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Public Hearing – Audience publique

Reasons and Decision – Motifs et décision

Between	The Minister of Public Safety and Emergency Preparedness Le ministre de la Sécurité publique et de la Protection civile	Entre
And		et
Person(s) Concerned	Peter Chukwudi ALIKA	Intéressé(e)(s)
Date(s) of Hearing	March 28, 2019 April 25, 2019 May 24, 2019 June 19, 2019 June 21, 2019	Date(s) de l'audience
Place of Hearing	Toronto	Lieu de l'audience
Date of Decision	August 1, 2019	Date de la décision
Panel	R. Stratigopoulos	Tribunal
Counsel for the Minister	A. McLellan J. Taylor	Conseil du ministre
Counsel for the	Warda Shazadi Meighen	Conseil(s) pour

Person(s) Concerned

l'intéressé(e) / les

IN THE MATTER OF the *Immigration and Refugee Protection Act* and an Admissibility Hearing concerning Peter Chukwudi Alika.

REASONS FOR DECISION

[1] This is a record of reasons for a decision made under the provisions of the *Immigration and Refugee Protection Act* (IRPA) concerning Peter Chukwudi Alika following an admissibility hearing conducted pursuant to subsection 44(2) of IRPA.

[2] It has been alleged that Mr. Alika is inadmissible pursuant to 37(1)(a) of the IRPA, in that he is a Permanent Resident who is a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in the furtherance of the commission of an offence punishable under an act of Parliament by way of indictment, or in the furtherance of the commission of an offence outside of Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern.

[3] Mr. Alika is not a Canadian citizen. He is a citizen of Nigeria and a permanent resident of Canada. He was convicted on June 9, 2009 of (1) flight while pursued and (2) dangerous operation of a motor vehicle on 09 January 2009. He was pardoned of both on 01 August 2017.

[4] The evidence in this hearing consisted of Exhibits AH 1-9. The testimony of Olatundun Olasusi, Detective Constable Trotter of the Toronto Police Service, and Mr. Alika.

[5] The standard of proof is found in section 33 of the IRPA, the facts that constitute inadmissibility under section 34-37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.

[6] In *Chaiu v. Canada*¹ the Federal Court instructed that the standard of proof required to establish reasonable grounds is more than a flimsy suspicion but less than the civil test of balance of probabilities. And of course, a much lower threshold than the criminal standard of beyond a reasonable doubt. It is a bona fide belief in a serious possibility based on credible evidence.

[7] The Supreme Court of Canada in *Mugusera*² confirmed that this was the correct test.

[8] Section 45 of the IRPA places a burden on the Minister to establish that Mr. Alik is inadmissible. After a careful review of the evidence, I find that the burden has been discharged.

[9] The test in finding a person inadmissible under s.37 has two parts.

[10] The first part is to establish that there exists an organized crime group. In this case that group is the Neo Black Movement (NBM) / Black Axe (BA). Mr. Alik did not contest that the NBM is an organized crime group. Criminal organization is not specifically defined in the IRPA. The Federal Court provided guidance in *Sittampalam v MCI*, 2006 FCA 326

[36] In my view, the same “unrestricted and broad” interpretation should be given to the word “organization” as it is used in paragraph 37(1)(a). The IRPA signifies an intention, above all, to prioritize the security of Canadians. This was confirmed by the Supreme Court of Canada in the decision of *Medovarski v. Canada (Minister of Citizenship and Immigration)*; *Esteban v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 (CanLII), [2005] 2 S.C.R. 539, at paragraph 10.

...

[38] ... In *Thanaratnam v. Canada (Minister of Citizenship and Immigration)*, 2004 FC 349 (CanLII), [2004] 3 F.C.R. 301 (F.C.), reversed on other grounds, [2006] 1 F.C.R. 474 (F.C.A.), O’Reilly J. took into account various factors when he concluded that two Tamil gangs (one of which was the A.K. Kannan gang at issue here) were “organizations” within the meaning of paragraph 37(1)(a) of the IRPA. In his opinion, the two Tamil groups had “some characteristics of an organization”, namely “identity, leadership, a loose hierarchy and a basic organizational structure” (at paragraph 31). The factors listed in *Thanaratnam*, as well as other factors, such as an occupied territory or regular meeting locations, both factors considered by the

Board, are helpful when making determination under paragraph 37(1)(a), but no one of them is essential.

