

1 THE COURT: Ladies and gentlemen of the jury, good
2 morning. We are ready to proceed.

3 Mr. Jonas?

4 MR. JONAS: Thank you, sir.

5 Q. (BY MR. JONAS) Agent Burns, I know when we broke
6 yesterday I said we were moving on from the Philadelphia
7 conference, but there are two questions I forgot to ask, and I
8 apologize.

9 The first is you testified yesterday in response to the
10 quote from the Defendant Shukri Abu Baker "In the past we gave
11 the Islamists \$100,000 and we gave \$5,000 to the others" as an
12 example of the Holy Land Foundation giving \$5,000 to Oklahoma
13 City bombing victims. Did they give more than just \$5,000?

14 A. Yes, they did. I think they had a blood drive and there
15 were certain expenses associated with them traveling up to
16 Oklahoma City to, you know, administer relief. But in general
17 it was, you know, the \$5,000 donation plus those expenses.

18 Q. Okay. You testified during the Philadelphia meeting that
19 several of the participants discussed their approach to
20 America and what they can say to the Americans. Do you recall
21 that?

22 A. I do.

23 Q. Were there several times they discussed it that we didn't
24 play yesterday or read yesterday?

25 A. Yes.

1 Q. Okay.

2 MR. JONAS: Let's play one more, Philly Meeting No.
3 15-E, Segment A, please.

4 ?

5 Q. (BY MR. JONAS) Can you remind us who is speaking?

6 A. This is Omar Ahmad.

7 Q. Agent Burns, do you see where it says "if the Fund"? Who
8 is the fund that?

9 A. Is the HLF.

10 Q. Now we will move away from the Philadelphia meeting.

11 After the Philadelphia meeting, did there come a time
12 when an issue arose involving the Holy Land Foundation that
13 required the intervention of the Palestine Committee?

14 A. Yes.

15 Q. What was this issue?

16 A. There was a conflict that arose shortly after the
17 Philadelphia meeting between Abdel Haleem Ashqar and his
18 association, the Al-Aqsa Educational Fund and the officers of
19 the HLF.

20 Q. You basing that upon what?

21 A. That is based upon the exhibits that we are about to show
22 to the jury.

23 Q. Okay. You testified that Ashqar had an organization
24 called the Al-Aqsa Educational Fund?

25 A. That is correct.

1 Q. Do you have before you what has been marked as Secretary
2 of State MS-1?

3 A. I do.

4 Q. Okay. What is that document?

5 A. These are the articles of incorporation for the Al-Aqsa
6 Educational Fund from the State of Mississippi.

7 Q. Is that certified?

8 A. It is.

9 MR. JONAS: Your Honor, at this time I offer into
10 evidence Government's Exhibit Secretary of State MS-1.

11 MS. HOLLANDER: No objection, Your Honor.

12 THE COURT: Admitted.

13 Q. (BY MR. JONAS) Agent Burns, the MS in the exhibit number
14 stands for what?

15 A. The State of Mississippi.

16 Q. Agent Burns, do you see the page that is on the screen?

17 A. I do.

18 Q. Is that the page that identifies Ashqar as being
19 associated with this Al-Aqsa Educational Fund?

20 A. Yes. If you will look toward the bottom, his name is
21 listed twice there at the bottom. It is hard to read on the
22 screen with the small print.

23 Q. And on the top what does it say? Does it identify the
24 fund?

25 A. Yes. At the top it states that these are the articles of

1 incorporation for the Al-Aqsa Educational Fund.

2 Q. Based upon these articles of incorporation, what was the
3 Al-Aqsa Educational Fund supposed to be?

4 A. It was a charitable organization.

5 Q. Now, you discussed that there was an issue between the
6 Al-Aqsa Educational Fund and the Holy Land Foundation. Was
7 there any calls that were intercepted by the FBI where these
8 issues were discussed by the Defendants or any other
9 participants in the Palestine Committee?

10 A. There were several.

11 Q. Do you have what has been marked as Ashqar Wiretap No. 6
12 before you?

13 A. I do.

14 Q. Is that one of the calls you are referring to?

15 A. It is.

16 Q. What is the date of the call?

17 A. February 23rd, 1994.

18 Q. And who are the participants?

19 A. Abdel Haleem Ashqar and Muin Shabib.

20 MR. JONAS: Your Honor, at this time I would offer
21 into evidence Government's Exhibit Ashqar No. 6 and 6-A.

22 MS. HOLLANDER: Nothing additional, Your Honor.

23 THE COURT: Admitted.

24 MR. JONAS: If we can play that call, please.

25 (Whereupon, Ashqar Wiretap No. 6 was played, while

1 questions were propounded.)

