
)	
)	
UNITED STATES OF AMERICA)	
)	
v.)	STIPULATION OF FACT
)	
MAJID SHOUKAT KHAN)	
)	
)	

This Stipulation of Fact is entered into by the Prosecution and Defense knowingly and voluntarily in the case of United States v. Majid Shoukat Khan (the Accused). It is hereby stipulated and agreed, by and between the Prosecution and Defense, with the express consent of the Accused, that the following facts are true:

1. The Accused is an alien unprivileged enemy belligerent, as defined by the Military Commissions Act of 2009 (MCA). The Accused is, and has been at all times relevant to these proceedings, a person subject to trial by military commission under Section 948c of the MCA. The Accused has never been a citizen of the United States and is therefore an "alien."

2. The Accused is an "enemy belligerent" because he purposefully and materially supported hostilities against the United States and its coalition partners. The Accused is an "unprivileged" belligerent because he does not fall within one of the eight categories enumerated under Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War:

(1) He is not a member of the armed forces of a Party to the conflict, including militia or volunteer corps forming part of such armed forces;

(2) He is not a member of some other militia or volunteer corps, including organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, which must fulfill the following conditions:

- (a) being commanded by a person responsible for his subordinates;
- (b) having a fixed distinctive sign recognizable at a distance;
- (c) carrying arms openly;
- (d) conducting operations in accordance with the laws and customs of war;

(3) He is not a member of regular armed forces who profess allegiance to a government or authority not recognized by the United States;



(4) He did not accompany the armed forces without actually being a member thereof, such as civilian members of military aircraft crews, supply contractors, and others who have received authorization from the armed forces which they accompany, from whom they receive some sort of identification card;

(5) He is not a member of a merchant marine or civil aircraft crew of a Party to the conflict;

(6) He is not an inhabitant of a non-occupied territory who spontaneously took up arms to resist invading forces and who carried arms openly and respected the laws and customs of war;

(7) He is not a person who belonged to the armed forces of the occupied country and has been interned, after being originally liberated, due to his allegiance to those armed forces; and

(8) He is not a person belonging to one of the above categories who has been interned by a neutral or non-belligerent Power on its territory.

**The Accused's Activities Took Place in the Context of and
Were Associated with Hostilities**

3. In August 1996, Usama bin Laden issued a public "Declaration of Holy War Against the Americans Who are Occupying the Land of the Two Holy Places," in which he called for the murder of U.S. military personnel serving on the Arabian Peninsula.

4. In or about March 1997, in an interview with CNN, Usama bin Laden promised to "drive Americans away from all Muslim countries," and warned the U.S. "to get out" if it did "not want to have its sons who are in the army killed." Usama bin Laden stated that he could "not guarantee" the "safety" of U.S. civilians since they were "not exonerated from responsibility" for U.S. foreign policy "because they chose the government and voted for it despite their knowledge of its crimes." He promised that if his demands were unmet, he would send the U.S. "messages with no words because" the U.S. President "does not know any words."

5. On or about February 1998, Usama bin Laden and others, under the banner of the "International Islamic Front for Jihad against the Jews and the Crusaders," issued a fatwah (purported religious ruling) claiming that it was "God's order" and an "individual duty for every Muslim" to "kill Americans ... wherever and whenever" found. The fatwah directed all Muslims to "kill the Americans and their allies, civilians and military."

6. On or about May 28, 1998, in an interview with ABC News in Afghanistan, Usama bin Laden reiterated the February 1998 fatwah's call for killing Americans, emphasizing that, "We do not differentiate between those dressed in military uniforms and civilians. They are all targets in this fatwah." Usama bin Laden further stated that if

[REDACTED]

his demands were not met, *al Qaeda* would “send” to the U. S. “the wooden boxes and the coffins” containing “the corpses of American troops and the American civilians.” Bin Laden also noted that “American civilians were asked to gather information on Muslims and observant Muslim youth and to convey it to the security section in the embassy.”

7. On or about May 29, 1998, Usama bin Laden issued a statement entitled, “The Nuclear Bomb of Islam,” under the banner of the “International Islamic Front for Fighting Jews and Crusaders,” in which bin Laden stated that “it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God.”

8. The Accused’s activities occurred during the period of an armed conflict between *al Qaeda* and the United States.

9. The Accused performed his activities on behalf of *al Qaeda* and *al Qaeda* associates and associated terrorist organizations.

10. The acts of the Accused described in this Stipulation of Facts constituted or were substantially related to hostilities occurring during an armed conflict.

Overview of the Accused’s Criminal Activities

11. The Accused, a Pakistani national, resided with his family near Baltimore, Maryland from 1996 through 2002. Just one month after the September 11, 2001 terrorist attacks, the Accused applied for a United States “Refugee Travel Document,” falsely claiming that he intended to travel to Dubai and Saudi Arabia. In fact, the Accused intended to, and did, travel to Pakistan. One of his reasons for taking this trip, in the immediate wake of the September 11, 2001 attacks, was to explore the possibility of entering Afghanistan and understanding jihad from close terrorist associates, with whom he intended to meet upon arriving in Pakistan.