[11] More recently in *Saif v. Canada (Citizenship and Immigration)*,³

[17] Although an unrestricted and broad interpretation is to be given to the word “organization” as it is used in subsection 37(1), the provision still requires the existence of common organizational characteristics such as “identity, leadership, a loose hierarchy and a basic organizational structure”: see *Sittampalam*, at paras 38-39, above. Third parties who individually transact with a criminal organization cannot reasonably be seen to be “members” nor can they be considered to be “engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an indictable offence”. By way of analogy, no one would consider a purchaser of narcotics, without further involvement, to be either a member of, or acting in concert with, a criminal organization established to sell the narcotics, even though both are engaged in common in a criminal transaction.

[12] Using this guidance and principles, I am satisfied on a reasonable grounds basis that the NBM is an organized crime group.

[13] The documentary evidence shows that the Neo Black Movement is synonymous with the Black Axe, they are one in the same.

- AH-2, p. 71 – Vice News – “a Nigerian confraternity called the Black Axe, otherwise known as the NBM”
- AH-2, p. 84 – IRB publication December 3, 2012 “sources states that the Black Axe confraternity is also known as the NBM of Africa.”
- Mr. Alike, in his own disclosure at AH-6, p. 90 provides Bemigo 147 Watch – “a landing page for people wanting news on the Neo Black Movement aka Black Axe”.

[14] The Toronto Police Services analysis report entitled ‘the Neo Black Movement of Africa North America (Canada)’ states the following:

- The Black Axe Movement also known as the “Neo Black Movement” is a secretive Nigerian based internationally active social and political organization.⁴
- The Black Axe originated in a university environment at the University of Benin, Nigeria during the late 1970’s.

- As members of the movement emigrated elsewhere in the world they surreptitiously took these values with them and created a series of satellite “zones” which are geographically based and pay homage to the Nigerian parent organization: the Neo Black Movement of Africa. In Nigerian parlance the NBM is described as a cult which differs from the North American understanding of the term in that in Nigeria a “cult” is understood as a group having a clear and unique set of activities, codes, manner of dress and titles, all of which the NBM maintains.
- The amalgamation of the Black Axe into the Neo Black Movement is believed to have been in response to the general perception of the overt violence and criminality which had been associated to the membership of the Black Axe Movement. Many members of the Neo Black Movement are former members of the Black Axe Movement and the two organizations are synonymous in the view of Nigerians and members of the expatriate Nigerian community worldwide.
- Members of the movement refer to themselves as “Axemen” in general, or by other terms which more specifically relate to their status or position within the movement such as “Bam”, “Lord”, “Amigo” or “wise/strong” man.
- Aside from pledges and commitments, members of the NBM maintain a distinctive manner of formal dress including the use of black and yellow colours, distinctive badges, vernacular and symbols (including the axe and the stylized number 7).
- The Neo Black Movement organization and literature maintains much of the iconography associated with the Black Axes Movement, including its original logo.

[15] The NBM has a constitution⁵ with a stated goal of dedication to the promotion, protection, and advancement of black solidarity, world peace, internal cooperation, and understanding.

[16] The constitution shows a group with an organizational structure, membership qualifications, National Council of Elders, a National Convention, Executive Committees, Regional Structure, Zones and Zonal Executives.

[17] The NBM North America has a “Canada Zone.” Police estimate there are about two hundred members in Canada as of the spring 2018.

[18] At page 23 of AH-3 there is evidence of an Application for Incorporation of Neo Black Movement of Africa North America (Canada). It lists as first directors and the signatures of Charles OSA IBIE, Eugene AGUONYE, and Akohomen IGHEDOISE.