2 Q. (BY MR. JONAS) Okay. Agent Burns, who is AB?

3 A. That is Abdel Haleem Ashqar.

4 Q. Who is MU?

5 A. That is Muin Shabib.

6 Q. Was Muin Shabib also at the Philadelphia meeting?

7 A. Yes.

8 Q. As well as Ashqar?

9 A. Yes.

10 Q. You see he refers to Sheikh Jamil?

11 A. Yes.

12 Q. Do they identify who that is in the course of the
13 conversation?

14 A. Yes.

15 Q. Who is that?

16 A. That is Sheikh Jamil Hamami, the Hamas leader from the
17 West Bank.

18 Q. And if I can hold up Demonstrative No. 17, is he
19 somewhere on this chart?

20 A. On the bottom row, second from you.

21 Q. Do you see where I am pointing?

22 A. Yes, that is him.

23 Q. Agent Burns, do you see where it says, "My man, the
24 Sheikh's trip must be transferred into the Fund"?

25 A. Yes.

1 Q. The Fund you testified was used to respect the Holy Land
2 Foundation.

3 A. That is correct.

4 Q. But we see you just talked about the Al-Aqsa Educational
5 Fund. In the context of this call, as well as calls we are
6 about to play, are you able to determine which fund they are
7 talking about here?

8 A. Yes.

9 Q. Which one?

10 A. The Holy Land Foundation. In this instance they are
11 speaking about, and we will see as the call plays on, as well
12 as the next call, that Sheikh Jamil Hamami was initially
13 brought to the United States to do fundraising for the Al-Aqsa
14 Educational Fund, and that is the problem. The Holy Land
15 Foundation wanted him to raise money for them, not the Al-Aqsa
16 Educational Fund.

17 Q. And that is all in this call and the next one?

18 A. That is exactly what is going to be discussed.

19 Q. Okay. Agent Burns, do you see the name Ismail Elbarasse
20 that Mr. Muin Shabib is referring to?

21 A. I do.

22 Q. Is that the same Ismail Elbarasse who you have testified
23 about the Elbarasse documents came from a search warrant of
24 his home?

25 A. That is correct. A member of the Palestinian Committee.

1 Q. Did you see a few moments ago that Muin Shabib was
2 referring to a Shukri?

3 A. Yes.

4 Q. Are there any other Shukris involved in the Holy Land
5 Foundation other than the Shukri Abu Baker?

6 A. No. That would be the Defendant Shukri Abu Baker.

7 Q. Agent Burns, they refer a few times to Aboul Hasan, have
8 we seen his name before?

9 A. Yes. That is the nickname for Abdel Haleem Ashqar.

10 Q. Agent Burns, do you see where it says Abou Hamzah?

11 A. Yes.

12 Q. Do you know who that is?

13 A. That is the nickname for Jamil Hamami, the Hamas leader.

14 Q. Agent Burns, do you see a discussion about voting?

15 A. Yes.

16 Q. Will it become clear in the next call what they are
17 referring to, or the call after that, as to voting?

18 A. Yes.

19 Q. Agent Burns, could you remind us, what was the date of
20 this call?

21 A. February 23rd, 1994.

22 Q. Are you aware there has been discussion about Jamil
23 Hamami leaving Hamas at some point?

24 A. Yes.

25 Q. You are aware of that? Was this call before or after he

1 left Hamas?

2 A. Before he left Hamas.

3 Q. Again, Aboul Hasan is?

4 A. Abdel Haleem Ashqar.

5 Q. And we saw another Abou name a moment ago, a couple of
6 lines earlier. I should have asked that?

7 A. Abou Hamzah is Sheikh Jamil Hamami.

8 Q. Agent Burns, do you see where it says, "This is a
9 committee's decision"?

10 A. Yes.

11 Q. Based upon the calls we are going to be playing on this
12 issue this morning, is it clear which committee is being
13 referred to?

14 A. It does.

15 Q. And which committee is that?

16 A. The Palestine Committee.

17 Q. Agent Burns, they refer to the Defendant Shukri Abu
18 Baker. Is there another call where the Defendant Mohamed El
19 Mezain is briefed on the issue, for lack are of a better term?

20 A. Yes.

21 Q. Do you have before you what has been marked as Shabib
22 Wiretap No. 1?

23 A. I do.

24 Q. What is the date of that call?

25 A. The front of the transcript, it just says 1993.

1 Q. So we don't know for sure of the date?

2 A. We don't.

3 Q. Are you able to approximate the date based upon what is
4 going on in the call we just placed and the call we are going
5 to play after this one?