12. Nearly immediately upon arriving in Pakistan, the Accused offered to work for *al Qaeda* and was introduced to Khalid Sheikh Mohammed (KSM). The Accused eventually learned KSM’s identity and learned that he had been the architect of the September 11, 2001 attacks and volunteered to work for him. The Accused remained in Pakistan for approximately three months. During that short time frame, the Accused agreed to be a suicide bomber in a failed *al Qaeda* plot to assassinate the former Pakistani president, took timer device training. The Accused also discussed with KSM several potential domestic plots, including poisoning water reservoirs and exploding underground gasoline storage tanks at American gas stations. KSM tasked the Accused with returning to the United States and gathering certain information before returning to Pakistan. The Accused returned to the United States, for approximately five months, during which time, he gathered a limited amount of information for KSM and purchased a laptop computer for *al Qaeda*. Upon his return to Pakistan, the Accused immediately resumed working for KSM and *al Qaeda*, and did so until he was arrested there in March 2003. Among other tasks he performed for *al Qaeda* during this second trip, the Accused covertly delivered \$50,000 of *al Qaeda* money to *Jemaah Islamiyah/al Qaeda* associates, who

[REDACTED]

comingled the funds with other money that they had received from KSM for terrorist operations. A portion of the funds that the Accused delivered was used to blow up the J.W. Marriott in Jakarta, Indonesia, on August 5, 2003, an attack in which eleven people were killed and at least eighty others were injured. During this time, the Accused also discussed with KSM a plan to return to the United States serve as an *al Qaeda* sleeper agent and to recruit others to form a new cell to conduct domestic terrorist operations. He was thwarted only by his capture.

The Accused's Radicalization and First Travel to Pakistan

13. In 1996, the Accused entered the United States illegally with other family members. In July 1998, the Accused was granted derivative asylee status as an unmarried minor child when his mother's petition for asylum was granted.

14. The Accused resided in or near Baltimore, Maryland, from 1998 through August 2002. He graduated from Owings Mills High School in June 1999. In July 1999, the Accused filed an application to adjust his immigration status to permanent resident alien status, but ultimately left the United States and began working for *al Qaeda* before achieving that status.

15. In 2001, the Accused resided in the Baltimore area and commuted to Northern Virginia, where he worked for a company named Electronic Data Systems (EDS) as an Oracle Database Administrator. The Accused became more radicalized in his view of Islam following his mother's death in April 2001, and began attending conferences in the United States sponsored by an Islamic missionary organization called Tablighi Jamaat (TJ).

16. In 2000, the Accused met an individual named Iyman Faris, a/k/a/ Abdul Rauf, at the Accused's family home. After listening to Iyman Faris speak about his time as a Muhajideen fighting against the Soviets, the Accused began thinking about jihad.

17. On September 11, 2001, the Accused was working as an Oracle database administrator on a high floor of a building located in the Tyson's Corner, Virginia area when members of *al Qaeda* hijacked four commercial airliners and deliberately crashed them. Two airliners crashed into the World Trade Center in New York City, New York, one crashed into the Pentagon in Arlington, Virginia, and one crashed into a field in rural Pennsylvania.

18. The Accused viewed the smoke rising from the Pentagon from his office building in Tyson's Corner.

19. Following the September 11, 2001 terrorist attacks, the Accused began to become radicalized and became interested in learning about jihad. He sent and received computer email messages containing "pro-Taliban" content. Examples include the following:

[REDACTED]

(a) A September 25, 2001, email with the subject line, "Interview with Mullah Omar-must read!" Attached to the email was a transcript of a Voice of America interview with Taliban leader Mullah Omar and an article from the website www.islam-online.net reporting that the United States Department of State had banned the Voice of America radio network from broadcasting the interview. In the interview, Mullah Omar described his reasons for harboring Usama bin Laden and stated "America has created the evil that is attacking it." The sender of the message wrote, "Too bad no one in the US will hear this interview." The Accused forwarded the message to others and to his own, personal email account, bobdesi@hotmail.com.

(b) A November 20, 2001 e-mail with the subject line, "A 'Peaceful army supported by USA and its coalition.'" Attached to the email were "jpg" files entitled "Brutality," which contained photographs purporting to show the execution of Taliban members. One photograph bore the notation, "This is what CNN, BB& [sic] and International Media Hiding from the world." In the body of the message, the sender wrote, "This is what the Northern Alliance is doing in Afghanistan. One can easily judge who is brutal, Northern Alliance or Taliban. Taliban never behaved like this with Prisoners of War. It is a very shameful act from those who call them muslims and they are doing this because USA is backing them. Where are human-rights activities now? Please forward this e-mail to as many people as you can as it will expose the reality."

20. In October 2001, after he had applied for permanent residence alien status, the Accused sought information through his employer about the possibility of traveling to Pakistan to get married. The Accused's employer informed him in an October 15, 2001 email that EDS's lawyer advised that returning to the country from which he obtained asylum "could be grounds to deny his permanent [application]."

21. On October 16, 2001, the Accused applied to the United States Immigration and Naturalization Service (INS) for a refugee travel document, fraudulently claiming that he wanted to travel to Dubai to get married and then to Saudi Arabia for a pilgrimage. In fact, the Accused intended to travel to Pakistan. The Accused also falsely claimed on his application for a refugee travel document that he had never obtained a Pakistani passport. In fact, the Accused had obtained a Pakistani passport, at the Pakistani Embassy in Washington, D.C., in July 2000.