[19] Mandamin J. of the Federal Court in June 2018 upheld the Immigration Division decision in the admissibility hearing of Habeeb UTHMAN:

I am satisfied the ID had evidence before it to conclude the NBM and BA are the same organization. Notwithstanding there was evidence pointing both ways the preponderance of the evidence indicated the two entities were connected.⁶

[20] At AH-2 pp. 35-45 – The Whistleblowers.Info article “Black Axe – Transnational OCG that originated in Nigeria, Africa” comments,

Like most secret cults, confraternities and similar groups, members of the NBM a.k.a. Black Axe cult use special items and expressions to describe themselves and others, the structures within the group and so on.

[21] The article goes on to list coded language members use to communicate, vernacular such as Zones (local group of NBM), National Head (runs and administers NBM worldwide), Chief Priest (responsible for all ceremonial, esoteric and fraternal activities at national level), Chief Butcher (maintenance of discipline), Ihaza (finance duties), Eye (secretary general of the NBM) and Crier (responsible for publications and PR).

[22] Further it describes that “Zones and forums are local subgroups of the confraternity, each of which is organized in itself with a Zonal head and other functions.” In North America it lists Atlanta, New York, Dallas, Houston, Canada, and California as zones.

[23] In totality the evidence confirms the NBM/BA as one group. Counsel did not contest this. Also not contested is that the NBM is an organization. The documentary evidence supports such a finding on a reasonable grounds to believe basis.

[24] As outlined in Thanaratnam the NBM has an identity, a leadership, a hierarchy and an organizational structure. There are zones or territories, committees and national meetings. The NBM is an organization.

Is the NMB Engaged in Organized Crime?

[25] The evidence with respect to the activities of the NBM is rife with criminality, it includes but is not limited to the following:

- Fourteen members of Nigerian Mafia “Black Axe” in Palermo: ⁷

The prosecution, held in presence of Claudia Rosini, judge of preliminary hearings, was born from an investigation of the Palermo’s Prosecutor against a transnational criminal organization based in Nigeria and called the Black Axe. The investigators of the flying squad discovered a clan that was managing and controlling numerous illicit economic activities, credit recoveries, prostitution, drug trafficking.

- Sky News report:⁸

More than 20 alleged members of a feared Nigerian Mafia gang called the Black Axe have been rounded up during raids in Italy. The suspects are accused of being involved in a catalogue of criminal activities, from prostitution and protection rackets through to drug dealing and human trafficking.

- Vice News report – The Notorious Black Axe has put down roots in Canada. Dec 17, 2015:⁹

Aside from fraud and money laundering, police allege the outfit is involved in street-level crime – everything from intimidation to kidnapping to large-scale movement of stolen goods on a transnational scale.

...

Last week police laid an additional 640 charges and arrested 18 people allegedly involved in the theft of over 5—S.U.V.s, all worth about \$30 million. These

weren't just thieves investigators said, but a highly sophisticated crime ring linked to the Black Axe.

- February 2, 2017 – Toronto Sun – Scam artist who posed as fictitious soldier faces extradition:¹⁰

Romance scam artist Akohomen IGHEDOISE broke her heart and plundered her bank account for \$609,000.

IGHEDOISE was sentenced by Justice Timothy Lipson to the equivalent of 2 years imprisonment and the fraudster was ordered to repay \$609,000. Instead of walking free at the courthouse afterwards, the Markham man was re-arrested on an extradition warrant to the US.

Police allege IGHEDOISE and five others are indicted on a \$5 billion fraud ring run by the infamous Black Axe Nigerian Crime Ring.

Further the article states:

Black Axe or Neo Black Movement members are involved in drug trafficking human smuggling, prostitution, fraud, money-laundering, and murder in countries around the world.

- [26] D.C. Trotter in his analysis states:¹¹

Once recognized as a significant entity in the Canadian criminal community the role of the NBM Canada Zone in the Nigerian diaspora became clear through the examination of previously documented occurrences whose investigation had lacked the appropriate context. By analyzing some of the occurrence reports it is possible to see the impact of the street level operations of the NBM on members of the Nigerian diaspora in Canada.

