

11. Defendant MTA is a public benefit corporation created by New York state law. It operates buses, subways, and regional rail lines in and around New York City.

12. As a governmental agency, the MTA is mandated to comply with the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. For purposes of claims arising under 42 U.S.C. § 1983, the MTA is treated as a municipal agency when determining its liability.

13. At all relevant times herein, Defendant Thomas F. Prendergast was and is the

Chairman and Chief Executive Officer of the MTA. In his capacity as Chairman and Chief Executive Officer, Defendant Prendergast, on behalf of the MTA Board of Directors, was and is responsible for adopting, creating, and enforcing the policies and practices of the MTA, including the MTA's Advertising Standards, which were used to restrict Plaintiffs' Hamas Killing Jews Advertisement as set forth in this Complaint.

14. At all relevant times herein, Defendant Jeffrey B. Rosen was and is the Director of the MTA Real Estate Department. In his capacity as Director of the MTA Real Estate Department, Defendant Rosen was the final decision maker responsible for rejecting the Hamas Killing Jews Advertisement and thus restricting Plaintiffs' speech as set forth in this Complaint.

STATEMENT OF FACTS

15. The MTA, through its advertising agent, CBS Outdoor Americas Inc. (a/k/a CBS Outdoor) (hereinafter "CBS Outdoor"), leases space on its vehicles and transportation stations for use as advertising space.

16. The MTA accepts commercial and noncommercial public-service, public-issue, political-issue, and religious-issue advertisements, including controversial advertisements addressing these issues, for display on its advertising space.

17. Accordingly, Defendants permit, as a matter of policy and practice, a wide variety of commercial, noncommercial, public-service, public-issue, political-issue, and religious-issue advertisements on its advertising space (hereinafter "Free Speech Policy").

18. For example, the MTA has displayed on its buses the following advertisements conveying a message and viewpoint on various public issues:

IN ANY WAR BETWEEN THE CIVILIZED MAN AND THE SAVAGE, SUPPORT THE CIVILIZED MAN.

SUPPORT ISRAEL
DEFEAT JIHAD

PAID FOR BY THE AMERICAN FREEDOM DEFENSE INITIATIVE
ATLASSHRUGS.COM SIOAONLINE.COM JIHADWATCH.COM



CHRISTIANS ARE BECOMING EXTINCT EVERYWHERE IN THE MIDDLE EAST EXCEPT ISRAEL

2/3s OF ALL US FOREIGN AID GOES TO ISLAMIC COUNTRIES. END US AID TO ISLAMIC COUNTRIES.

IslamicApartheid.org AFDI.us

"HAMAS IS USING CIVILIANS AS HUMAN SHIELDS. WE USE MISSILES TO PROTECT OUR PEOPLE. THEY USE THEIR PEOPLE TO PROTECT THEIR MISSILES."

-Israeli Prime Minister Netanyahu

SUPPORT ISRAEL
DEFEAT JIHAD

AFDI.US



ISLAMIC JEW-HATRED: IT'S IN THE QURAN

TWO THIRDS OF ALL US AID GOES TO ISLAMIC COUNTRIES

STOP THE HATE

END ALL AID TO ISLAMIC COUNTRIES

IslamicJewHatred.com

Adolf Hitler and his staunch ally, the leader of the Muslim world, Haj Amin al-Husseini

19. By policy and practice, the MTA's advertising space is a designated public forum for the display of public-service, public-issue, political-issue, and religious-issue advertisements,

including Plaintiffs' Hamas Killing Jews Advertisement.

20. Pursuant to Defendants' Free Speech Policy, over a period of several weeks during the months of July and August 2014, Plaintiffs negotiated with CBS Outdoor for the placement of several AFDI advertisements for display on the external advertising panels of MTA buses.

21. On August 25, 2014, CBS Outdoor representative, Howard Marcus, emailed Plaintiff Geller and informed her that the MTA agreed to display three of the four advertisements Plaintiffs had submitted for approval. The Marcus email, however, informed Plaintiffs that the MTA had rejected the Hamas Killing Jews Advertisement on the grounds that "it is reasonably foreseeable that, due to material contained in it, its display would imminently incite or provoke violence or other immediate breach of the peace and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations." A true and correct copy of the August 25, 2014, Marcus email is attached to this Complaint as **Exhibit 1** and incorporated herein by reference.

22. The censored Hamas Killing Jews Advertisement states, in relevant part, the following: "'Killing Jews is Worship that draws us close to Allah.' – Hamas TV. That's His Jihad. *What's yours?*"

23. The Hamas Killing Jews Advertisement appears as follows:



24. A true and correct copy of the Hamas Killing Jews Advertisement is attached to this Complaint as **Exhibit 2** and incorporated herein by reference.

25. The message of the Hamas Killing Jews Advertisement is timely in light of the ongoing terrorism conducted by Hamas operatives against Israeli civilians in the name of Islamic jihad. Moreover, the Israel / Palestinian conflict has recently drawn intense international media attention as Hamas regularly used human shields (mostly women and children) to protect its rockets from Israel's defense forces while the Islamic terrorist organization continues its deadly attacks against Jews in Israel.

26. Plaintiffs have displayed the Hamas Killing Jews Advertisement in other major cities throughout the United States, including Chicago and San Francisco, and there have been no acts of violence or other lawlessness caused by or attributed to the advertisement. Indeed, Plaintiffs have never engaged in violence or lawlessness nor do they intend others to do so by displaying the Hamas Killing Jews Advertisement, as evidenced by the advertisement itself.

27. The Hamas Killing Jews Advertisement on its face is a quote from Hamas MTV along with commentary from Plaintiffs, the authors of the advertisement as depicted on the advertisement itself, that counters the claims made by the Council on American-Islamic Relations (CAIR) and other Muslim Brotherhood organizations and sympathizers in the United States that jihad is simply a form of non-violent, spiritual introspection for Muslims. Indeed, the passive advertisement itself, as evidenced from within its four corners, does not advocate for the use of force or of law violation, is not directed to inciting or producing imminent lawless action, and, as the undisputed facts demonstrate, is not likely to incite or produce such action.