22. The Accused received an I-131 refugee travel document from INS on December 22, 2001. The I-131 refugee travel document was valid for one year and expired on December 22, 2002.

23. In early January 2002, the Accused sought a leave of absence from EDS and traveled to Pakistan. He departed for Pakistan on January 4, 2002, two weeks after

[REDACTED]

receiving the I-131 refugee travel document. He did not travel directly to Pakistan, but traveled instead through third-party countries.

24. When he left for Pakistan, the Accused intended to do the following: (1) to get married; (2) commence a 40-day spiritual cleansing; (3) explore the possibility of moving to Afghanistan to live under Sharia law; and (4) understand jihad. Prior to leaving the United States, the Accused knew that he would meet with close associates affiliated with a jihadi organization while in Pakistan.

25. When the Accused arrived in Pakistan he met with his close jihadi-affiliated associates.

26. In or about January 2002, in Pakistan, the Accused's sister-in-law arranged for the Accused and his father to meet with the family of a high-ranking Pakistani General and associate of former Pakistani President Pervez Musharraf in order to explore the possibility of arranging a marriage between the Accused and the Pakistani General's daughter.

27. In or about January 2002, in Pakistan, the Accused advised an *al Qaeda* - affiliated individual (Co-conspirator #1) that the Accused was going to meet the Pakistani General and his family. Co-conspirator #1 replied that he had a "very important" man that he wanted the Accused to meet.

The Accused's Attempt to Assassinate the Former President of Pakistan

28. In January 2002, *al Qaeda* associate Jaffar al Tayyer, visited the Accused's apartment in Karachi, Pakistan, where the two viewed videos of Usama bin Laden and discussed Islam. The Accused viewed this meeting as an assessment of his trustworthiness by *al Qaeda*. Subsequently, the Accused met Jaffar al Tayyer on a number of occasions at a number of different *al Qaeda* safe houses.

29. In or about January 2002, Co-conspirator #1 introduced the Accused to KSM for the first time. The Accused and KSM met on a street corner in Karachi, Pakistan. The Accused was introduced to KSM who went by the alias "Hafeez." While the two walked, KSM discussed with the Accused his interest in the Pakistani General and tasked the Accused with assessing the security surrounding the General's home and asked the Accused to report back to KSM.

30. In or about January 2002, the Accused and some of his family members visited the General's home in Rawalpindi, Pakistan, and spent several hours there. The Accused and his family met with the Pakistani General and his wife.

31. In or about January 2002, immediately upon the Accused's return from visiting the Pakistani General, KSM met with the Accused on the streets of Karachi, Pakistan, for a second time. Again, the Accused and KSM walked while they spoke. KSM asked the Accused about the security measures at the Pakistani General's home, including whether

[REDACTED]

visitors' bags were checked upon arriving. The Accused advised KSM that he observed no security measures at the General's home.

32. In or about January 2002, in or near Karachi, Pakistan, the Accused and KSM discussed a possible plot to sneak a suicide bomber into the wedding between the Accused and the Pakistani General's daughter. KSM advised the Accused that he knew President Musharraf would be present at the wedding and that KSM's objective was to assassinate Musharraf at the wedding.

33. The arranged marriage between the Accused and the Pakistani General's daughter did not happen, and the Accused subsequently married another woman on February 26, 2002.

34. By in or about February 2002, the Accused learned that KSM was a leader of "the brothers," a member of *al Qaeda*, and the planner of the 11 September 2001 terrorist attacks.

35. In or about January 2002 through February 2002, the Accused began to lean further toward wanting to participate in violent jihad. He believed that he had sinned by his lifestyle in the United States, and was sincerely motivated to become a martyr. By February 2002, the Accused was ready to complete a "job" (which the Accused understood to be a terrorist operation) for *al Qaeda*.

37. After his February 26, 2002 marriage, the Accused traveled to Lahore, Pakistan, for his honeymoon. While there, members of *al Qaeda* contacted the Accused and told him to return to Karachi. The Accused complied. When he returned, he learned that KSM was planning to assassinate President Musharraf, and that KSM wanted the Accused to serve as a suicide bomber in that attack.

38. The Accused agreed to participate in a suicide operation and met with KSM in an *al Qaeda* safe house, in Karachi, Pakistan, on or about March 7, 2002, where many other high-ranking *al Qaeda* officials were gathered. The Accused was taught how to operate a suicide vest. The Accused spent the evening of March 7, 2002 in the Karachi safe house where he observed Hassan bin Attash constructing the suicide vest. The Accused knew Hassan bin Attash to be affiliated with *al Qaeda*.

39. The Accused awoke at the Karachi safe house on the morning of March 8, 2002, and prepared for his suicide mission. He was enthusiastic about the operation. In the safe house, he recorded a martyrdom video. After driving his wife to his family apartment in Karachi, the Accused advised his wife that he might never return.

40. On March 8, 2002, the Accused traveled with KSM and other *al Qaeda* members to a mosque where KSM thought Musharraf might attend. KSM regularly discussed his desire to kill Musharraf in the Accused's presence.