- [27] He chronicles the January 2016 arrest of NBM member Drel NEGBENEBOR by Peel Regional Police that resulted in the discovery of approximately 250 addressed documents to prospective victims of the Publishers Clearing House Scam.

- [28] Further, he notes on June 2, 2016 identified member Osayi OMORUYI was arrested by Toronto Police Services under the Extradition Act pursuant to a request by the United States Government for his role in transnational mass marketing fraud involving persons in the US and Africa which victimized American citizens.

- [29] Detective Constable Trotter testified that the NBM had about 200 members in Canada and that approximately 70% of those had police occurrence reports for robbery, drugs, fraud, etc.

At p. 39 of AH-1 he summarizes:

Given the wealth of information available about the Neo Black Movement of Africa's Canada Zone it is impossible to be skeptical about the existence of this once-secret organization. Once identified, the role of it and its members in criminality ranging from fraud to kidnapping readily becomes apparent upon even the most cursory examination of the source material at hand.

[30] A July 27, 2016 - Justice News ¹² release reports on the conviction of Anthony Alika, the brother of Mr. Alika, and his wife Sonia,

An Austell, Georgia couple was sentenced to prison for their role in a stolen identity tax refund scheme. Anthony Alika sentenced to 80 months in prison and to pay \$1,963,251 in restitution.

As part of guilty plea Anthony Alika admitted during 2015 he received money orders from several individuals and deposited them into bank accounts in his and his wife's name. He structured the cash withdrawals in amounts less than \$10,000 to evade bank reporting requirements. Anthony Alika admitted that the funds used to purchase the money orders were the proceeds of illegal activity. Anthony Alika admitted that he laundered over \$1.5 million.

[31] An NBM of Africa Facebook account depicts an organization trying to clean up its image, and discourage those with criminality from being candidates for high ranking positions. The same account states that Anthony Alika is hereby suspended from the movement.¹³

[32] The NBM has committed crimes across the world. Nigeria, Italy, Canada and the USA. "They're involved in drug trafficking, arms trafficking, racketeering, and killing is second nature"¹⁴ states Jonathan Matusitz, University of Central Florida Prof. who has studied Nigerian gangs.

[33] After a review of all the documentary evidence, I am satisfied that the NBM/BA is a criminal organization. The types of offences it engages in lends to the inclusion in the definition of organized criminality. There is a transnational component to the offenses committed. Scams run by people in Canada against US citizens.

[34] One of its first directors had a conviction for fraud. Many of its associates and members have been linked to criminal activity. There exist credible police reports about NBM members involved in criminal activity.

[35] Mr. Alika did not contest the NBM is a criminal organization.

[36] Again I am satisfied that it is.

Is Mr. Alika a member of the NBM/BA?

[37] Membership is not defined in the IRPA. In keeping with the objectives of the IRPA, specifically 3(1)(h) – to protect public health and safety and to maintain the security of Canadian society, the courts have held that the meaning of membership must be given a broad and unrestricted interpretation.

[38] Further in *Suresh v. MCI*, Justice Teitlebaum commented:

Membership cannot and should not be narrowly interpreted when it involved the issue of Canada's national security. Membership also does not only refer to persons who have engaged or who might engage in terrorist activities.

[39] In *Chiau v. MCI (2001)*, Judge Evans wrote:

As for the meaning of member, the judge held that, given the policy underlying paragraph 19(1)(c.2) the term 'member' was not limited to a person who actively participated in criminal acts, or to one with a membership card whose name appeared on a membership list. Rather, it should be understood more broadly to mean simply a person who 'belonged to' the criminal organization in question.

[40] These are the principles and guidance used to inform whether or not Mr. Alika was/is a member of the NBM/BA.

[41] The Minister is of the opinion that the evidence presented, including the testimony of Detective Constable Trotter, a photo showing Mr. Alika dressed in NBM regalia, and his connections to others linked to the NBM suffice to establish membership.

