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DC Circ. Says Feds' $629M Settlement Belongs In Terror Fund

By **Ganesh Setty**

Law360 (August 4, 2026, 9:51 PM EDT) -- The federal government must deposit $629 million earned from settled bank fraud and sanctions violation charges against a tobacco company into a fund supporting victims of state-sponsored terror, the D.C. Circuit ruled Tuesday, favoring two victims of terror attacks in Lebanon.

Undertaking a textual analysis of how the fund under the Justice for United States Victims of State Sponsored Terrorism Act receives its proceeds, the appeals court rejected both the plaintiff victims' and the government's reading of the funding provision, which establishes two categories of proceeds. Only the second, more "capacious" category requires a nexus to a state sponsor of terrorism, while proceeds from violations of the International Emergency Economic Powers Act or Trading with the Enemy Act must be deposited regardless of such a nexus, a unanimous three-judge panel held.

"According to the Department [of Justice], Congress could not have intended to funnel the billions in proceeds collected each year from IEEPA violations into the fund, irrespective of any connection to state sponsored terrorism," U.S. Circuit Judge Neomi Rao wrote for the panel. "But Congress struck a different balance in the funding provision, and our obligation is to follow the law, not impose an allocation the government finds more reasonable."

Under the provision, the first category requires the deposit of "all funds ... forfeited or paid to the United States ... as a criminal penalty or fine arising from a violation of any license, order, regulation, or prohibition" under IEEPA or TWEA. The second category corresponds to "any related criminal conspiracy, scheme, or other federal offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor of terrorism."

The plaintiffs, Joseph Englehardt and Yvonne Wade, maintained that the "state sponsor of terror qualifier" applied only to the "other federal offense" portion, but the panel pointed out that the qualifier follows an "integrated list" of "any related criminal conspiracy, scheme, or other federal offense." As for the government, it said a nexus to a state sponsor of terror is required throughout the funding provision.

"Congress separated the categories with a disjunctive 'or' and set off the second category with the prepositive modifier 'related,'" Judge Rao added. "This grammatical structure supports our interpretation that the funding provision sets out two distinct categories of offenses and that the state sponsor of terrorism qualifier applies only to the second."

She further rejected the government's position that Congress adopted its interpretation of the funding provision when it amended the broader statute in 2019 but didn't change the provision's state sponsor of terrorism qualifier.

"As is often the case when attempting to infer meaning from legislative inaction, we simply have no idea whether Congress acquiesced in, or was even aware of, the department's interpretation," Judge Rao said.

The $629 million constitutes penalties and forfeitures the government secured as part of its 2023 settlement with British American Tobacco PLC and a subsidiary over BAT's alleged business dealings in North Korea. The government alleged that from 2009 to 2017, the company conspired to evade sanctions imposed under IEEPA against North Korean state-owned banks and conspired from 2007 to 2017 to defraud U.S. banks by falsely representing that BAT had sold off its interest in North Korea's tobacco industry.

Because North Korea's designation as a state sponsor of terrorism ended in October 2008, the government deposited only roughly $11 million relating to the alleged bank fraud conspiracy into the victim compensation fund, and no funds relating to the alleged IEEPA sanctions conspiracy.

Englehardt and Wade, who were injured in bombings by the Iran-backed terrorist group Hezbollah at the U.S. Embassy in Beirut in 1983 and 1984, respectively, filed their lawsuit in June 2024, seeking that all funds from the BAT settlement be deposited into the victim compensation fund. A Washington, D.C., district court sided with the government's allocation of the $629 million in settlement proceeds in December 2024, but Tuesday's panel reversed that.

After finding that only the second category of proceeds in the funding provision requires a nexus to a state sponsor of terror, the panel said, "Irrespective of any connection to a state sponsor of terrorism, all proceeds from BAT's IEEPA conspiracy must go into the fund."

As for the bank fraud conspiracy claims against BAT, the associated penalties are indeed related to sanctions against North Korea under IEEPA, the panel said. However, it said the government cannot allocate a portion of such proceeds to the compensation fund based on when the U.S. deemed North Korea a state sponsor of terror.

Instead, all proceeds from the bank fraud conspiracy must be deposited, the panel held, saying: "When a conspiracy originates with a state sponsor of terrorism, the entire conspiracy 'arises from' doing business with a state sponsor of terrorism and all of its proceeds must go into the fund."

The funding provision does not refer to unlawful acts or transactions underlying a conspiracy charge, and the federal government alleged the conspiracy continued after North Korea's designation was rescinded, the panel noted.

"We doubt this result is absurd, and in any event we cannot override the plain meaning of the funding provision to promote the Department's preferred results," the panel said. "If the department favors a different allocation of proceeds for policy reasons, it may of course direct its concerns to Congress."

Representatives for the parties did not immediately respond to requests for comment.

U.S. Circuit Judges Neomi Rao, Justin R. Walker and Judith W. Rogers sat on the panel for the D.C.

Circuit.

The plaintiffs are represented by Amanda S. Berman and Daniel W. Wolff of Crowell & Moring LLP.

The federal government is represented by Joshua M. Koppel, Brett A. Shumate and Sharon Swingle of the U.S. Department of Justice.

The case is Englehardt et al. v. Blanche et al., case number 24-5297, in the U.S. Court of Appeals for the D.C. Circuit.

--Editing by Nick Siwek.