[REDACTED]

41. The Accused donned a live suicide vest and was prepared to kill Musharraf. The vest was outfitted with small ball bearings that would scatter upon detonation in order to create what the Accused called a "killing machine" that inflicts maximal death and damage. The Accused intended to kill Musharraf at the mosque. However, Musharraf never arrived. When Musharraf did not arrive, KSM was visibly upset that the attempt failed and threw his cell phone.

The Accused's Support to Additional *al Qaeda* Plots

42. After the failed plot against Musharraf, the Accused returned to an *al Qaeda* safe house in Karachi, Pakistan. On or about March 8, 2002, he and KSM discussed various plots for attacks on American soil. KSM was interested in the Accused because the Accused possessed valid U.S. travel documents, spoke fluent Urdu and English, and knew how to use computers. The Accused advised KSM that his family owned gas stations in the Baltimore, Maryland area. KSM and the Accused discussed a plot to simultaneously explode gas tanks at multiple gas stations in the United States, and KSM stated that such a plot would create chaos.

43. The Accused agreed and conspired with KSM, Ali Abdul al-Aziz Ali (Ali) and others to commit crimes during his time in Karachi, Pakistan, and undertook certain acts to assist KSM, Ali, and others, to further the conspiracy. Specifically, the Accused began working for members of *al Qaeda* and affiliated persons in January 2002 through March 2003, including checking *al Qaeda* operational email accounts and couriering messages for *al Qaeda* operatives and/or associates. From January 2002 through March 2003, the Accused worked to gain the trust and approval of KSM and *al Qaeda*.

44. In or about March, 2002, KSM ordered the Accused to attend training on the construction of explosives timing devices at a safe house in Karachi, Pakistan. The training lasted eight hours and was provided by Hasan Bin Attash and Jaffer Al Tayyer.

45. The training consisted of instruction on the construction of simple timing devices to be used as potential detonators. The Accused was directed to memorize the configuration of wiring and tubing, and learn how to connect the device to a watch. After the training, KSM tested the Accused on his knowledge of the timing devices. KSM told the Accused that the detonators could be used for a future attack on gas station fuel storage tanks in the United States.

46. In March 2002, the Accused and KSM discussed nuclear devices, uranium, a potential plot to open a front-company to sell poisoned medication to the United States, and a plot to poison water reservoirs in the United States. They also discussed the possibility of opening an import/export company to move explosives to the United States.

47. On or about March 13, 2002, on the streets of Karachi, the Accused again met with KSM. During this meeting, KSM instructed the Accused to conduct research into the feasibility of blowing up gas stations in the United States, the operation and maintenance of gas stations and fuel tanks, and specifically instructed the Accused to

[REDACTED]

research government and/or federally associated gas stations. KSM also instructed the Accused to research ways to poison water reservoirs close to United States military installations and to research the feasibility of using import/export businesses to import nuclear weapons and/or uranium to the United States and to research shipping containers.

48. On March 21, 2002, the Accused traveled from Karachi, Pakistan, to Dulles International Airport, transiting first through Dubai, UAE, and Zurich, Switzerland. When he returned to the United States, the Accused went to work for his family's gas stations in the Baltimore area. During this time, the Accused observed and oversaw the delivery of fuel to the gas station on a regular basis. The Accused remained in the Baltimore area from approximately March 21, 2002 through August 11, 2002.

49. While in the United States between March 21, 2002 and August 11, 2002, the Accused remained in contact with various *al Qaeda* members.

50. While in the United States, the Accused purchased an HP laptop that he intended to bring back to Pakistan and provide to *al Qaeda* to use. The Accused provided the laptop to *al Qaeda* when he returned to Pakistan in August 2002.

51. While in the United States between March 21, 2002 and August 11, 2002, the Accused contacted the United States Military and attempted to obtain recruiting materials from the United States Navy. The Accused misrepresented that he was interested in enlisting in the United States Military. A United States Military recruiter traveled to the Accused's Baltimore residence to speak with him about enlisting. In fact, the Accused intended to bring the information he learned from military recruiters back to Pakistan to share with KSM and other members of *al Qaeda*.

52. The Accused intended and had reason to believe that the information he was collecting for KSM and other *al Qaeda* members would be used to injure the United States. The Accused knew that KSM and *al Qaeda* were enemies of the United States, and the Accused intended to deliver this information to them as such.

53. Between on or about March 21, 2002 and on or about August 11, 2002, in or near Baltimore, Maryland, the Accused attempted to recruit his brother to work for KSM and *al Qaeda*. The Accused bragged to several family members and friends that he had been working with the "mujahideen" while in Pakistan and detailed some of the things he had done, including wearing a suicide vest. He was careful never to use the terms "*al Qaeda*," or specifically mention KSM in these discussions. In addition, the Accused began to assess several individuals in the Baltimore area for potential recruitment by *al Qaeda*, including a fourteen-year-old boy.

54. Between on or about March 21, 2002 and on or about August 11, 2002, in or near Baltimore, Maryland, the Accused showed his family and friends several Usama bin Laden videos that he had brought back with him from Pakistan.