[42] Mr. Alika, on the contrary, denies that he is a member of the NBM. He challenges the report authored by Detective Constable Trotter. He argues that it is incomplete, sloppy, and not credible, that it should be afforded no weight. He argues that it is common in Nigeria to engage in cash transactions and that this can explain away much of the FINCEN/FINTRAC concerns. He provides an explanation for the photo of him in NBM regalia.

[43] I am of the opinion that there is no single piece of evidence that is a ‘smoking gun’ with respect to the issue of membership. There exists no membership card that would definitively pronounce on Mr. Alika’s membership. The evidence has to be viewed globally and cumulatively.

[44] Based on the totality of the evidence I am satisfied that Mr. Alika was/is a member of the NBM/BA.

[45] Contrary to the submissions of Mr. Alika, I found the testimony for Detective Constable Trotter to be credible and trustworthy. He explained his work with the Toronto Police Services Financial Crimes Unit. His focus was on mass marketing fraud. He did not seek out the NBM or Mr. Alika, rather it was the investigations of the Financial Crimes Unit that led him to the NBM/BA. He collaborated with law enforcement agencies in Canada, the USA, Nigeria, the UK, and Interpol. He advised how in the early days of his investigations, before the NBM knew it was being watched, the Financial Crimes Unit secured a lot of open source information from the internet, social media, Facebook, and YouTube.

[46] Detective Constable Trotter explained the concerns that Mr. Alika had about the reports he authored regarding Mr. Alika and the NBM. He adequately explained about the footnotes and discrepancies cited by Mr. Alika. He explained the Toronto Police Service versadex system of

tracking police occurrence reports. He testified as to why he could not divulge certain sources; so as to not interfere with ongoing investigations, or to reveal confidential informants. He also explained how information was secured by his access as a law enforcement officer to information such as that in the MTO database, or that provided by Homeland Security, US Customs and Border Patrol, or the Canada Border Services Agency.

[47] Detective Constable Trotter detailed the NBM/BA outfit or regalia; black and yellow colours, badges, and beret. He explained that at social functions there was a distinction between bush wear and formal wear. Importantly, he testified that associates cannot wear the regalia as per the NBM constitution.

[48] He explained that the Financial Crimes Unit established 6 criteria for membership in the NBM, and that to be classified a member an individual needed to have 3 of the 6 criteria.

[49] Regarding Mr. Alika, Detective Constable Trotter stated that he met a number of the criteria. That Mr. Alika “was mentioned and identified in internal documents” of the NBM. From these internal documents it was discovered that Mr. Alika had a lord name, “Lord Kwamuzu Banda” and that he was also known as “Obele.”

[50] Detective Constable Trotter explained that only members of the NBM received a lord name. Mr. Alika in March 2012 became a Chief Priest - NBM Canada Zone. He was elected to this position and became part of the Executive Committee.¹⁵ It was explained that a “Chief Priest” is essentially in charge of protocol, in charge of decorum, and in charge of communicating the wishes of central command to the body of the respected zone. He testified that a Chief Priest would be “close to the top of the zone, of an individual zone.”

[51] With respect to a snapshot of a cellphone conversation of known NBM member Akohomen IGHEDOISE¹⁶ - Detective Constable Trotter explained that this exchange is in regards to the proceeds of crime or ‘work’ to Obele (which is a moniker Detective Constable Trotter testified

that Mr. Alika was referred to as in internal documents) at the then address of Mr. Alika, 170 Sentinel Road, Suite 203.

[52] At p. 16 of AH there is a photo taken June 21, 2013 at the Sick Kids Hospital in Toronto. This was a NBM/BA donation of toys to the hospital. NBM members are posing behind a Neo Black Movement of Africa Canada banner. Members are wearing the regalia.

[53] Mr. Alika is clearly seen in the photo wearing the regalia of the NBM. Also in the photo are known NBM members: Akohomen IGHEDOISE, Eghosa IYAMU and Uyi OSAGIE.

[54] Detective Constable Trotter went on to testify regarding Mr. Alika: “The evidence of him in the context of the Neo Black Movement of Africa came about as a result of social media and open source postings from avowed members of the organization.”