28. Acceptance of political-issue, public-issue, and religious-issue advertisements demonstrates that the forum is suitable for the Hamas Killing Jews Advertisement.

29. On September 22, 2014, Defendants formally rejected the Hamas Killing Jews Advertisement in a final written determination. In an email from Kenneth S. Pober, General

Manager of CBS Outdoor, to David Yerushalmi, counsel for Plaintiffs, Mr. Pober appended a formal written rejection of the Hamas Killing Jews Advertisement authored by Defendant Rosen (“MTA Final Determination”).

30. The MTA Final Determination reads in relevant part:

Dear Mr. Yerushalmi:

CBS Outdoor Group Inc. (CBS) has forwarded to me your demand for a formal determination concerning an advertisement that your client, American Freedom Defense Initiative (AFDI), submitted to it recently for display in September on New York City Transit Authority buses. . . .

Like CBS, the MTA initially concluded in mid-August that this “Killing Jews” ad in its current form—and AFDI has refused CBS’s invitation to consider revising its proposed ad—does not conform to the MTA’s advertising standards, specifically Section (a)(x), which addresses proposed advertisements that might incite or provoke violence. Having now fully considered your two emails of August 29 and September 8, 2014, which CBS forwarded, the MTA continues to believe that it is reasonably foreseeable that the display of the “Killing Jews” ad in its current form at this time would “imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.” Accordingly, we are unwilling to allow its display on New York City Transit buses.

Following procedures adopted by the MTA to implement this standard, Ray Diaz, the MTA’s Director of Safety and Security, undertook a security assessment of AFDI’s four proposed ads. Three of the ads he concluded did not advocate violence and thus did not risk inciting or provoking violence, and those ads are expected to run later this month (along with the three additional ads proposed by AFDI in the meantime).

Diaz concluded, however, that, since most reasonable observers would interpret the “Killing Jews” ad as urging direct, violent attacks on Jews, it was reasonably foreseeable, especially given the current turmoil in the Middle East, most especially in Gaza and Syria and Iraq, and the heightened security concerns in New York City, that its display now would “imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.”

The MTA recognizes that the “Killing Jews” ad was part of a series of AFDI ads that parodied other ads sponsored by the Council on American-Islamic Relations

(CAIR) that had been displayed on buses in other cities, including Chicago and San Francisco. Those ads—part of what CAIR called its “MyJihad” ads—were intended to show, according to CAIR, that jihad is a concept of individual and personal struggle, rather than violent conflict or terrorism. AFDI’s parody ads were intended to refute CAIR’s “MyJihad” ads by showing, according to AFDI’s Executive Director, Pamela Geller, “how jihadists use the texts and teachings of Islam to justify violence and supremacism.”

But the CAIR “MyJihad” ads have never run in New York City. Without that crucial context, most people who saw AFDI’s “Killing Jews” ad on a New York City Transit bus would not interpret it as a parody of CAIR’s “MyJihad” ads, and not to be taken at face value. Instead, most reasonable New Yorkers would interpret the “Killing Jews” ad as urging Muslims to kill Jews as a matter of religious obligation. Although the required disclaimer would identify the ad’s sponsor as AFDI, not Hamas, that is likely insufficient, by itself, to alert observers that the “Killing Jews” ad and its command to kill Jews should not be taken at face value, given AFDI’s obscurity and its vague name. . . .

Very truly yours,

Jeffrey B. Rosen
Director, Real Estate

31. A true and correct copy of the MTA Final Determination is attached to this Complaint as **Exhibit 3** and incorporated herein by reference.

32. A true and correct copy of the MTA’s Advertising Standards referenced in the MTA Final Determination is attached to this Complaint as **Exhibit 4** and incorporated herein by this reference.

33. A true and correct copy of the MTA security assessment conducted by MTA’s Director of Safety and Security, Ray Diaz, and referenced in the MTA Final Determination (“MTA Security Assessment”) is attached to this Complaint as **Exhibit 5** and incorporated herein by this reference.

34. The MTA’s assertion that some number of New Yorkers (presumably Muslims), upon viewing the Hamas Killing Jews Advertisement on MTA buses, would rise up imminently

to violently attack Jews in response to the Hamas quotation is illogical and without factual support.

35. The Hamas Killing Jews Advertisement ran in Chicago for approximately one month beginning on February 22, 2013, and similarly for approximately one month in San Francisco beginning on March 11, 2013. No physical disturbance, violence, or even vandalism was reported by transit or city authorities resulting from those displays.

36. The CAIR “MyJihad” advertisements referenced in the MTA Security Assessment also ran in Chicago and San Francisco for approximately one month, but several months earlier than the respective Hamas Killing Jews Advertisements in those cities.

37. According to the expressed logic of the MTA Security Assessment, a Muslim would likely be incited to imminent violence in New York City because the Hamas Killing Jews Advertisement would be running *without* a CAIR “MyJihad” advertisement appearing months earlier to set the parodic context.

38. The MTA Security Assessment’s logic is that the same violent New York Muslims transposed to Chicago and San Francisco would *not* be similarly incited by the Hamas Killing Jews Advertisement in those cities because they would rationally recall the CAIR “MyJihad” advertisements that ran several months earlier and inform themselves that on this occasion the Hamas Killing Jews Advertisement is just parody.

39. Moreover, the MTA Security Assessment does not account for the violent and incitable Muslims in Chicago or San Francisco who noted the Hamas Killing Jews Advertisement but were not aware of the CAIR “MyJihad” Advertisements—possibly because they had been out of town or had failed to notice the earlier advertisements—yet failed to react violently to the Hamas Killing Jews Advertisements.