55. In or about the Summer of 2002, the Accused received word from *al Qaeda* that he was required back in Pakistan. The Accused told members of his family that "the Sheikh" ordered him to return to Pakistan. At the same time, the Accused was involved in a disagreement with his father and decided to return to Pakistan permanently.

56. In July 2002, the Accused filled out an application for a renewed I-131 travel document. His original travel document had not expired; rather, it had been taken by his father, who wanted to prevent him from returning to Pakistan to continue working for *al Qaeda*. The Accused ultimately did not mail the application. Instead, he claimed that he no longer intended to work for *al Qaeda*, and thus deceived his father into returning his original I-131 travel document.

57. On August 11, 2002, the Accused traveled to Pakistan, once again flying through Zurich. When he arrived in Pakistan, the Accused met with KSM and reported his progress. The Accused also offered to continue researching the gas station plot for KSM. KSM agreed.

58. While the Accused was in Pakistan the second time, he performed tasks for *al Qaeda* members, including KSM and Ali. During this time, the Accused witnessed security measures employed by KSM, Ali and other *al Qaeda* members. For instance, the Accused had a telephone number that he used to determine whether Ali needed his services on any given day. If he got in contact with Ali, he was instructed to wait at a specific location, where Ali met him. The Accused frequently drove Ali on a motorcycle to *al Qaeda* meetings around Karachi. During these trips, Ali closed his eyes so that if he were later arrested and interrogated, he would not know where he had met various *al Qaeda* members. Ali instructed the Accused to drive as straight as possible and avoid observing landmarks or road signs so that the Accused would also not be able to remember the route they took. During this period, KSM and Ali were attempting to evade capture from the United States and Pakistani authorities.

59. In or about September 2002, the Accused met KSM in a hotel room in Peshawar, Pakistan, for approximately two days. During this meeting, KSM spoke to the Accused for approximately eight hours, and told the Accused that KSM need him to serve as an *al Qaeda* operative within the United States. KSM wanted the Accused to become a new model for "sleeper" agents in the United States because the Accused was married, spoke fluent English, had a valid U.S. travel document, could maintain a low-profile, and easily assimilate without detection. The purpose of KSM's "sleeper" network was to conduct a terrorist attack within the United States. The Accused agreed with KSM's plan, agreed to return to the United States to serve as a sleeper agent for KSM, and was committed to the idea.

60. From in or about August 2002 through in or about March 2003, the Accused and KSM discussed the possibility of kidnapping the Pakistani General.

[REDACTED]

Al Qaeda's Connection with Jemaah Islamiyah

61. On or about 1996, Khalid Sheikh Mohammed (KSM) traveled to Malaysia and met with Abdullah Sungkar and Abu Bakr Ba'asyir, two leaders of the Southeast Asia-based organization, *Jemaah Islamiyah*. During this meeting KSM convinced Abdullah Sungkar and Abu Bakr Ba'asyir to travel to Afghanistan to meet with Usama bin Laden. Thereafter, KSM facilitated Abdullah Sungkar and Abu Bakr Ba'asyir's travel to Afghanistan and a meeting with Usama bin Laden. After meeting with Usama bin Laden, Abdullah Sungkar and Abu Bakr Ba'asyir told KSM that Usama bin Laden had advised them that *al Qaeda* and *Jemaah Islamiyah* should fight together.

The Accused's Role in the August 2003 Bombing of the J.W. Marriot in Jakarta, Indonesia

62. In about mid-January 2002, Mohammed Jabarah, an operative sent by KSM met with *Jemaah Islamiyah* leader Encep Nurjaman's, a/k/a Riduan bin Isomuddin, a/k/a Hambali (Hambali) in Thailand. Hambali stated that he planned to have his group conduct small bombings against soft targets such as bars, cafes or nightclubs frequented by "Westerners" in Thailand, Malaysia, Singapore, Philippines and Indonesia. Hambali also stated that he had one ton of explosives in Indonesia.

63. In or about January 2002, Hambali instructed his lieutenants, Mohd Farik Bin Amin, a/k/a Zaid, a/k/a Zubair (Zubair) and Mohd Nazir Bin Lep, a/k/a/ Lillie (Lillie), to travel from Hat Yai, Thailand to Hambali's location in Bangkok, Thailand.

64. Between about January 2002 and about June 2003, in or near Bangkok, Thailand, Hambali provided Lillie and Zubair with money to procure false identifications for Hambali.

65. During the Accused's September 2002 meeting with KSM in a Peshawar hotel room, KSM tasked the Accused with delivering \$50,000 USD in *al Qaeda* funds to Thailand. KSM ordered the accused to obtain a Thailand travel visa, to take his wife on the trip for "cover," and to deliver the funds through the untraceable *hawala* system and deliver the money on the "black market" to avoid detection and avoid carrying cash from Pakistan to Thailand. The Accused viewed this assignment as his first big "test" from KSM since returning to Pakistan in the Summer of 2002.

66. In late 2002, Ali instructed the Accused to conduct Internet research about tourist activities in Thailand so that the Accused could dress appropriately and "blend in" unnoticed. Ali also instructed the Accused to use his honeymoon as a "cover story" for his trip to Thailand.