6 A. You can tell from the content of the call that it is
7 happening around the same time.

8 Q. Which is when again?

9 A. That was February 23rd, 1994.

10 Q. Okay. So the 1993 on the front of the transcript is
11 inaccurate?

12 A. It could have been late '93, but most likely it was early
13 1994.

14 Q. Who were the participants in this call?

15 A. Mohamed El Mezain and Muin Shabib.

16 MR. JONAS: Your Honor, at this time I would offer
17 into evidence Shabib Wiretap No. 1 and 1-A.

18 THE COURT: Admitted.

19 MS. HOLLANDER: No additional objections.

20 Would you show the first page with the date on it?

21 MR. JONAS: Sure. If we can put that on the screen,
22 the first page. If you can enlarge the top half, please.

23 Okay. If you will play that call.

24 (Whereupon, Shabib Wiretap No. 1 was played, while
25 questions were propounded.)

1 Q. (BY MR. JONAS) Agent Burns, who is MU who is the first
2 person speaking?

3 A. That is Muin Shabib.

4 Q. And who is MO?

5 A. The Defendant Mohamed El Mezain.

6 Q. And is this the whole call, or is this just a portion of
7 the call?

8 A. A portion.

9 Q. Agent Burns, who is Abu Ibrahim?

10 A. That is the Defendant Mohamed El Mezain.

11 Q. Agent Burns, do you see where it says, "Leave it to the
12 Foundation"?

13 A. Yes.

14 Q. In the context of this call, are you able to determine if
15 they are talking about the Holy Land Foundation or the Al-Aqsa
16 Educational Foundation?

17 A. They are talking about the Holy Land Foundation.

18 Q. Okay. Do you see where it says, "And he's allowed to
19 bring a spokesman once a year to advertise for his
20 organization and that's it"?

21 A. Yes.

22 Q. Does that relate to what is going on, this issue you
23 described earlier, this conflict between the Al-Aqsa
24 Educational Fund and the Holy Land Foundation?

25 A. It does.

1 Q. Will that become clear in the next call?

2 A. Yes.

3 Q. Okay. Agent Burns, after this, was there a phone call
4 where several members of the Palestine Committee got together
5 to resolve this issue?

6 A. Yes.

7 Q. And was that phone call recorded by the FBI?

8 A. It was.

9 Q. Do you have before you what has been marked as Shabib
10 Wiretap No. 2?

11 A. I do.

12 Q. What is the date of that call?

13 A. February 23rd, 1994.

14 Q. Who are the participants?

15 A. Muin Shabib, Ismail Elbarasse, Omar Yehia also known as
16 Omar Ahmad, Osama Ahmad, Shukri Abu Baker, and at one point
17 Hamas leadership Jamil Hamami beeps in but he is not actually
18 a participant in the conference call they are having.

19 Q. Are these individuals, are they all named in Elbarasse
20 Search No. 10 as members of the Palestine Committee?

21 A. I believe they are. I would have to check on Osama Ahmad
22 but if you will give me a second I can check on that.

23 MR. JONAS: If we can put Elbarasse Search No. 10 on
24 the screen, please, page 3, I believe.

25 The next page.

1 Q. (BY MR. JONAS) Agent Burns, do you have that before you?

2 A. I do.

3 Q. Can you tell us which side of the page you see these
4 names?

5 A. Elbarasse is on the right, No. 3.

6 Q. Are these names in this document multiple times, or this
7 page?

8 A. Yes.

9 Q. So we will just use the list on the right.

10 A. Okay.

11 Q. Just for now.

12 A. Again, we identified Ismail Elbarasse. Omar Ahmad is
13 No. 13, omar Yehia. Shukri Abu Baker is No. 11. Jamil Hamami
14 is not on the list because he is from overseas. Muin Shabib
15 is not on the list. We heard him discussed in the calls
16 yesterday, but he is not on that list. And I don't see Osama
17 Ahmad, but let me check one thing. Yes, I don't see Osama's
18 name either.

19 Q. You said Muin Shabib is not on this list, but was he at
20 the Philadelphia meeting?

21 A. He was, as was Osama.

22 MR. JONAS: Did I offer this into evidence, Your
23 Honor, Shabib Wiretap No. 2?

24 THE COURT: You have not.

25 MR. JONAS: I offer No. 2 and 2-A.

1 THE COURT: That is admitted.

2 MR. JONAS: If we can play that call.

3 Q. (BY MR. JONAS) To orientate who the speakers are, who is
4 OM?

5 A. That is Omar Ahmad.

6 Q. Is this call segmented out, Agent Burns?

7 A. It is.

8 Q. Agent Burns, did the Holy Land Foundation, was it part of
9 the practice in raising funds to bring in speakers from
10 overseas, outside the United States, to come to the United
11 States and raise funds on their behalf?

12 A. Yes. That was a practice they had.

13 Q. Is that something that is going to be discussed in this
14 case later on?

15 A. It is.

16 Q. Okay. And we saw the name Haitham on that last call, and
17 it referred to Haitham following Sheikh Jamil a day or week
18 after. Who is Haitham?