40. The underlying and faulty premise of the MTA Security Assessment, which the

MTA relies upon to conclude that its Speech Restriction survives strict scrutiny under the First Amendment, is based upon either (1) the naked assumption that context will always be present and cognizable to the violent and incitable Muslim as long as the CAIR “MyJihad” advertisements runs several months earlier or (2) that violent and incitable Muslims are the kinds of people that are capable of placing—and, indeed, willing to place—parody in context, thereby resisting the impulse to act violently based upon viewing the Hamas Killing Jews Advertisement.

41. Notwithstanding the MTA’s fear of violent Muslims who would likely be incited to imminent violence from the appearance of the Hamas Killing Jews Advertisement, the MTA issued a press release with a large image of the Hamas Killing Jews Advertisement in an apparent effort to get out in front of the story and provide the public with its rationale for the rejection of the AFDI advertisement (“MTA Press Release”).

42. Consequently, despite its security assessment, the MTA felt sufficiently confident that all of the press outlets that might respond to the press release and publish a story with a picture of the Hamas Killing Jews Advertisement would do so with just the right amount of context to inhibit the jihadi impulses lurking in New York City, lest the MTA and the press be guilty of the same incitement conjured up by the MTA Security Assessment.

43. A true and correct copy of the MTA Press Release is attached to this Complaint as **Exhibit 6** and incorporated herein by reference.

44. Defendants’ application of its Advertising Standards as a basis to reject the Hamas Killing Jews Advertisement is a pretext to censor Plaintiffs’ message because MTA officials oppose Plaintiffs’ view on Islam. Thus, Defendants’ decision to reject the Hamas Killing Jews Advertisement was motivated by a discriminatory animus against Plaintiffs and their views on Islam.

45. The MTA's Speech Restriction is based on the perceived negative response that Plaintiffs' message might receive from certain viewers based on its content and viewpoint. However, a viewer's reaction to speech is not a content-neutral basis for regulation. This is known as a "heckler's veto," which is impermissible under the First Amendment.

46. Under the First Amendment, speech cannot be punished or banned, simply because it might offend a hostile mob. By censoring Plaintiffs' speech because of its message, the MTA is punishing speech based on its content and viewpoint.

47. Defendants' rejection of Plaintiffs' Hamas Killing Jews Advertisement has caused and will continue to cause irreparable harm to Plaintiffs.

48. Pursuant to clearly established First Amendment jurisprudence, the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury sufficient to warrant injunctive relief.

FIRST CLAIM FOR RELIEF

(Freedom of Speech—First Amendment)

49. Plaintiffs hereby incorporate by reference all stated paragraphs.

50. By reason of the aforementioned Speech Restriction, which includes Defendants' Advertising Standards, created, adopted, and enforced under color of state law, Defendants have deprived Plaintiffs of their right to engage in protected speech in a public forum in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

51. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is content- and viewpoint-based in violation of the Free Speech Clause of the First Amendment.

52. Defendants' Speech Restriction operates as a prior restraint on Plaintiffs' speech;

therefore, it comes to this court bearing a heavy presumption against its constitutional validity.

53. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is unreasonable and an effort to suppress expression merely because public officials oppose the speaker's view, including the view expressed by Plaintiffs in the Hamas Killing Jews Advertisement.

54. Defendants' Speech Restriction was motivated by a discriminatory animus against Plaintiffs and the viewpoints they express about Islam.

55. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, offends the First Amendment by granting a public official unbridled discretion such that the official's decision to limit speech is not constrained by objective criteria, but may rest on ambiguous and subjective reasons.

56. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, provides no objective guide for distinguishing between permissible and impermissible advertisements in a non-arbitrary, viewpoint-neutral fashion as required by the First Amendment.

57. As a direct and proximate result of Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

SECOND CLAIM FOR RELIEF

(Equal Protection—Fourteenth Amendment)

58. Plaintiffs hereby incorporate by reference all stated paragraphs.

59. By reason of the aforementioned Speech Restriction, which includes Defendants' Advertising Standards, created, adopted, and enforced under color of state law, Defendants have unconstitutionally deprived Plaintiffs of the equal protection of the law guaranteed under the

Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, in that Defendants are preventing Plaintiffs from expressing a message in a public forum based on the content and viewpoint of the message, thereby denying the use of this forum to those whose views Defendants find unacceptable.

60. Defendants' Speech Restriction was motivated by a discriminatory animus against Plaintiffs and the viewpoints they express about Islam.

61. As a direct and proximate result of Defendants' violation of the Equal Protection Clause of the Fourteenth Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

THIRD CLAIM FOR RELIEF

(Due Process—Fourteenth Amendment)

62. Plaintiffs hereby incorporate by reference all stated paragraphs.

63. By reason of the aforementioned Speech Restriction, which includes Defendants' Advertising Standards, created, adopted, and enforced under color of state law, Defendants have unconstitutionally deprived Plaintiffs of the due process of law guaranteed under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

64. It is a basic principle of due process that a regulation is void for vagueness if its prohibitions are not clearly defined.

65. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, offends the Fourteenth Amendment's guarantee of due process by granting a public official unbridled discretion such that the official's decision to limit speech is not constrained by objective criteria, but may rest on ambiguous and subjective reasons.

66. Defendants' Speech Restriction, facially and as applied to Plaintiffs' speech, is unconstitutionally vague in violation of the Fourteenth Amendment.

67. As a direct and proximate result of Defendants' violation of the Due Process Clause of the Fourteenth Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this court:

- A) to declare that Defendants violated the First and Fourteenth Amendments to the United States Constitution as set forth in this Complaint;
- B) to preliminarily and permanently enjoin Defendants' Speech Restriction, which includes Defendants' Advertising Standards, as set forth in this Complaint;
- C) to award Plaintiffs nominal damages for the past loss of their constitutional rights as set forth in this Complaint;
- D) to award Plaintiffs their reasonable attorney fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and other applicable law; and
- E) to grant such other and further relief as this court should find just and proper.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ David Yerushalmi

David Yerushalmi, Esq. (NY Bar No. 4632568; DC Bar No. 978179; Cal. Bar No. 132011; Ariz. Bar No. 0096)

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*Subject to admission *pro hac vice*

LIST OF EXHIBITS

EXHIBIT NO.	DESCRIPTION
1	August 25, 2014 Howard Marcus (CBS Outdoor) Email
2	Hamas Killing Jews Advertisement
3	MTA Final Determination
4	MTA Advertising Standards
5	MTA Security Assessment
6	MTA Press Release

EXHIBIT 1

On Mon, Aug 25, 2014 at 1:15 PM, Marcus, Howard
<howard.marcus@cbsoutdoor.com> wrote:

Pam,

Please see the below.