67. In late 2002, the Accused traveled with Ali to the Al-Ghuraba school, a madrassa for Southeast Asian students in Karachi, Pakistan. While there, the Accused and Ali met with Rusman Gunawan, a/k/a: Abdul Hadi. (Gunawan). Gunawan is Hambali's brother. While there, Gunawan wrote down some phone numbers, including Zubair's phone

[REDACTED]

number in Thailand, and provided them to Ali. Ali subsequently provided the Accused with Zubair's phone number and the phone number of a *hawaladar* in Bangkok, Thailand.

68. In or about late 2002, Gunawan, who was located in or near Karachi, Pakistan, notified Hambali that KSM was sending \$50,000 USD to Hambali in Thailand.

69. In late 2002, Hambali told Zubair that they would be receiving \$50,000 USD from *al Qaeda*. Zubair gave Hambali his telephone number to pass on to the Accused so that the Accused could contact Zubair when the Accused arrived in Thailand. Hambali told Zubair that the money was to be used for an "operation," such as a bombing or similar type of terrorist attack.

70. Although neither Ali nor KSM told the Accused what the money was intended for, the Accused believed that the money was being used for *al Qaeda* operational purposes (or terrorist attacks). This was consistent with the Accused's plans: he volunteered to assist *al Qaeda* in this way, and would have delivered the money even had he been specifically been informed that it was for a terrorist operation that was intended to kill people.

71. On December 24, 2002 the Accused traveled with his wife from Karachi, Pakistan to Bangkok, Thailand. The Accused and his wife checked stayed at the Sofitel Hotel in Bangkok, Thailand, from December 24 through December 29, 2002.

72. After he arrived in Thailand, the Accused continued to communicate with Ali in coded email messages, and using code names, regarding the money delivery. In these messages, Ali again provided the Accused with Zubair's phone number in Thailand and the phone number of the Bangkok-based *hawaladar*.

73. On December 26, 2002, the Accused received a message on the Sofitel Hotel's automated message system asking him to call "Mr. Farooq" at a Thailand-based telephone number. The Accused called the phone number from his hotel room on or about December 28, 2002. Mr. Farooq was a *hawaladar* from whom the Accused received a portion of the \$50,000 cash.

74. The Accused received two separate *al Qaeda* money deliveries from *hawaladars* in Bangkok, Thailand, between December 26 and December 28 2002, totaling \$50,000.

75. On or about December 28, 2002, the Accused telephoned Zubair and arranged to meet him at a set location in Bangkok, Thailand. At this meeting, the Accused delivered approximately \$30,000 USD to Zubair. The Accused and Zubair arranged to meet again later that day so the Accused could deliver the balance of the \$50,000 USD to Zubair.

76. On or about December 28, 2002, Zubair and the Accused met a second time at a location in Bangkok, Thailand. The Accused delivered the remaining balance of the \$50,000 USD to Zubair. Before the Accused left the meeting, Zubair offered to give him

[REDACTED]

a few passports to take back to Pakistan. Because the Accused had not been told about this plan, he chose not to accept the passports.

77. On or about December 28, 2002, the Accused sent a coded e-mail message to Ali confirming that he had successfully received the \$50,000 USD from the *hawaladar*, and that he was delivering the money to Zubair.

78. The Accused chose to leave Thailand with his wife earlier than he had planned because he was afraid someone was watching him. When the Accused returned to Pakistan, he met with Ali and told him about the money exchange and Zubair's request that the Accused take the passports back to Pakistan. Ali told the Accused that he should have taken the passports.

79. On or about December 28, 2002, at Hambali's instruction, Zubair took the \$50,000 USD he received from the Accused to an apartment in or near Bangkok, Thailand, for safekeeping. The apartment was shared by Zubair and Lillie.

80. In or about January 2003, at Hambali's instruction, Zubair met with a second *al Qaeda* money courier in or near Bangkok, Thailand. At this meeting, the *al Qaeda* money courier gave Zubair approximately \$49,000 USD. Zubair took this money to the apartment he shared with Lillie in or near Bangkok for safekeeping. Lillie and Zubair commingled the funds that they had received from the two separate money couriers.

81. In or about February 2003, in or near Bangkok, Hambali directed Lillie and Zubair to take the money that they had received from the Accused and other conspirators and change it into other currencies.

82. In or about Spring 2003, Lillie and Zubair each conducted several transactions at various locations in or near Bangkok. Through these transactions, Lillie and Zubair exchanged portions of the money that they had received from the Accused and other conspirators into different currencies.

83. In or about Spring 2003, Hambali directed Lillie to transfer a portion of the money that he and Zubair had changed into other currencies to Indonesia. Hambali advised Lillie and Zubair that he (Hambali) was sending money to Indonesia for two reasons: 1) to help fund an upcoming terrorist operation; and 2) to provide money to the families of *Jemaah Islamiyah* members who had died as suicide operatives, or had been arrested in connection with the October 2002 bombings of multiple nightclubs outside of the United States Consulate in Bali, Indonesia.

84. In or about Spring 2003, Lillie transferred the money to a fellow Malaysian and instructed him to hand-deliver the money to Indonesia, using codes and code names. Hambali told Lillie that this money was intended for *Jemaah Islamiyah* member Dr. bin Hussein Azahari (Azahari).