[55] UHURU Magazine, the official magazine of the NBM Canada, on its editorial masthead credits Mr. Alika as being the Production Editor.¹⁷

[56] FINCEN and FINTRAC are US and Canadian government bureaus/financial units. They collect information and analyze financial transactions to combat domestic/international money laundering/financial crimes. With respect to Mr. Alika these agencies report:

- Mr. Alika was documented as participating in the flow of \$98, 846 US through accounts controlled by him during MAR 18 – April 18 2014.¹⁸
- NOV 2015 – RBC reports to FINTRAC between August 2008 – Sep 2015 a flow of \$165,000 through his accounts that “do not correspond with the client’s profile and may be associated with the placement, layering, and integration stages of money laundering.”¹⁹

[57] Mr. Alika argued that the information of these two agencies is flawed. The FINCEN report was not disclosed and the evidence therein is not credible. To support his position he cites AH-8 – a FINCEN Audit Report.

[58] The Minister did try to have the FINCEN report cited by Detective Constable Trotter admitted but did not receive permission. It was open to Mr. Alika to secure the banking info cited in the FINCEN report, after all, they were his accounts. I ruled earlier that the FINCEN summary cited by Detective Constable Trotter was admissible.

[59] With respect to the Audit Report of FINCEN, it relates to FINCEN's controls over the assessment and collection of civil monetary penalties with respect to institutions with significant Bank Secrecy Act violations. The report is an analysis of how FINCEN administers its civil monetary policy cases. The report is of little value to the argument of Mr. Alika that the info collected by FINCEN is not credible.

[60] Similarly, Mr. Alika did contest some of the transactions that were of concern in the FINTRAC report at AH-3, p. 30 as it relates to him.

[61] He cites 9 incidents where it appears from his own RBC records that the flow of funds is opposite to the direction reported by FINTRAC. The transactions totalled about \$4,500.

[62] The overwhelming facts provided by FINTRAC are not disputed. It references some 140 deposits totalling \$151,000 and 100 withdrawals totalling \$104,000 that were subject to suspicious transaction reports prepared by the Royal Bank of Canada and reported to FINTRAC. The information in the FINCEN summary and FINTRAC report are, in my opinion, credible and trustworthy on the whole. It speaks to Mr. Alika having received and dispersed \$100,000 dollars of dubious provenance, which defies his expected income as an automobile dealer.

[63] At his May 2017 Admissibility Hearing, Habeeb UTHMAN, a known member of the NBM, was ordered deported for membership in the NBM. That decision of the Immigration

Division was upheld by the Federal Court. During his hearing Mr. UTHMAN testified that Mr. Alika was indeed a member of the NBM and Chief Priest.²⁰ Although there is some original confusion about whether Mr. UTHMAN was referring to Mr. Alika or Mr. OSAYIE and the criminal records of these men, if the exchange is read in full, Mr. UTHMAN does identify Mr. OSAYIE as the president or head of NBM and states at two exchanges that Mr. Alika is the Chief Priest.

[64] The panel in that decision had some concerns with Mr. UTHMAN's credibility as it related to his address history, some financial transactions, and comments that an injury had affected his memory. It accepted documentary evidence on some issues over the testimony of Mr. UTHMSAN and explained why. It did not raise a concern on the credibility of Mr. UTHMAN with respect to the exchange described above in AH-3. Regarding Mr. UTHMAN, Mr. Alika testified knowing him, but only meeting once in 2016 to buy concert tickets.

[65] On April 25, 2015, the CBSA examined Mr. Alika at Pearson International Airport whilst he was returning from Nigeria.²¹ An examination of his cellphone revealed messages from someone named head reading:

- Lords: 3327 Hobbit Glen Powder Springs GA 30127
- AH Zone tomorrow Sunday 6080 Dawson Blvd Nocross GA 30093 BE ON TIME

The officer who examined Mr. Alika cites an examination of the subject's cellphone and also cites Mr. Alika as visiting his brother Tony Alika.

[66] Mr. Alika has numerous associations with known NBM members or associates. His college classmate, Uyi OSAIGIE, has been identified as the President/Head of the NBM Canada.