Thanks,

Howard

The American Freedom Defense Initiative (AFDI) wants to display four ads near two subway entrances in Manhattan and on New York City Transit Authority buses. You have brought them to my attention because you believe that one or more might implicate the provision of the MTA's Advertising Standards, Section (a)(X), which disallows ads that might incite or provoke violence. In accordance with procedures adopted in October 2012, MTA has undertaken a security assessment to evaluate whether, for each of the ads, it is reasonably foreseeable that, due to material contained in it, its display would imminently incite or provoke violence or other immediate breach of the peace and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations. MTA's initial conclusion is that three of AFDI's proposed ads are consistent with MTA's Advertising Standards and can be displayed, but that one of them, in the form submitted and given the recent and continuing turmoil in the Middle East—most especially in Gaza and Israel and Syria and Iraq—is not.

The four proposed ads are below.

This ad would run on the panels at the top of two subway entrances—one at Third Avenue and East 60th Street and the other at West 60th Street and Broadway—for four weeks.



The following three additional ads—together with the first one—would run on the tails of 75 New York City Transit buses for four weeks:



This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.



This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.



This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

MTA believes that the first three of the four proposed AFDI ads are *not* contrary to Section (a)(X) and may be displayed on MTA properties.

However, the ad that purports to quote "Hamas MTV" as saying that "Killing Jews is Worship that draws us close to Allah," and depicts a man in a black-and-white checkered scarf, likely would be construed by most as urging deadly violent attacks on Jews. We recognize that AFDI does not intend through this ad to urge deadly violent attacks on Jews. To the contrary, AFDI's ad appears to be intended to mock a series of ads sponsored by the Council on American-Islamic Relations (CAIR), a civil rights and advocacy group for Muslims in America. *Those* ads—part of what CAIR called it "MyJihad" campaign—would show, CAIR hoped, that jihad is a concept of individual and personal struggles, rather than violent conflict or terrorism. But as you know, CAIR's "MyJihad" ads did not run in New York City. Although CAIR had proposed running them, it chose not to after being told they would be displayed with the required MTA disclaimer. In our judgment, therefore, most people in New York City who saw AFDI's "Killing Jews" ad on a New York City Transit bus would not interpret it as a parody of CAIR's "MyJihad" ads, which few if any New Yorkers have seen and certainly did not see on New York City buses or subways. The far more likely interpretation of AFDI's "Killing Jews" ad by a reasonable New Yorker would be that it urges Muslims to kill or attack Jews as a religious obligation. Though the required MTA disclaimer identifies AFDI, not Hamas or CAIR, as the ad's sponsor, that is not sufficient in MTA's judgment to alert observers that the ad should not be read literally as urging deadly violent attacks on Jews.

Accordingly, MTA's initial conclusion is that it is reasonably foreseeable that its display at this time on New York City subway entrances and buses, in the form submitted,

would imminently incite or provoke violence or other immediate breach of the peace and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.

I note that as provided in the October 2012 procedures, you may want to discuss with AFDI possible revisions to this ad to bring it into conformity with the Advertising Standards and assure AFDI that MTA will review any revised ad that AFDI wishes to submit. In addition, please inform AFDI that this is MTA's initial conclusion and that it may request that you obtain a formal determination from MTA.

EXHIBIT 2



“Killing Jews is **Worship** that
draws us close to **Allah**”
- Hamas MTV



That's His **Jihad**. *What's yours?*

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

EXHIBIT 3

From: Pober, Kenny S [mailto:kenny.pober@cbsoutdoor.com]
Sent: Monday, September 22, 2014 12:02 PM
To: dyerushalmi@americanfreedomlawcenter.org; Pamelageller@gmail.com
Subject: Final Determination for AFDI Ads

Per your request, please see below from the MTA.

Kenneth S. Pober

General Manager

New York Transit Division

kenny.pober@cbsoutdoor.com

Phone 212-297-6415

405 Lexington Avenue • New York • NY 10174



Clients Served Here!

Dear Mr. Yerushalmi:

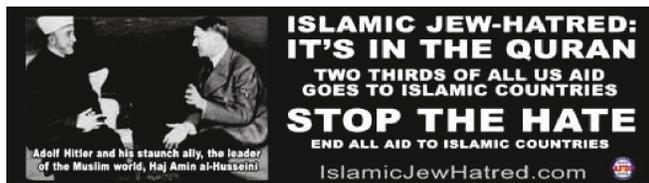
CBS Outdoor Group Inc. (CBS) has forwarded to me your demand for a formal determination concerning an advertisement that your client, American Freedom Defense Initiative (AFDI), submitted to it recently for display in September on New York City Transit Authority buses. The ad is below:



Like CBS, the MTA initially concluded in mid-August that this “Killing Jews” ad in its current form—and AFDI has refused CBS’s invitation to consider revising its proposed ad—does not conform to the MTA’s advertising standards, specifically Section (a)(x), which addresses proposed advertisements that might incite or provoke violence. Having now fully considered your two emails of August 29 and September 8, 2014, which CBS forwarded, the MTA continues to believe that it is reasonably foreseeable that the display of the “Killing Jews” ad in its current form at this time would “imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.” Accordingly, we are unwilling to allow its display on New York City Transit buses.