19 A. Haitham is Haitham Maghawri, the individual who attended
20 the Philadelphia meeting. We saw a picture of him yesterday.

21 Q. And OM on this attribution, again, is that Omar Ahmad?

22 A. It is.

23 Q. Okay. Would you remind us who Abdel Hassan is?

24 A. Abdel Haleem Ashqar.

25 Q. The head of the Al-Aqsa Educational Fund?

- 1 A. That is correct.
- 2 Q. Who is IS that is speaking?
- 3 A. That is Ismail Elbarasse.
- 4 Q. Okay. Who is OS?
- 5 A. That is Osama.
- 6 Q. Osama?
- 7 A. Ahmad.
- 8 Q. Who is MU that is speaking now?
- 9 A. That is Muin Shabib.
- 10 Q. This Shukri and Abu Ibrahim, who are they?
- 11 A. The Defendant Shukri Abu Baker and Mohammed El Mezain.
- 12 Q. Do you see where it says Aboul Hasan said, or there is a
13 quote -- And Aboul Hasan is Ashqar. Is that correct?
- 14 A. That is correct.
- 15 Q. "Even if you decide to dissolve the Fund, I would still
16 ignore it." Which fund is Ashqar talking about?
- 17 A. The Al-Aqsa Educational Fund.
- 18 Q. That is part of the fund he was with?
- 19 A. That is correct.
- 20 Q. Per the Secretary of State of Mississippi record we
21 looked at?
- 22 A. That is correct.
- 23 Q. Do you see where it says Abdel Haleem? Do you know who
24 that is?
- 25 A. That is Abdel Haleem Ashqar.

1 Q. So they are using Aboul Hasan and Abdel Haleem. They are
2 using two different names to call the same person?

3 A. Yes. They are speaking about the same person here using
4 his nickname and his first and middle name.

5 Q. Do you see the term fund?

6 A. Yes.

7 Q. Which fund are they talking about?

8 A. In this instance they are saying, "We will leave that
9 opportunity to the Fund," being the Holy Land Foundation.

10 Q. Okay.

11 MR. JONAS: One moment, Your Honor.

12 THE COURT: Yes.

13 Q. (BY MR. JONAS) Who is SH?

14 A. That is Shukri Abu Baker the Defendant.

15 Q. Who is IS?

16 A. That is Ismail Elbarasse.

17 Q. Who is Abou Mohamed that is referred to by Muin Shabib?

18 A. He is greeting Shukri Abu Baker who joined the call.
19 That is his nickname.

20 Q. That is whose nickname?

21 A. Shukri Baker's.

22 Q. Agent Burns, do you see where Omar Ahmad is referring to
23 a meeting that says "We all met in November"?

24 A. Yes.

25 Q. And was this meeting referred to several times throughout

1 the conversation?

2 A. Yes.

3 Q. Did the FBI record that meeting in November?

4 A. No.

5 Q. Do you see, Agent Burns, where it is referring to the
6 Society of Sciences?

7 A. Yes.

8 Q. Are you aware what that is?

9 A. Yes.

10 Q. What is that?

11 A. Jamil Hamami was part of the Islamic Science and Culture
12 Committee in Jerusalem. That is what he is referring to,
13 whether he is going to raise money for the Al-Aqsa Educational
14 Fund.

15 Q. Is the Islamic Society of Science something we are going
16 to discuss later on in this case?

17 A. Yes, it is.

18 Q. Was there a connection between that organization and the
19 Holy Land Foundation?

20 A. Yes, there is.

21 Q. We will get to it later?

22 A. Yes.

23 Q. Okay. Agent Burns, do you see where it says "...handed
24 over to the committee, our committee"?

25 A. Yes.

1 Q. What committee are all these individuals part of?

2 A. The Palestine Committee.

3 Q. In the course of reviewing all the material reviewed by
4 the FBI, have you seen these individuals associated in any
5 other way, other than the Palestine Committee, as per the
6 Elbarasse documents we looked at?

7 A. Through the Palestinian Committee and its organizations.

8 Q. That is the only way that they were connected?

9 A. Yes.

10 Q. Agent Burns, who is brother Abou Mohamed?

11 A. He is talking about Muin Shabib there.

12 Q. Again, Agent Burns, brother Aboul Hasan?

13 A. That is Abdel Haleem Ashqar.

14 Q. And Agent Burns, just so we are clear, on the first page
15 of the transcript it has the names of the participants. Is
16 that correct?

17 A. Correct.

18 Q. And it has their Abu names as well?

19 A. I believe it does on this one. Yes, it does.

20 Q. Agent Burns, did the decision of the Palestine Committee
21 that the money raised by Sheikh Jamil Hamami should go to the
22 Holy Land Foundation, did this particular meeting end the
23 dispute?