[REDACTED]

85. In or about late Spring or early Summer 2003, *Jemaah Islamiyah* associate Mohammed Ikhwan, a/k/a Ismail (Ismail), received the money delivered to him in Indonesia at Hambali's instruction.

86. In or about June 2003, Hambali contacted Zubair, at or near Bangkok, Thailand, and instructed him to remind Azahari that a portion of the money that had been derived from the co-mingled funds, a portion of which had been delivered to Thailand by the Accused, and subsequently delivered to Indonesia, was for families of *Jemaah Islamiyah* members and a portion was for a terrorist operation.

87. In or about late Spring or early Summer 2003, at the direction of *Jemaah Islamiyah* bomb-maker, Noordin Mat Top's (Noordin's) direction, a group of *Jemaah Islamiyah* members began planning for a terrorist bombing, using the funds that had been delivered to them by Hambali from the co-mingled funds he was holding in Thailand.

88. In or about early Summer 2003, Ismail, Noordin, and Azahari traveled to Jakarta, Indonesia, to construct a truck bomb. In order to covertly construct the truck bomb, Asmar and Tohir rented a safe house with a garage.

89. In or about mid-July 2003, Noordin and Azahari settled on the J.W. Marriott Hotel in Jakarta, Indonesia, as the target of the terrorist attack. They did so in large part because they believed it had a large American presence.

90. On or about August 5, 2003, after allowing the selected suicide bomber to stop in a mosque to pray, Azahari joined Ismail on the motorcycle, and led the bomber in the truck bearing the bomb to the J.W. Marriott Hotel in Jakarta, Indonesia. Ismail and Azahari turned left on the street immediately prior to the J.W. Marriott Hotel and paused to ensure that the bomber turned into the J.W. Marriott Hotel driveway.

91. On or about August 5, 2003, in Jakarta, Indonesia, the suicide bomber drove the truck into the front entrance of the J.W. Marriott Hotel and detonated the bomb, killing eleven people, wounding at least eighty-one others, and severely damaging the J.W. Marriott Hotel.

92. All of the groups' expenses for conducting the bombing of the August 5, 2003 J.W. Marriott hotel were paid for using the funds that were delivered by Hambali from the co-mingled funds he received from the Accused and another *al Qaeda* money courier.

The Accused's Attempt to Return to the United States to Establish an *al Qaeda* "Sleeper Cell"

93. On or about December 22, 2002, while in or near Karachi, Pakistan, the Accused deliberately allowed his I-131 travel document to expire so that his family would believe that he could never return to the United States. The Accused feared that if his family discovered his return, he could not successfully serve as an *al Qaeda* operative, and that they might report him to U.S. authorities. Ali directed him to obtain a renewed United



States travel document so that KSM could use him as an *al Qaeda* operative within the United States. While in Pakistan, the Accused filled out an application for a renewed I-131 refugee travel document, again making fraudulent statements to INS. The Accused volunteered to go anywhere to help *al Qaeda* once he resolved the issues with his travel document.

94. In late 2002, at or near Karachi, Pakistan, Ali introduced the Accused to Aafia Siddiqui (Siddiqui), a woman whom Ali and the Accused enlisted to help the Accused fraudulently obtain a new I-131, while making it appear to United States authorities that the Accused had not left the United States.

95. On or about December 30, 2002, at the instruction of the Accused, Siddiqui applied for a P.O. box in Gaithersburg, Maryland. She opened the box jointly in her name and in the Accused's name, falsely claiming that the two were married. On the same day, Siddiqui mailed the Accused's fraudulent I-131 application for a refugee travel document to the INS on the Accused's behalf.

96. Both the Accused's and Siddiqui's fingerprints were found on the I-131 that Siddiqui mailed to INS.

97. In early 2003, Siddiqui returned to Pakistan and provided the Accused and Ali with documentation indicating that she had opened the P.O. box and mailed the Accused's I-131 application from a location at or near Gaithersburg, Maryland.

98. From about late January to about early February 2003, the Accused and Ali met with Pakistani businessmen Uzair Paracha (Uzair) and Saifullah Paracha in or near Karachi, Pakistan, on at least two separate occasions. The Paracha's owned and operated an export business that had an office in New York, New York. During these meetings, the Accused advised Uzair Paracha that he did not want U.S. Immigration officials to learn that he was not in the United States and needed assistance obtaining a renewed travel document. The Accused directed that upon Uzair's return to the United States, Uzair should, among other things, deposit money into the Accused's bank account, use the Accused's credit card, retrieve immigration papers from a post office box in Maryland, and call INS from a pay phone posing as the Accused.

99. The Accused also provided Uzair with handwritten instructions on what Uzair should do when he got back to the United States. The instructions included, "Always call from pay phone," "Put some money in my account," "Use it at any gas station," "Good practice of my sign," "Mothername = Kafiya Khan" and "Fathername Shoukat Khan."

100. Between on or about late January and about early February 2002, in a second meeting with Uzair, the Accused attempted to recruit Uzair to officially work for *al Qaeda*. Uzair refused.