The MTA obtains revenues to support its vital public transportation mission from paid advertisements it accepts for placement on its subway, commuter rail, and bus systems. For a number of years, some of these advertisements have addressed issues of public concern. MTA does not decide whether to allow or not allow a proposed advertisement based on the viewpoint that it expresses or because that viewpoint might be controversial.

AFDI, as you know, has in the last several years frequently displayed ads in MTA subway and commuter railroad stations and on buses. Indeed, at the same time as AFDI proposed this “Killing Jews” ad, it proposed three others, each forcefully expressing AFDI’s views on jihad, Hamas, Islam, and Israel, and MTA readily approved all three. They will be displayed on New York City Transit buses later this month (and one will be displayed at two subway entrances in Manhattan). Those three ads are below:



**ISLAMIC JEW-HATRED:
IT'S IN THE QURAN**
TWO THIRDS OF ALL US AID
GOES TO ISLAMIC COUNTRIES
STOP THE HATE
END ALL AID TO ISLAMIC COUNTRIES
IslamicJewHatred.com

Adolf Hitler and his staunch ally, the leader of the Muslim world, Haj Amin al-Husseini.

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.



**CHRISTIANS ARE BECOMING EXTINCT
EVERYWHERE IN THE MIDDLE EAST EXCEPT ISRAEL**
MUSLIM ETHNIC CLEANSING OF CHRISTIANS
ACROSS THE WORLD IS A WAR CRIME
23% OF ALL US FOREIGN AID GOES TO ISLAMIC COUNTRIES.
END US AID TO ISLAMIC COUNTRIES.
IslamicApartheid.org

Don't kill Christians

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.



**"HAMAS IS USING CIVILIANS AS HUMAN SHIELDS.
WE USE MISSILES TO PROTECT OUR PEOPLE. THEY
USE THEIR PEOPLE TO PROTECT THEIR MISSILES"**
-Prime Minister Netanyahu

**SUPPORT ISRAEL
DEFEAT JIHAD**

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

Moreover, after learning of the MTA’s initial determination about its “Killing Jews” ad, AFDI proposed two additional ads, also forcefully expressing AFDI’s views, and both have been approved and will also be displayed on New York City Transit buses later this month. Those two new ads are below:



And just this week, AFDI proposed yet another ad to run later this month, which has also been approved. That ad is below:



So, AFDI cannot credibly claim that MTA's determination about its "Killing Jews" ad is viewpoint discrimination or that MTA has precluded AFDI from expressing its viewpoint.

Pursuant to MTA's uniform, viewpoint neutral advertising standards, however, MTA does review proposed ads, including AFDI's proposed "Killing Jews" ad, to determine, among other things, whether it is reasonably foreseeable that the display of a proposed ad would "imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations."

Following procedures adopted by the MTA to implement this standard, Ray Diaz, the MTA's Director of Safety and Security, undertook a security assessment of AFDI's four proposed ads. Three of the ads he concluded did not advocate violence and thus did not risk inciting or provoking violence, and those ads are expected to run later this month (along with the three additional ads proposed by AFDI in the meantime).

Diaz concluded, however, that, since most reasonable observers would interpret the "Killing Jews" ad as urging direct, violent attacks on Jews, it was reasonably foreseeable, especially given the current turmoil in the Middle East, most especially in Gaza and Syria and Iraq, and the heightened security concerns in New York City, that its display now would "imminently incite or provoke violence or other immediate

breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.”

The MTA recognizes that the “Killing Jews” ad was part of a series of AFDI ads that parodied other ads sponsored by the Council on American-Islamic Relations (CAIR) that had been displayed on buses in other cities, including Chicago and San Francisco. Those ads—part of what CAIR called its “MyJihad” ads—were intended to show, according to CAIR, that jihad is a concept of individual and personal struggle, rather than violent conflict or terrorism. AFDI’s parody ads were intended to refute CAIR’s “MyJihad” ads by showing, according to AFDI’s Executive Director, Pamela Geller, “how jihadists use the texts and teachings of Islam to justify violence and supremacism.”

But the CAIR “MyJihad” ads have never run in New York City. Without that crucial context, most people who saw AFDI’s “Killing Jews” ad on a New York City Transit bus would not interpret it as a parody of CAIR’s “MyJihad” ads, and not to be taken at face value. Instead, most reasonable New Yorkers would interpret the “Killing Jews” ad as urging Muslims to kill Jews as a matter of religious obligation. Although the required disclaimer would identify the ad’s sponsor as AFDI, not Hamas, that is likely insufficient, by itself, to alert observers that the “Killing Jews” ad and its command to kill Jews should not be taken at face value, given AFDI’s obscurity and its vague name.

The MTA’s advertising standards provide that an advertiser who has asked MTA for a formal determination about whether a proposed conforms to the advertising standards may submit materials for the MTA to consider, and you have done so in your two emails. MTA has carefully taken into account what you have said, though we do not agree.

Your August 29 email accuses MTA giving those who object to AFDI’s views on jihad, Hamas, Islam, and Israel a “heckler’s veto in the form of a terrorist’s veto.” But that has it backwards. MTA’s concern is that AFDI’s “Killing Jews” ad will be interpreted as urging attacks on Jews and thus will incite or provoke such attacks, not that it will be interpreted as criticizing Hamas or Jihad or Islam and thus draw objections from those who disagree. Regardless of the viewpoint expressed in an advertisement, the MTA’s advertising standard reasonably requires that an advertisement not express its viewpoint in a manner that, reasonably read, would imminently incite or provoke violence and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.

Your September 8 email takes another different tack, saying that AFDI’s “Killing Jews ad could not conceivably be misinterpreted by anyone as urging violent attacks on Jews, but that even if it were you do not believe it could pose any possible public safety risk whatsoever. But you are wrong on both counts. We recognize that AFDI does not intend its ad to urge violent attacks on Jews, but that is how many New Yorkers would reasonably interpret it, and not read it as merely “descriptive speech”

used to parody another ad. More important, judgments about public safety and the safety of our customers and possible disruptions to MTA's transportation operations should be made by the MTA's Director of Safety and Security (who formerly was the chief of the New York Police Department's Transit Bureau), not AFDI's lawyer.