24 A. It did not end the dispute.

25 Q. The dispute continued?

1 A. It did.

2 Q. Are was there another call discussing the dispute?

3 A. Yes.

4 Q. Do you have before you what is marked as Ashqar Wiretap
5 No. 3?

6 A. I do.

7 Q. What is the date of this call?

8 A. March 1st, 1994.

9 Q. And who are the participants?

10 A. Abdel Haleem Ashqar and an individual identified as Abou
11 Ahmad.

12 Q. Do you know who Abou Ahmad is?

13 A. I do not know.

14 Q. Do they discuss this issue?

15 A. They do.

16 MR. JONAS: Your Honor, At this time I offer into
17 evidence Government's Exhibit Ashqar Wiretap No. 3 and 3-A.

18 MS. HOLLANDER: Nothing additional.

19 THE COURT: Those are admitted.

20 MR. JONAS: If we can play that call, please.

21 (Whereupon, Ashqar Wiretap No. 3 was played, while
22 questions were propounded.)

23 Q. (BY MR. JONAS) Agent Burns, who is AB that is speaking?

24 A. That is Abou Ahmad.

25 Q. And who is AS?

1 A. Abdel Haleem Ashqar.

2 Q. The person with the Al-Aqsa Educational Fund?

3 A. That is correct.

4 Q. Who is Abu Omar?

5 A. That is Hamas leader Mousa Abu Marzook.

6 Q. Do you see the Issam Al-Sarraj?

7 A. I do.

8 Q. Do you know who that is?

9 A. That is one of the individuals who was invited to attend
10 the Philadelphia meeting.

11 Q. Do you know if he attended?

12 A. I was not able to confirm that one way or the other.

13 Q. Is he part of the Palestine Committee, per the Elbarasse
14 documents we looked at?

15 A. Can I check Elbarasse No. 10 to be sure?

16 Q. Go ahead.

17 A. He is. He is No. 21 on the list.

18 Q. Agent Burns, did the letter from Hamas leader Marzook to
19 Ashqar, did that end this dispute between the Al-Aqsa
20 Educational Fund and the Holy Land Foundation?

21 A. No, it didn't.

22 Q. What happened next?

23 A. Two Hamas leaders attended or went to Abdel Haleem
24 Ashqar's home and informed him of what he needed to do.

25 Q. Was this -- This was in person?

1 A. It was.

2 Q. Was this meeting in person recorded by the FBI?

3 A. Yes, it was.

4 Q. All right. Do you have before you what has been marked
5 as Ashqar Wiretap No. 4?

6 A. I do.

7 Q. And I guess just to be clear, all the other wiretaps we
8 discussed were phone conversations that were intercepted.

9 Correct?

10 A. Except for the Philadelphia meeting.

11 Q. This one is an actual in-person meeting?

12 A. At Ashqar's home. Correct.

13 Q. And also so we are clear, you have identified Ashqar
14 documents that we have called Ashqar Search. Are those
15 documents that came from the same home where this meeting was
16 recorded?

17 A. Yes.

18 Q. It is the same Ashqar?

19 A. It is.

20 Q. Okay. What is the date of this meeting that is in Ashqar
21 Wiretap No. 4?

22 A. March 14th, 1994.

23 MR. JONAS: Your Honor, at this time I would offer
24 into evidence Ashqar Wiretap No. 4 and 4-A.

25 MS. HOLLANDER: Nothing additional, Your Honor.

1 THE COURT: And those exhibits are admitted.

2 MR. JONAS: Agent Burns, per the recording, who are
3 the Hamas leaders that went down to see Ashqar on this issue.

4 A. Mohamed Siam and Jamil Hamami.

5 Q. And for the record I am going to hold up Demonstrative
6 No. 17, hamas leaders in the '90s. Agent Burns, are they on
7 this chart?

8 A. They are.

9 Q. Can you point where they are at?

10 A. Mohammed Siam is on the second row, the farthest from
11 you.

12 Q. On the end?

13 A. That is correct. And Jamil Hamami is on the bottom row,
14 second from you. That is correct.

15 Q. And that is the same Jamil Hamami whose fundraising
16 activity in the United States is THE subject of this
17 controversy?

18 A. That is correct.

19 Q. Okay.

20 MR. JONAS: Can we play Ashqar Wiretap No. 4,
21 please?

22 (Whereupon, Ashqar Wiretap No. 4 was played, while
23 questions were propounded.)

