



کانون وکلای ایرانی در آمریکا

# IRANIAN AMERICAN BAR ASSOCIATION

## IABA And Partner Organizations File Amicus Brief in *United States v. Banki*

January 20, 2011 - Washington, D.C.

On November 10, 2010, the Iranian American Bar Association along with 10 partner organizations filed an amicus brief before the United States Court of Appeals for the Second Circuit in the matter, *United States v. Mahmoud Reza Banki*, Case No. 10-3381-CR.

On August 16, 2010, Iranian-American Mahmoud Reza Banki was sentenced by the United States District Court for the Southern District of New York to two and a half years in prison and ordered to forfeit \$3.4 million by a judge who noted that Banki did not support terrorism or funnel money to Iran's government.

Banki was born in Tehran and is a U.S. citizen. He holds a doctorate in chemical engineering from Princeton University and undergraduate degrees from the University of California, Berkeley.

The U.S. Government accused Banki of transferring money between Iran and the U.S. using an informal banking system called *hawala*. The Government alleged that the transfers allowed for equal amounts of money to move into Iran in violation of U.S. sanctions against Iran. Banki argued that the \$3.4 million deposited into his bank accounts were his mother's marital estate which he was seeking to protect from Iran's divorce laws and that he was unaware that *hawala* allowed for an equal amount of money to move into Iran. Letters from the jury indicate that that they found him guilty for the transfer of \$6,000, and not \$3.4 million. During sentencing, Banki received letters of support from Nobel Peace Laureate Shirin Ebadi and ex-Director of the Office of Foreign Assets Control Richard Newcomb who warned that



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sanctions were "never intended to target the Iranian people" and that "the Iranian-American community commonly and openly uses remittance forwarding service providers, including *hawalas* to move family funds back and forth between the United States and Iran, typically with no penalty, civil or criminal."

In its amicus brief, IABA and partner organizations argued that U.S.-Iran sanctions "are not aimed at the Iranian people, and therefore they contain exemptions permitting certain humanitarian transactions and family remittances." The brief reasons that "[d]espite the regulation's clear language, the District Court refused to instruct the jury that family remittances are permitted under the [Iranian Transaction Regulations]. . . . This outcome squarely conflicts with the plain language and purpose of the ITR - not to mention the practices of the Iranian American community and their reasonable belief that they act legally when they send money to or receive money from family members in Iran."

The amicus cautions that "[a]side from being an untenable reading of the regulations, the District Court's determination that family remittances are permissible only if they go through U.S. banks has the practical impact of misleading Iranian Americans about the legality of *hawala*."

The amicus brief was authored and filed by Raymond Cardozo and Paige Forster of the international law firm of [Reed Smith LLP](#). Partner organizations who signed onto the brief include the [Asian Law Caucus](#), [Bay Area Association of Muslim Lawyers](#), [Equal Justice Society](#), [Muslim Advocates](#), [National Iranian American Council](#), [Network of Iranian American Professionals of Orange County](#), [Omid Advocates for Human Rights](#), [Persian Center](#), [Progressive Jewish Alliance](#), and [Society of Iranian American Professionals](#).

A copy of the amicus brief can be found [at this link](#).

## About IABA

With over 1500 members and chapters in 12 different metropolitan areas around the country, the Iranian American Bar Association ("IABA") is one of the most prominent minority bar associations in the United States. IABA chapters hold networking events, publish articles on key legal developments, and provide outreach to lawyers and law students. IABA also provides an annual scholarship to law students looking for assistance and provides lawyer mentors for those seeking guidance and helps serve the Iranian-American community and the community at-large by providing legal advocacy on important issues



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