[67] Evidence shows that Mr. Alika has received/provided funds in the past with identified or known members/associates of the NBM:

- Otis RAWL
- Taiwo GBOLADE
- Kingsley OSOYIBO

- Audrey or Gary IMAFIDION
- Eghosa IYAMU
- Efe Richie EDIBIRI
- Akohomen GHEDOISE

[68] With respect to Mr. IMAFIDION, Mr. Alika testified that he sent money for Mr. IMAFIDION's wedding. He testified that monies sent to Mr. IYAMU were for the birth of his son.

[69] The Nigerian diaspora in Canada is in the thousands. The NBM in Canada amounts to maybe 200 individuals of this diaspora and Mr. Alika had financial dealings with at least 7 of them. It is more than just coincidence in my view that Mr. Alika has had suspicious transaction reports prepared and reported to FINTRAC that pertain to these dealings.

[70] Mr. Alika's own brother Tony is a NBM member.²²

Credibility

[71] I have already determined the evidence of Detective Constable Trotter to be credible and trustworthy. I have concerns with the credibility of Mr. Alika's testimony. Despite his primary employment as an automobile dealer from 2006 to 2016 he could never provide a clear response as to how many cars he sold. It ranged from 6 to 15, but in his testimony he could only really account for 6. I do not find it credible, given that this was his primary source of income and that the sales figures were so low that Mr. Alika struggled to provide a more precise answer.

[72] Mr. Alika testified that he profited anywhere from \$3,000 - \$4,000 profit per automobile that he sold. This amounts to \$18,000 - \$45,000 in income from 2006-2016 – nowhere near the cash flows that that FINTRAC reported, let alone the monies that FINCEN reported to flow through his US account. Mr. Alika's submission that cash transactions are common in the Nigerian community and that the Nigerian diaspora help one another with small cash

transactions are not, in my opinion, a credible explanation for almost \$200 000 worth of suspicious financial transactions tied to his accounts, even when the monies he received for the sale of some land in Nigeria and costs associated to his mother's medical treatments in the USA are accounted for.

[73] I do not find it credible that Mr. Alika claims to have only met Mr. UTHMAN once, in 2016 to purchase a concert ticket. Why then would Mr. UTHMAN know his name or identify him as Chief Priest of the NBM at his admissibility hearing?

[74] Mr. Alika testified that he was looking for volunteer opportunities to assist with his pardon. Uyi OSAIGIE the head of NBM got him involved with the Sick Kids Toy Drive. He was informed of the NBM as far back as June 2012. The Toy Drive took place in June 2013 but in the intervening year Mr. Alika testified he never did his own research into NBM, never asked about the organization, and never conducted an internet search. I do not find it credible that Mr. Alika knew virtually nothing about the organization that he was volunteering his time for. It is also not credible that he never received nor asked for any certificate to acknowledge his volunteer work given that his involvement was to aid in his pardon application.

[75] Also not credible is the explanation Mr. Alika provided with respect to his being named as 'Production Editor' of UHURU Magazine. He testified that Mr. OSAIGIE and N. OJIKWE had decided to cite his name for reasons of his pardon, "And he told me that he wanted to make the magazine unique and have people who have worked on it and because I did put in my time to bring the toys he included my name and so during my pardon I can cite that." Of the 15 individuals in the photo only 8 were listed on the masthead of UHURU, and most of those are identified NBM members. Mr. Alika further testified, "He mentioned that they were trying to fit in everybody who had volunteered at that time for the Sick Kids donation to be a success, that they tried to fit everybody in the magazine and because I was not a member there is no place to fit my name and so they decided to put it as Chief Editor." This belies the fact that Mr. Alika stated that OSAIGIE did a 'write-up' in UHURU about the Sick Kids Toy Drive, which would have been the proper place to recognize volunteers. It is not credible in my opinion that he

would receive credit on a magazine's editorial masthead because there was nowhere else to acknowledge his volunteer work.