24 Q. (BY MR. JONAS) Agent Burns, who is the AB?

25 A. That is Abdel Haleem Ashqar.

1 Q. Are we playing the whole meeting?

2 A. No, just portions of it. It was quite lengthy.

3 Q. Okay. Agent Burns, who is Abu Ibrahim that is referred
4 to?

5 A. The Defendant Mohamed El Mezain.

6 Q. Okay. Agent Burns, who is MO?

7 A. This is Hamas leader Mohamed Siam.

8 Q. And who is JA that is coming up?

9 A. That is Hamas leader Jamil Hamami.

10 Q. Who is AB again?

11 A. That is Abdel Haleem Ashqar.

12 Q. Do you see where it says Ashqar is quoting, and Omar, it
13 says, "as long as I am president of the Association."

14 A. Yes.

15 Q. What is the Association?

16 A. The Islamic Association for Palestine, the IAP.

17 Q. And who is the Omar that is president of the IAP?

18 A. Omar Ahmad.

19 Q. At that time he was president?

20 A. At that time.

21 Q. That was the same Omar Ahmad that we have been
22 discussing?

23 A. That is correct.

24 Q. Okay. Do you see where it says Om Omar?

25 A. I do.

1 Q. Do you know who that is?

2 A. That would be the wife of Mousa Abu Marzook. Om means
3 mother of. So Marzook's nickname is Abu Omar, father of Omar.
4 Om Omar would be mother of Omar.

5 Q. And her other name is Nadia Elashi?

6 A. Her name is Nadia Elashi.

7 Q. Have we seen her name Nadia Elashi in this case before?

8 A. We have. The HLF wrote checks to her from those early
9 bank records.

10 Q. Agent Burns, do you know who Abou Hemmam is?

11 A. In this context I cannot say with 100 percent certainty.

12 Q. Who is Abu Omar?

13 A. That is Mousa Abu Marzook.

14 Q. Do you see where it said brother "a Abou Mohamed, meeting
15 Omar"?

16 A. Yes.

17 Q. Who is that?

18 A. That is Omar Ahmad.

19 Q. Agent Burns, in this meeting with Hamas leaders Sheikh
20 Jamil Hamami and Mohamed Siam with Ashqar, did that
21 effectively end this dispute?

22 A. Shortly thereafter the dispute resolved.

23 Q. Was it resolved the way the Palestine Committee directed
24 it to be resolved?

25 A. Yes.

1 Q. Okay. Agent Burns, did the Palestine Committee continue
2 to have involvement with the actions and the activities of the
3 Holy Land Foundation?

4 A. It did.

5 Q. Do you have before you what has been marked as Baker
6 Wiretap No. 33?

7 A. I do.

8 Q. And is that a call?

9 A. It is.

10 Q. Who are the participants?

11 A. Omar Yehia also known as Omar Ahmad of the IAP, and
12 Haitham Maghawri.

13 Q. Haitham Maghawri is who again?

14 A. One of the HLF officers who attended the Philadelphia
15 meeting.

16 Q. What is the date of this call?

17 A. November 29, 1999.

18 MR. JONAS: Can we put the second page on the
19 screen, please?

20 Q. (BY MR. JONAS) Agent Burns, are you up to doing a little
21 back and forth reading with me?

22 A. I can handle that.

23 Q. Okay. Which role do you want to be?

24 A. I will be Omar.

25 Q. Okay.

1 MR. JONAS: If we can enlarge the top half.

2 THE WITNESS: "May God bless you. Also Shukri had
3 promised me to support the Lebanese project with 50,000."

4 Q. (BY MR. JONAS) Haitham: "By God, you're
5 problem-makers."

6 MS. MORENO: I am so sorry to interrupt. I
7 apologize. Is this in evidence?

8 MR. JONAS: I am sorry, Your Honor. I forgot to do
9 that. I will offer Baker Wiretap No. 33 and 33-A into
10 evidence.

11 Thank you, Ms. Moreno.

12 MS. HOLLANDER: No further objections.

13 THE COURT: That is admitted.

14 MR. JONAS: If we can bring it back up on the
15 screen.

16 Q. (BY MR. JONAS) Okay.

17 A. Do you want me to start over?

18 Q. Sure.

19 A. Okay. "May God bless you. Also Shukri had promised me
20 to support the Lebanese project with 50,000."

21 Q. "By God, you're problem-makers."

22 A. "Did he tell you?"

23 Q. Haitham: "He told me."

24 A. "Okay. Go ahead and send it."

25 Q. Haitham: "But, by God, this is not a good business."

1 A. "Why?"

2 Q. Haitham: "I don't know. I don't know."

3 A. "Why?"

4 Q. Haitham: "I mean, out of nothing someone comes and takes
5 50, and we don't give anything to those who have been lined up
6 for a year and haven't gotten a cent. I mean, by God, it is
7 not fair. I mean, by God, it is not fair. Believe me, there
8 are projects, by Almighty God, we don't know."

9 Agent Burns, before you read the next line, there are
10 several words that are in Italics. Do you know why that is?

11 A. Because they are spoken in English as opposed to Arabic,
12 which a majority of the conversation was actually spoken in
13 Arabic.

