

AIPAC on Trial

Steve Rosen was accused of spying. Now he accuses his former employer.

By Philip M. Giraldi

REPORTS OF SURFING porn sites and frequenting prostitutes are not what one expects to read about the leadership of Washington's most powerful foreign-policy lobby. But a bitter civil suit is bringing some of the American Israel Public Affairs Committee's most sordid secrets to light. AIPAC is embroiled in a court battle with its former director of foreign-policy issues, Steven Rosen, who claims the committee first unfairly fired then slandered and libeled him for not exhibiting "the conduct that AIPAC expects from its employees." He is seeking damages totaling \$20 million.

AIPAC has successfully limited the case to the defamation charge, but attempts to have the suit dismissed outright have failed. Defeat for AIPAC could have serious consequences beyond a sudden shortage of donors—including increasing demands that the group register as a foreign lobby. Even criminal charges related to passing classified information to Israel, an offense under the Espionage Act, could be in the offing. There is some prospect that the trial could spin out of control, with proliferating charges and counter-charges leading to the effective dismantling of AIPAC.

The betting is that Rosen might accept an out-of-court settlement for most of the money he is seeking. But there are also reports that relations between Rosen and his former employer have become so poisonous that reconciliation is impossible. AIPAC is trying to discredit Rosen completely and is gathering a defense fund of between \$5 and \$10 million in an

attempt to salvage its reputation among the well-heeled donors who have until recently provided the group's \$70 million annual budget.

Rosen and his AIPAC colleague Keith Weissman were charged under the Espionage Act in 2003 after the FBI made the case that they had obtained classified information from Pentagon employee Larry Franklin and passed it on to Israeli diplomats and to journalist Glenn Kessler of the *Washington Post*. In 2005, the two men were fired by AIPAC in spite of the group's initial pledges of support. The espionage trial dragged on until May 1, 2009, when it was finally dismissed after the government could not make its case in the face of adverse decisions by presiding judge T.S. Ellis, possibly acting under pressure from the White House to end the proceedings.

As the centerpiece of his spy-trial defense, Rosen had claimed that passing classified information obtained from government contacts was business as usual in Washington. He asked that high-level witnesses including Secretary of State Condoleezza Rice, National Security Adviser Stephen J. Hadley, former Defense Department officials Paul D. Wolfowitz and Douglas J. Feith, and former Deputy Secretary of State Richard L. Armitage be called to testify that confidential materials were frequently given to AIPAC for discreet relay to the Israeli Embassy. Rosen's lawyers also demanded access to numerous government documents to assist them in making their case. Those documents themselves would have been classified,

and prosecutors may have decided to abandon the case in the belief that more damage would be done by proceeding than by dropping it. Rosen and Weissman were not, however, either exonerated or acquitted, an indication that the government lawyers believed the prosecution to be a sound one.

Dismissing Rosen was a bad move by AIPAC, and he has since worked hard to get revenge. Recent moves and counter-moves by Rosen and AIPAC have included a 260-page motion by the organization filed Nov. 8 that makes a case in some detail that Rosen engaged in espionage, while distancing AIPAC itself from any involvement. Rosen and Weissman are being painted as a rogue operation not sanctioned by their employer. The motion also includes a lengthy deposition of Rosen in which he describes his own sexual "experimentations" with both men and women, some of whom he encountered through Craigslist. Rosen also recounts how pornography was regularly viewed and stored on AIPAC computers by a number of senior employees, including Director Howard Kohr and his secretary, and claims AIPAC officials visited prostitutes.

Rosen is expected to counter AIPAC's filing with his own motion, and there will be an obligatory mediation session with the presiding judge in mid-January. The cycle of attacks and rebuttals has not helped AIPAC's reputation, already tarnished by the lengthy Rosen-Weissman spy trial that led to the lawsuit. There are reports that donations have declined by 15 percent, with a number

of major contributors such as Haim Saban having opted instead to financially support Rosen, who insists that his betrayal by AIPAC's leadership was motivated by a desire to avoid criminal charges against its executives.