Very truly yours,

Jeffrey B. Rosen
Director, Real Estate

EXHIBIT 4

Advertising Standards for
Licensed Properties of the Metropolitan Transportation Authority

The following Standards shall apply to all licenses for the installation, display and maintenance of advertising on designated properties and facilities operated by the Metropolitan Transportation Authority and/or its operating agencies (collectively, the “MTA”).

(a) Limitations Upon Advertisements. The licensee (“advertising contractor”) shall not display or maintain any advertisement that falls within one or more of the following categories:

- i. The advertisement proposes a commercial transaction, and the advertisement or information contained in it is false, misleading or deceptive.
- ii. The advertisement or information contained in it promotes unlawful or illegal goods, services or activities.
- iii. The advertisement or information contained in it implies or declares an endorsement by the MTA of any service, product or point of view without prior written authorization of the MTA.
- iv. The advertisement depicts or describes in a patently offensive manner sexual or excretory activities so as to satisfy the definition of obscene material as contained in New York Penal Law § 235.00 (attached as Exhibit 1), as such provision may be amended, modified or supplemented from time to time.
- v. The advertisement contains an image or description, which, if sold or loaned to a minor for monetary consideration with knowledge of its character and content, would give rise to a violation of New York Penal Law § 235.21 (attached as Exhibit 2; see also Exhibit 3 (New York Penal Law § 235.20 (definitions of terms))), as such provision may be amended, modified or supplemented from time to time.
- vi. The advertisement contains an image or description which, if displayed in a transportation facility with knowledge of its character and content, would give rise to a violation of New York Penal Law § 245.11 (attached as Exhibit 4; see also Exhibit 5 (New York Penal Law § 245.10 (definitions of terms))), as such provision may be amended, modified or supplemented from time to time.

- vii. The advertisement, or any information contained in it, is libelous or violates New York Civil Rights Law § 50 (attached as Exhibit 6), as such provision may be amended, modified or supplemented from time to time.
- viii. The advertisement proposes a commercial transaction, and promotes tobacco or tobacco-related products.
- ix. The advertisement contains an image of a person, who appears to be a minor, in sexually suggestive dress, pose, or context.
- x. The advertisement, or any information contained in it, is directly adverse to the commercial or administrative interests of the MTA or is harmful to the morale of MTA employees or contains material the display of which the MTA reasonably foresees would incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transit operations.
- xi. The advertisement contains images or information that are so violent, frightening, or otherwise disturbing as to be harmful to minors.
- xii. The advertisement promotes an escort service, dating service, or sexually oriented business.

(b) Additional Provisions Relating to Advertisements. To avoid identification of MTA with messages or images contained within advertisements displayed on MTA properties and to avoid the appearance of MTA endorsement of products, services, events, or viewpoints promoted by advertisers, the following shall apply:

- i. Advertisements shall readily and unambiguously identify the person, corporation, or entity paying for the advertisement and an advertiser may be required to include in the advertisement a statement explicitly doing so.
- ii. An advertisement that primarily or predominately expresses or advocates a viewpoint on a political, moral, or religious issue or related matter shall include, the following statement: “This is a paid advertisement sponsored by []. The display of this advertisement does not imply MTA’s endorsement of any views expressed.”

- iii. MTA and its advertising contractors may require that an advertisement that promotes a commercial transaction also incorporate language to avoid the appearance of MTA endorsement.
- iv. The MTA Director of Real Estate shall adopt (and may amend from time to time) guidelines for the sizes, placements, and formats of each type of statement required to be included in advertisements pursuant to Sections (b)(i), (ii), and (iii) above.
- v. Notwithstanding Section (b)(i) above, MTA and the advertising contractor may permit the display of “Teaser ads” promoting a commercial transaction that do not readily and unambiguously identify the sponsor, provided a similar number of follow up advertisements that do readily and unambiguously identify the sponsor are posted within a time specified by MTA or the advertising contractor.

(c) Review of Advertisements. MTA advertising contractors shall review each advertisement submitted for installation, display and maintenance on MTA properties and facilities to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in Section (a) of these Standards or fails to comply with the additional provisions relating to advertisements set forth in Section (b) of these Standards. If an MTA advertising contractor determines that an advertisement falls within or may fall within one or more of the categories set forth in Section (a) of these Standards:

- i. The MTA advertising contractor shall promptly notify the MTA, through a designated MTA Contract Administrator, of its determination and the reason(s) for its determination.
- ii. Upon receipt of such notification, the MTA shall advise the advertising contractor whether the MTA concurs in the advertising contractor’s determination concerning the advertisement.
- iii. In the event that the MTA concurs in the determination of the advertising contractor, the advertising contractor may, in consultation with the MTA Contract Administrator or his designee, discuss with the advertiser one or more revisions to the advertisement, in order to bring the advertisement into conformity with the Standards. The advertiser shall then have the option of submitting a revised advertisement for review in accordance with these procedures.

- iv. In the event that the advertising contractor and the advertiser do not reach agreement with regard to a revision of the advertisement, or in the event that the advertising contractor determines that no appropriate revision would bring the advertisement into conformity with the Standards, the advertiser may request that the advertising contractor obtain a formal determination from the MTA Contract Administrator or his designee. In reaching a formal determination, the MTA Contract Administrator or his designee may consider any materials submitted by the advertiser, and may consult with the advertising contractor, or with the MTA General Counsel, the Executive Director, the Chairman of the Board, or their respective designees.
- v. The MTA Contract Administrator shall promptly provide the advertising contractor with a written notice of the formal determination, and the advertising contractor shall relay the formal determination to the advertiser. The MTA's formal determination shall be final.