14 Q. Okay. Continue on.

15 A. "Omar Ahmad says, "These people, before you start crying,
16 they took it. These people have money allotted to them, man."

17 Q. Haitham: "Where is this money which is allotted to them?
18 Tell me."

19 A. "Come on."

20 Q. Haitham: "Where? Where Abou Mohamed. By God, I mean,
21 where is this money which is allotted to them? By God, there
22 is not. I mean, believe me, I am ready now."

23 A. "You know how I told you about that. I will not be able
24 to tell you right now."

25 Q. Haitham: "My brother, believe me, there is not. I'm

1 telling you, believe me, there is not."

2 A. "You're just making a big deal, man. Forget it."

3 Q. Haitham: "What big deal?"

4 A. "That one."

5 Q. Haitham: "Okay."

6 A. Omar Ahmad says, "These people got their money. They
7 took money and that's why they're not asking. These people,
8 because they say that it is for us, that is, fine, fine."

9 Q. Haitham: "God's willing, it will be good."

10 A. "Don't get upset over it. Don't...don't think of it that
11 way. Think of it in a different way. I even don't know these
12 people. I don't even know them."

13 Q. Haitham: "I don't know. I don't know, by God."

14 A. "It will be good."

15 Q. Haitham: "God's willing, it will be good. Okay, Haij."

16 A. "May God bless you."

17 Q. Haitham: "May God bless you, Abou Mohamed. Peace be
18 with you."

19 A. "Peace and God's mercy."

20 Q. Agent Burns, tell us again, what is the date of this
21 call?

22 A. This was November 29th, 1999.

23 Q. Was this after Hamas was designated as a terrorist
24 organization?

25 A. Yes; several years.

1 Q. And Omar Ahmad, when he is saying that "Shukri promised
2 me to support the Lebanese project with 50,000," at this point
3 in 1999 what was his role with the Holy Land Foundation?

4 A. Other than being a part of the Palestinian Committee, he
5 had no role with the Holy Land Foundation.

6 Q. He wasn't an employee?

7 A. No, he was not.

8 Q. Was he an officer?

9 A. No, he was not.

10 Q. A director?

11 A. No, he was not.

12 Q. Any other calls where Omar Ahmad is directing Holy Land
13 Foundation business?

14 A. Yes.

15 Q. Do you have before you what has been marked as Baker
16 Wiretap No. 5?

17 A. I do.

18 Q. And what is the date of that call?

19 A. May 25th, 1999.

20 Q. Who are the participants?

21 A. Omar Yehia also known as Omar Ahmad, and the Defendant
22 Shukri Abu Baker.

23 MR. JONAS: At this time, Your Honor, I would offer
24 into evidence Baker Wiretap No. 5 and 5-A.

25 THE COURT: Those are admitted.

1 MR. JONAS: If we can play that call.

2 (Whereupon, Baker Wiretap No. 5 was played, while
3 questions were propounded.)

4 Q. (BY MR. JONAS) Who is SH?

5 A. That is the Defendant Shukri Abu Baker.

6 Q. And who is OM?

7 A. That is Omar Ahmad.

8 Q. Okay. Do you see where Shukri Baker says, "The man made
9 17 to 20 trips maximum"?

10 A. Yes.

11 Q. During the course of the call, will it become clear who
12 he is referring to as "the man"?

13 A. It will.

14 Q. And who is that?

15 A. That is the Defendant Mohamed El Mezain.

16 Q. Okay. And it says he made 17 to 20 trips. Besides being
17 an officer and a director of the Holy Land Foundation, what
18 did the evidence show Mohamed El Mezain do for them?

19 A. He was also a fundraiser who traveled around the country
20 to various events and raised money for the HLF.

21 Q. Agent Burns, the Defendant Shukri Baker refers to
22 Ghassan. What Ghassans were there associated with the Holy
23 Land Foundation?

24 A. He is referring to the Defendant Ghassan Elashi.

25 Q. Okay. Agent Burns, who is Akram?

1 A. That is one of the HLF officers at the time Akram Mishal.

2 Q. Do you know -- It says Abdel Jabbar. Do you know who
3 that is?

4 A. Yes. There was a fundraiser for the HLF from southern
5 California named Abdel Jabar Hamdan.

6 Q. And is that on any of the lists that we saw early on in
7 your testimony of people who are affiliated with the a HLF?

8 A. He was one of the attendees at the Philadelphia meeting.

9 THE COURT: Let's take the morning break here.

10 Let's break until 11:00.

11 (Whereupon, the jury left the courtroom.)

12 THE COURT: We are in recess until 11:00.

13 (Brief Recess.)

14 THE COURT: Are we still on for the schedule that we
15 discussed this morning?

16 MR. JONAS: Yes, sir.

17 (Whereupon, the jury entered the courtroom.)