This effort to shield AIPAC's leadership was bolstered by a federal prosecutor who pressured the FBI to leave the group out of its investigation. Rosen tells the story in a July 2009 filing:

On February 17, 2005, only two weeks after awarding Mr. Rosen the \$7,000 special bonus for excellence in job performance, the AIPAC Board of Directors placed him on involuntary leave. This was done immediately after AIPAC was threatened by the Justice Department in a meeting between AIPAC's counsel and its Executive Director Howard Kohr and federal prosecutors on February 15, 2005. There the lead federal prosecutor stated that, 'We could make real progress and get AIPAC out from under all of this,' if AIPAC showed more cooperation with the government. On February 16, 2005, AIPAC's counsel said that the lead federal prosecutor 'is fighting with the FBI to limit the investigation to Steve Rosen and Keith Weissman and to avoid expanding it.' This warning implied that AIPAC's Executive Director and the AIPAC organization as a whole could become targets.

There is a much bigger story lurking in the background, involving the regular provision of top-level classified information from AIPAC to the media and the Israeli government, but no one is quite sure how it might play out. The November AIPAC motion and the Rosen deposition inadvertently demonstrate the close ties between AIPAC and the Israeli Embassy in Washington, recording as they do the details of numerous meet-

ings with diplomats and intelligence officers in which secret information was passed. For AIPAC to win its war of words with Rosen, it must demonstrate that he was indeed guilty of espionage "with a foreign country" while distancing itself from his activities and keeping Israel out of the story as far as possible.

Rosen, on the other hand, must turn the tables on AIPAC by proving that the organization collaborated in the collection and delivery of sensitive material to foreigners. He intends to replay the defense he had planned for his Espionage Act trial, asserting that passing classified information is a routine feature of life in Washington, particularly for those who work to advance Israel's interests. Rosen claims to have "about 180" documents that demonstrate that classified information was regularly collected by AIPAC and given to the Israeli Embassy with the full knowledge of the organization's executive director and other senior officials, something they have denied under oath. He also claims that depositions of FBI agents who questioned AIPAC officials will demonstrate that the collection and use of classified information was routine, generally known, and widely accepted within AIPAC.

Rosen has also indicated that he might broaden the inquiry. In September 2009, he filed a list of 48 prospective witnesses who might be called to testify. It included Douglas Bloomfield, Morris Amitay, Thomas Dine, Elliott Abrams, John Bolton, Martin Indyk, David Satterfield, Kenneth Pollack, Malcolm Hoenlein, and Abraham Foxman. All are major figures in the Israel lobby. Rosen may want to demonstrate that passing secrets to the Israeli government was standard operating procedure for many groups and individuals, not just AIPAC. The tactic would motivate those named and the organizations they represent to pressure AIPAC to settle the suit with Rosen whatever the cost.

What is ultimately at stake is the powerful mystique AIPAC derives from its status as a foreign lobby posing as a domestic lobby, an organization so untouchable that it does not have to register with the Justice Department or play by anyone's rules but its own. Even if the Obama administration opts not to prosecute any criminal activity that might be discovered, the exposure of trading in classified information would render disingenuous the argument that AIPAC should not have to register under the Foreign Agents Registration Act (FARA) because it only operates domestically and its focus is educational.

But those who see a dark future for AIPAC fail to reckon with its strengths, which include an endowment of \$50 million that can be tapped in emergencies. It continues to wield considerable influence within the Obama administration and with Congress. AIPAC has connections deep inside the Justice Department that will make sure the organization is advised of every impending move against it. Those connections will do everything they can to impede any investigation that might lead to criminal charges or compel AIPAC to register under FARA.