EXHIBIT 5



August 19, 2014

Thomas F. Prendergast
Chairman & CEO
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Dear Chairman Prendergast,

An organization called the American Freedom Defense Initiative (AFDI) wants to display four ads near two subway entrances in Manhattan and on New York City Transit Authority buses. MTA's advertising contractor, CBS Outdoor, has brought the four proposed ads to Jeff Rosen's attention because it believes one or more of them might implicate the provision of the MTA's Advertising Standards, Section (a)(X), which disallows ads that might incite or provoke violence.

In accordance with procedures adopted in October 2012, Jeff has notified me, and I have undertaken a security assessment to evaluate whether, for each of the ads, it is reasonably foreseeable that, due to material contained in it, its display would imminently incite or provoke violence or other immediate breach of the peace and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations.

Beneath each would be an MTA disclaimer identifying AFDI as the sponsor and stating that the ad's display does not imply MTA's endorsement of the ad's views, as the MTA's ad standards require of every ad that primarily or predominately expresses a viewpoint regarding a political, moral, or religious issue or related matter. The ads would run on the panels at the top of two subway entrances - one at Third Avenue and East 60th Street and the other at West 60th Street and Broadway- for four weeks and in addition they would run on the tails of 75 New York City Transit buses for four weeks.

At Jeff Rosen's request, in mid-June I did a security assessment of the first ad--the "Islamic Jew-Hatred" ad. I concluded at the time that it was not contrary to Section (a)(X) of the MTA's Advertising Standards. Although I reached out to consult, the New York City Police Department told me that it would not offer an opinion on the ad. As it turned out, however, this ad has not yet been displayed. Now, AFDI has submitted the three additional ads, which would run on bus tails for four weeks, and Jeff has asked me to do a security assessment. Since it has not yet run and given the recent and continuing turmoil in the Middle East - most especially in Gaza and Israel and Syria and Iraq - I also have reconsidered the first ad.

Three of the four proposed AFDI ads in my judgment are *not* contrary to Section (a)(X). However, the ad that purports to quote " Hamas MTV" as saying that "Killing Jews is Worship that draws us close to Allah" and depicts a man in a black-and-white checkered scarf might be construed by some as advocating direct violent attacks on Jews and in my judgment it is reasonably foreseeable that its display at this time on New York City subway entrances and buses would imminently incite or provoke violence or other immediate breach of the peace and so harm, disrupt, or interfere with safe, efficient, and orderly

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

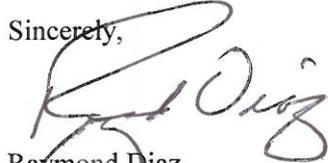
MTA Capital Construction
MTA Bus Company

transportation operations. I also reached out again to NYPD to consult and was again told that it would not offer an opinion on the ads.

It is my understanding that this is *not* AFDI's viewpoint. To the contrary, AFDI's ad, I'm told, is intended to mock a series of ads sponsored by the Council on American-Islamic Relations (CAIR), a civil rights and advocacy group that among other things promotes a positive image of Islam and Muslims in America. *Those* ads--part of what CAIR called it "MyJihad" campaign--would show, CAIR hoped, that jihad is a concept relating to individual and personal struggles, rather than a notion of war or violent conflict; they themselves responded to earlier ads displayed by AFDI. But what matters is not AFDI's intent, but how the ad would be interpreted. In my judgment, most people in New York City who saw AFDI's "Killing Jews" ad on a bus would not interpret it as a parody of CAIR's "MyJihad" ads. CAIR's "MyJihad" ads did not run in New York City; CAIR proposed them to MTA's advertising contractor but chose not to run them after told they would be displayed with the required MTA disclaimer. The much more likely interpretation of AFDI's "Killing Jews" ad by most people would be that it urges Muslims to kill or attack Jews as a religious obligation.

It is my opinion that there should be a revision on the advertisement so it is clear that the advertisement intent is not to provoke violence by encouraging the "Killing of Jews".

Sincerely,



Raymond Diaz
Director of Security

cc: Jerome Page
Peter Siström



**ISLAMIC JEW-HATRED:
IT'S IN THE QURAN**
TWO THIRDS OF ALL US AID
GOES TO ISLAMIC COUNTRIES
STOP THE HATE
END ALL AID TO ISLAMIC COUNTRIES

Adolf Hitler and his staunch ally, the leader of the Muslim world, Haj Amin al-Husseini

IslamicJewHatred.com

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

**IN ANY WAR BETWEEN THE CIVILIZED MAN
AND THE SAVAGE,
SUPPORT THE CIVILIZED MAN.**

☆ **SUPPORT ISRAEL** ☆
DEFEAT JIHAD

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.



"Killing Jews is Worship that
draws us close to **Allah**"
- Hamas MTV

That's the Jihad. What's yours?

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

**"HAMAS IS USING CIVILIANS AS HUMAN SHIELDS.
WE USE MISSILES TO PROTECT OUR PEOPLE. THEY
USE THEIR PEOPLE TO PROTECT THEIR MISSILES"**
-Prime Minister Netanyahu

☆ **SUPPORT ISRAEL** ☆
DEFEAT JIHAD

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

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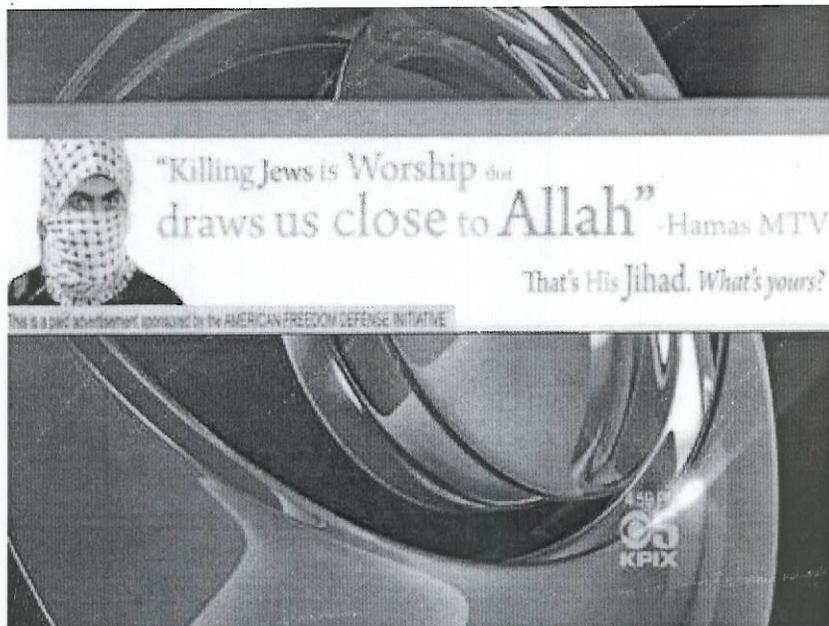
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Local