[76] Regarding Mr. IGHEDOSIE, Mr. Alika explained that they were acquaintances. Their wives knew each other from church. He did not know how Mr. IGHEDOISE made his living. Despite this tenuous relationship, Mr. Alika received a wire transfer from Mr. IGHEDOISE in the amount of \$3,735 sometime between July 2014 and January 2015. This correlates with the evidence provided by Detective Constable Trotter with respect to text messages of Mr. IGHEDOISE wherein some of the proceeds of crime were sent to Mr. Alika's residential address. Mr. Alika testified that he did not receive these monies. I do not find that to be credible.

[77] Mr. Alika was questioned on his relationship to Anthony, his brother, and testified, "Like I have been in Canada for 15 years and he had only visited me here once and there had been a time we go five years without him calling. And if I call he does not pick up and there have been sometimes I call my dad and he says he has not heard from him in six months." Given this context, it is not credible that his brother would give him his cellphone to come to Canada with after Mr. Alika allegedly dropped his phone in a well. The CBSA Officer references Anthony, noting that Mr. Alika visited with him in Nigeria, but there is no mention of the phone belonging to Anthony. Also there is no mention of Mr. Alika possessing a second phone as he testified during the hearing.

[78] Anthony Alika is, or was, a NBM member in the Atlanta Zone. He did not maintain a close relationship with Mr. Alika, "Me and Anthony we are brothers but are not very close." It is not credible, in my view, that Anthony would lend Mr. Alika his phone to travel to Canada when that phone contained potentially incriminating messages regarding Anthony's associations or meetings with NBM.

[79] Finally, with respect to his cell phone, when examined by the Hearings Officer, Mr. Alika testified his phone was water logged because it fell in a well. When questioned by his Counsel he stated "I was playing with Coby, Coby had my phone and then when I came back either the

saliva or she dropped and the screen was black.” These are two very different versions of what had happened to his phone. I do not find Mr. Alikas explanation of his examination by the CBSA at Pearson Airport on April 25, 2015 to be credible.

[80] It is for these reasons and based on the totality of the evidence that I am satisfied that Mr. Alikas is or was a member of the NBM/BA, an organization that is believed, on reasonable grounds, to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence.

[81] Mr. Alikas is inadmissible to Canada pursuant to section 37(1)(a) of the IRPA and I am issuing a Deportation Order against him.

“R. Stratigopoulos”

R. Stratigopoulos

August 1, 2019

Date

Judicial Review – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.

¹ In *Chiau v. Canada (Minister of Citizenship and Immigration)*, F.C.T.D. (1998) 2 FC 642 IMM 441-96, it was held that membership should not be interpreted as meaning actual or formal membership coupled with active participation in unlawful acts; simply belonging may be sufficient.

² 2005 SCC 40, at paragraph 114.

³ 2016 FC 437 (CanLII). See also, *He v. Canada (Public Safety and Emergency Preparedness)*, 2010 FC 391 (CanLII), at paragraphs 30 – 32; *Nguesso v. Canada (Citizenship and Immigration)*, 2015 FC 879 (CanLII), paragraphs 190-192, 194, 197.

⁴ Exhibit AH-1, p. 21.

⁵ Exhibit AH-2, pp. 1-23.

⁶ Exhibit AH-1, p. 122.

⁷ Exhibit AH-2, p. 29.

⁸ Exhibit AH-2, p. 66.

⁹ Exhibit AH-2 p. 70

¹⁰ Exhibit AH-3, p. 27.

¹¹ Exhibit AH-1.

¹² Exhibit AH-4, p. 9.

¹³ Exhibit AH-3, p. 1.

¹⁴ Exhibit AH-2, p. 75.

¹⁵ Exhibit AH-1, p. 15.

¹⁶ Exhibit AH-1. P. 15.

¹⁷ Exhibit AH-1, p. 17.

¹⁸ Exhibit AH-1, p. 17

¹⁹ Exhibit AH-1, p. 18.

²⁰ Exhibit AH-3, pp. 4-9.

²¹ Exhibit AH-3, p. 29.

²² Exhibit AH-3, p. 1.