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February 11, 2008

Honorable Rory I. Lancman
Member of the Assembly
Legislative Office Building 549
Albany, NY 12248

Honorable Dean G. Skelos
Member of the Senate
Room 503, State Capitol
Albany, New York 12247

Re: Libel Terrorism Protection Act
A9652/S6687

Dear Assemblyman Lancman and Senator Skelos:

I am writing in support of the above-named legislation, which would provide authors, journalists and other writers in New York with a mechanism to prevent the enforcement of oppressive foreign defamation judgments in this state.

The case that prompted the introduction of this legislation shows just why New York writers need additional protections. Khalid bin Mahfouz, former head of the National Commercial Bank of Saudi Arabia, won a libel judgment in England against Rachel Ehrenfeld, a New York author, who wrote *Funding Evil: How Terrorism Is Financed - and How to Stop It*. Mahfouz claimed to have been libeled by statements in the book that Mahfouz and his family were financial sponsors of terrorism. Defending the suit, which Mahfouz won by default, would have been prohibitively expensive and problematic for Ehrenfeld - British law makes it far more difficult for writers to defend libel suits than does the law in the United States.

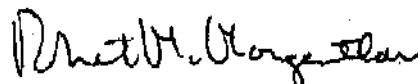
Such foreign libel judgments, if they can be enforced in this country, have the potential to chill unfairly authors like Ehrenfeld from doing important work. Obviously, to write sensibly on international terrorism, an author has to discuss the role of wealthy sponsors of terrorism from the Middle East and elsewhere. Regrettably, authors who do so are subject to defamation lawsuits in jurisdictions, like the United Kingdom, which

lack the constitutional protections that we have in the United States for authors who write about public issues and public figures. It is unconscionable that an author in New York, writing on a subject of vital importance to New Yorkers and to the nation, should be subject to the coercive effects of such foreign litigation.

In *Ehrenfeld v. Mahfouz*, however, the New York Court of Appeals ruled against Ehrenfeld in her effort to get a declaratory judgment prohibiting the enforcement of the British judgment in New York. Interpreting the relevant New York statute, the New York Court of Appeals held that New York lacked personal jurisdiction over Mahfouz, leaving Ehrenfeld without relief. Consequently, the libel judgment – which included money damages, the requirement of a public apology and an injunction against further publication of the book in England – is potentially enforceable against Ehrenfeld in New York. It is essential that New York law be amended promptly to enable New York authors to get declaratory relief in these circumstances.

Terrorist financing, the subject of *Funding Evil*, is of vital interest to all New Yorkers, in no small part because New York City remains a target of significance for international terrorists. It is especially important that New York authors have the freedom to investigate, write and publish on terrorism and other matters of public importance, subject only to limitations that are consistent with the U.S. Constitution. Passage of the legislation you have introduced will be an important step to providing such freedom.

Sincerely,



Robert M. Morgenthau