Then there is the media's role—or rather, the lack of one. The mainstream press assiduously avoided the story of the Rosen-Weissman trial and has not reported on the Rosen-AIPAC suit, with the exception of a few brave souls like Jeff Stein in his *Spy Talk* column at the *Washington Post*. If the federal government prefers not to prosecute a clear violation of the law, and if the media does not report its failure to do so, then even the scandals brought to light by Rosen will be only a moment's distraction for America's most powerful, least accountable lobbying group. ■

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Dignity Doesn't Fly

Peepshow scanners may not catch terrorists, but who says they're supposed to?

By Brian Doherty

THAT THE TRANSPORTATION Security Administration (TSA) has saved a single life is unproven and doubtful. But it did something good for the country last fall by provoking a long overdue reaction against bureaucratic bullying.

The TSA has been rolling out more of its "Advanced Imaging Technology" scanners, with the goal of having 1,000 in service by the end of 2011, covering around half of the security lanes at our nation's airports. These machines demand more of us than just striding through, as with the traditional metal detector. That can be done with some semblance of dignity.

The new scanners that stand between us and our right to travel freely—a right hallowed in Western tradition back to Magna Carta, where movement in and out of the realm was protected even for foreigners—require us to stop and spread our limbs submissively. We are then doused with X-rays or millimeter waves to produce a bizarrely inhuman yet laid-bare image for a bureaucrat to contemplate, ogle, or blankly run his tired eyes over. Anyone who refuses to submit to this electromagnetic strip search is required by TSA policy to undergo a very thorough pawing and pat down, including between the legs.

Yet shortly before Thanksgiving, one brave American, John Tyner, became a national hero for recording himself resisting a TSA agent's attempts to molest him at the San Diego airport, an incident that popularized the slogan "don't touch my junk!" The idea that the TSA was ramping up its assaults on our

dignity and privacy for no discernable benefit swept the country. The push back culminated in organized calls for everyone to opt out of the scans on the day before Thanksgiving—overcome the system by overloading it.

The new technologies are undignified and meant to be. The illusion of choice surrounding their use is intended to funnel us into an even more undignified situation. Be exposed electronically in full, or physically molested, or go back home. These are unprecedented demands on Americans moving through the theoretically free world, not some penitentiary or asylum.

But the principles behind the TSA's new strategies are very old. Jeremy Bentham's Panopticon is being built in miniature, but with an even wider angle of view. While the 19th-century utilitarian philosopher Bentham dreamed of a system that could keep watch at all times over particular classes in need of surveillance—he was thinking of prisoners, students, and workhouse denizens—the American Panopticon gazes upon any air traveler without regard to criminal background or mental history.

A second philosopher who saw this coming was Michel Foucault. What Foucault wrote about the insane asylum's effect upon its inmates applies eerily and equally well to what the TSA does to everyone who passes through its screen: "The problem is to impose, in a universal form, a morality that will prevail from within upon those who are strangers to it." Sadly, given the number of Ameri-

cans who reacted to November's anti-TSA furor with a hearty "who cares if you have to be watched or grabbed in order to travel? The experts say it's needed," the TSA appears to have succeeded in constructing a new morality.

These bureaucratic procedures quickly assume all the privileges of reality, as if they are an external force that no American in his right mind should waste time fighting. It is disconcerting to me how often I find people who lived through those days forgetting that as recently as 1995 one could get on a plane anonymously, without showing any papers, beyond a ticket, to anyone.

But it is heartening that the rituals of resistance are in play against the latest power-grab. Some pranksterish Americans have taken to selling undergarments with the Fourth Amendment printed on them in metallic ink that will supposedly show up clearly over your image on the new scanners. Meanwhile stories of petty-tyrannical behavior from TSA agents stream forth. The TSA itself knows its agents are not to be relied on to understand their own rules. Its website assures us that we have the right to turn the Panopticon back on the state, in our own small way, by filming at airport checkpoints in a non-intrusive way. But the site also tells us to be aware we are likely to be harassed for doing so anyway.

The institutional players are acting their parts in the resistance rituals. The ACLU has collected over 900 stories about TSA abuses from aggrieved Americans. The Electronic Privacy Informa-