101. On or about February 17, 2003, Uzair traveled from Karachi, Pakistan to New York, New York. Between February 18, 2003 and March 28, 2003, Uzair called the INS

H.K
JSJ
UB JMD



[REDACTED]

from a pay phone and posed as the Accused as the Accused had directed. During this same time frame, Uzair visited a website named "Visapro," where he entered the receipt number of the Accused's refugee travel document application in order to check on its status as the Accused had instructed.

102. Uzair was arrested in March 2003, and voluntarily confessed to FBI agents that he was helping the Accused to fraudulently obtain renewed travel documents. Uzair also consented to the search of his briefcase, where agents found the Accused's identification, the Accused's bank cards, and the note that the Accused had written for Uzair.

103. Uzair also consented to the search of his briefcase, where agents found the Accused's identification and bank cards, the Accused's written instructions to Uzair (on which the Accused's, Siddiqi's and Ali's fingerprints were located), a money order receipt from the Postal Service (on which Ali's fingerprints were located), a customer receipt for the P.O. box, an extra key (on which Ali's fingerprints were located) and a receipt for the P.O. box (on which Ali's and the Accused's fingerprints were located).

104. Through this scheme, the Accused intended to obtain legitimate travel documents so that he could return to the United States without his family being aware of his presence. He intended to do so consistent with his agreement with KSM, and other members of *al Qaeda*, to participate in future terrorist plots within the United States.

105. The Accused was captured in or about March, 2003.

106. At no time from the Accused's capture through August 5, 2003 did the Accused ever seek to voluntarily withdraw from the conspiracy.

The Accused is Guilty of the Charged Offenses

107. The Accused did, at various locations, within the United States, Pakistan, Thailand, and elsewhere, from about January 2002, to about August 2003, knowingly and willfully conspire and enter into an agreement with one or more members and associates of *al Qaeda* and its affiliated groups, known and unknown, to commit offenses triable by military commission, to wit: murder in violation of the law of war, providing material support for terrorism and spying, and in order to effect the object and purpose of the agreement, the above Accused and his coconspirators, knowing the unlawful purpose of the agreement, joined willfully with the intent to further the unlawful purpose, knowingly committed the above-described overt acts.

108. The Accused and his co-conspirators, known and unknown, did intentionally and unlawfully kill 11 persons on August 5, 2003, in violation of the law of war, by bombing the J.W. Marriott Hotel in Jakarta, Indonesia. The murder committed by the Accused's co-conspirators occurred during at time at which the Accused was a member of the conspiracy and was committed by the Accused's co-conspirators within the scope of, and in furtherance of, the conspiracy. The murder was a reasonably foreseeable necessary and natural consequence of the conspiracy, taking place in the context of and associated with



hostilities. The Accused is guilty of the substantive offense of murder and attempted murder as a result of his co-conspirators bombing of the J.W. Marriot Hotel in Jakarta, Indonesia.

109. The Accused attempted to intentionally and unlawfully kill President Musharraf, which act was in violation of the law of war and took place in the context of, and was associated with, hostilities. The acts of the Accused amounted to more than mere preparation and were apparently tended to effect the commission of the intended offense.

110. The Accused provided material support and resources to be used in preparation for, or in carrying out, an act of terrorism, knowing or intending that the material support or resources were to be used for those purposes, and the conduct took place in the context of and was associated with hostilities.

111. The Accused provided material support or resources to an international terrorist organization engaged in hostilities against the United States, intending to provide such material support or resources to an international terrorist organization, knowing that the organization has engaged in or engages in terrorism, with the conduct taking place in the context of and associated with hostilities.

112. The Accused collected or attempted to collect certain information by clandestine means or while acting under false pretenses, intending or having reason to believe that the information being collected would be used to injure the United States or provide an advantage to a foreign power, intending to convey such information to an enemy of the United States or one of the co-belligerents of the enemy, which conduct was in violation of the law of war and taking place in the context of and associated with hostilities.

FEB-13-2012

Date

MAJID SHOUKAT KHAN

We certify we advised the Accused as to the nature and legal effect of this document and we witnessed his voluntary signature to this Stipulation of Fact.

2/13/12

Date

Mr. J. Wells Dixon

Member of the bar of NY

2/13/12

Date

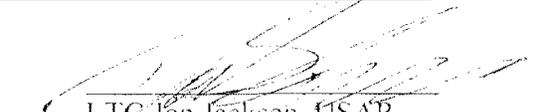
Ms. Katya Jestin

Member of the bar of N.T.





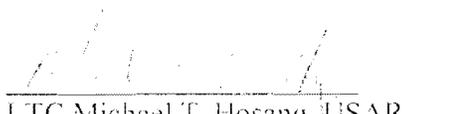
13 FEB 12
Date


LTC Jon Jackson, USAR
Certified under Article 27(b) UCMJ 7

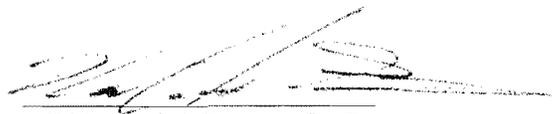
13 FEB 12
Date


Ms. Courtney Sullivan
Member of the bar of VIRGINIA

13 FEB 12
Date


LTC Michael T. Hosang, USAR
Certified under Article 27(b) UCMJ 7

13 FEB 12
Date


LT Nathaniel Gross, USAR
Certified under Article 27(b) UCMJ 7