'Killing Jews Is Worship' Ad Campaign Rolled Out On SF Muni Buses

March 11, 2013 10:36 PM

1.9K [View Comments](#)



A new ad appearing on San Francisco buses from the American Freedom Defense Institute (CBS)

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SAN FRANCISCO (KPIX 5) – A controversy has been re-ignited this week as ten new ads go up on San Francisco Muni buses containing quotes used by terrorists.

“Killing Jews is worship that draws us closer to Allah,” reads one of the ads, which has people debating the line between free speech and hate speech.

“The purpose of our campaign is to show the reality of Jihad, the root causes of terrorism. Using the exact quotes and text that they use,” said Pamela Geller of the American Freedom Defense Institute.

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Several San Francisco city leaders, including District Attorney George Gascon, have condemned the campaign.

Be:
Are

"San Francisco won't tolerate Islamophobic bigotry," said Gascon. "The only thing necessary for evil to prevail is for good people to look the other way and do nothing."

Be:
Fra

Board of Supervisors President David Chiu said the American Freedom Defense Initiative is made of "well-known hate extremists" and said he is introducing a resolution at Tuesday's board meeting to denounce the ads.

Be:

Geller said the ads were a response to another bus ad campaign earlier this year by the Council on American-Islamic Relations.

That campaign sought to disassociate the word "jihad" with violence and reclaim its meaning as "the struggle," which is a central tenet of Islam.

1 2

PAGES:

1.9K

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EXHIBIT 6

From: **Fermino, Jennifer** <jfermino@nydailynews.com>
Date: Fri, Sep 19, 2014 at 5:11 PM
Subject: FW: MTA Press Release: MTA Rejects Advertisement Proposed For City Buses
To: Pamela Geller <pamelageller@gmail.com>

Fyi

From: Lisberg, Adam [mailto:alisberg@mtahq.org]
Sent: Friday, September 19, 2014 5:04 PM
To: Fermino, Jennifer
Subject: FW: MTA Press Release: MTA Rejects Advertisement Proposed For City Buses

From: Ortiz, Kevin
Sent: Friday, September 19, 2014 5:03 PM
To: Ortiz, Kevin
Subject: MTA Press Release: MTA Rejects Advertisement Proposed For City Buses

September 19, 2014

For Release

IMMEDIATE

Contact: MTA Press Office

[\(212\) 878-7440](tel:(212)878-7440)

MTA Rejects Advertisement Proposed For City Buses

AFDI "Killing Jews" Advertisement Violates MTA Standards

The Metropolitan Transportation Authority (MTA) has rejected a request by American Freedom Defense Initiative to run advertisements that include the phrase "Killing Jews" on the back of MTA New York City Transit buses.

The MTA concluded it was reasonably foreseeable that displaying the advertisement would imminently incite or provoke violence or other immediate breach of the peace, and so harm, disrupt, or interfere with safe, efficient, and orderly transportation operations. Under the MTA's viewpoint-neutral advertising standards, the agency can prohibit advertisements that violate that standard.

The advertisement features the quotation “Killing Jews is Worship that draws us close to Allah,” attributed to “ Hamas MTV.” It depicts a masked figure and includes the phrase, “That’s His Jihad. What’s yours?” The advertisement was an apparent parody of “MyJihad” ads sponsored by the Council on American-Islamic Relations, which the group said were intended to show that jihad is a concept of individual and personal struggle, rather than violent conflict or terrorism. Those ads ran on buses in other cities, but not in New York.

The American Freedom Defense Initiative has run many other advertisements promoting its views on jihad, Hamas, Islam and Israel throughout the MTA network. In 2011, the MTA rejected a proposed advertisement from the group on the grounds that it demeaned groups of people on account of their religion, national origin or ancestry. The group sued the MTA, and the next year a federal judge ruled the MTA’s “no demeaning” standard violated the First Amendment. The MTA responded by updating its advertising standards to the current standard.

The MTA does not decide whether to allow or not allow a proposed advertisement based on the viewpoint that it expresses or because that viewpoint might be controversial. MTA Director of Safety and Security Raymond Diaz, a former chief of the New York City Police Department Transit Bureau, concluded the proposed advertisement would lead reasonable observers to interpret it as urging direct, violent attacks on Jews, given turmoil in Gaza, Syria and Iraq and New York City’s heightened security concerns.

A copy of the advertisement in question is below.



###



Metropolitan Transportation Authority

State of New York

New York City Transit • Long Island Rail Road • Metro-North Railroad • Bridges and Tunnels • Capital Construction • Bus Company

September 19, 2014

For Release

IMMEDIATE

Contact: MTA Press Office
(212) 878-7440

MTA Rejects Advertisement Proposed For City Buses *AFDI "Killing Jews" Advertisement Violates MTA Standards*

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A copy of the advertisement in question is below.



“Killing Jews is Worship that draws us close to Allah”
-Hamas MTV

That's His Jihad. What's yours?

This is a paid advertisement sponsored by American Freedom Defense Initiative. The display of this advertisement does not imply MTA's endorsement of any views expressed.

###



MTA Press Releases

Press Release

September 19, 2014

[MTA Headquarters](#)

IMMEDIATE

MTA Rejects Advertisement Proposed For City Buses

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