18 THE COURT: And members of the jury, before we
19 start, I forgot to tell you something about our scheduling. I
20 intended to tell you earlier this morning.

21 We are taking off tomorrow. I think you remember when we
22 were having the jury selection we told you we would be working
23 four days a week. Normally we will be off on Fridays except
24 for a few weeks. This is one of those weeks that we will be
25 off tomorrow and work Thursday and Friday, then.

1 And also Agent Burns isn't feeling well, so we are going
2 to work until probably about 12:30 and then you will be off
3 for the day, and tomorrow, and we will be back on Thursday
4 morning. Plan on being here Thursday and Friday of this week,
5 because we told you we would be off some Fridays but this
6 Friday we will be here.

7 MR. JONAS: We were playing Baker Wiretap No. 4, and
8 if we could continue where we left off.

9 (Whereupon, Baker Wiretap No. 4 continued to be
10 played, while questions were propounded.)

11 Q. (BY MR. JONAS) Agent Burns, do you see where it says,
12 "It is because of those monitoring your phone"?

13 A. I do.

14 Q. Were there other conversations involving the Defendants
15 where they referenced the phones being tapped?

16 A. Yes.

17 Q. Agent Burns, Omar Ahmad is saying to the Defendant Shukri
18 Abu Baker, "Let's give him 25 now." Who is he referring to as
19 "him"?

20 A. The Defendant Mohamed El Mezain.

21 Q. That is in the call they talked about earlier about Abu
22 Ibrahim?

23 A. That is correct.

24 Q. When he is saying, "Let's," again, is Omar Ahmad part of
25 the Holy Land Foundation?

1 A. No.

2 Q. Okay. Agent Burns, again, do you see where Omar Ahmad
3 says, "We give him 20 now, for the past 20"?

4 A. I do.

5 Q. You said Omar Ahmad is not a member, employee, director,
6 or officer of the Holy Land Foundation?

7 A. That is correct.

8 Q. But what is his involvement where he is now directing
9 Shukri Baker or discussing how much to give the Defendant
10 Mohamed El Mezain?

11 A. He was a leader within the Palestinian Committee.

12 Q. Agent Burns, before we play the next segment, can you
13 remind us again the date of this call?

14 A. This was May 25th, 1999.

15 Q. Okay. Was this after Hamas was designated a terrorist
16 organization by the United States?

17 A. It was.

18 Q. And what was going on with the Defendant Mohamed El
19 Mezain in regard to his relationship with the HLF at this
20 time?

21 A. In 1999 he stepped down as the chairman of the board of
22 the HLF, and was moving to San Diego to take a position as the
23 HLF's projects and grants director, and was in need of money.

24 Q. Agent Burns, do you know who Wafa is?

25 A. Yes.

1 Q. Who is he?

2 A. Wafa Yaish was the accountant for the Holy Land
3 Foundation at the time of this call.

4 Q. Agent Burns, they were laughing about dumping something
5 on Ghassan. Who is Ghassan and what was being dumped on him?

6 A. The Defendant Ghassan Elashi was going to be appointed
7 the chairman of the board for the Holy Land Foundation.

8 Q. I forgot to ask you something a moment ago. If you
9 recall, you testified about the dispute between the Holy Land
10 Foundation and the Al-Aqsa Educational Fund. Do you recall
11 that?

12 A. I do.

13 Q. You testified about how Mohamed Siam and Jamil Hamami
14 went down to see Ashqar, and they discussed Ashqar and the
15 situation. Correct?

16 A. Correct.

17 Q. Could you just briefly remind us what the discussion was
18 about at that meeting?

19 A. At that meeting Jamil Hamami and Mohamed Siam informed
20 Abdel Haleem Ashqar that he was to abide by the Palestinian
21 Committee decision as a result of that teleconference. And he
22 also read the letter from Mousa Abu Marzook requesting that he
23 halt his activities until he arrived in the United States.

24 Q. Just so we remember the participants, you said a letter
25 from Marzook, who is on this top in the green area on the far

1 right?

2 A. That is correct.

3 Q. And then Jamil Hamami on the bottom row, third from the
4 left; mohamed Siam in the middle row, far left?

5 A. That is correct.

6 Q. Do you have before you Shukri Baker's deposition, Baker
7 Deposition?

8 A. I do.

9 Q. If you can turn to page 74 of that deposition. It is the
10 deposition page number.

11 MR. JONAS: And if we can pull up I believe it is
12 page 6 for our purposes, on the screen.

13 Q. (BY MR. JONAS) Agent Burns, could you read what is on
14 the screen?

15 A. Yes. The question says, "How about Mr. Abu Marzook? Do
16 you know who he is?"

17 Answer: "Yes."

18 Question: "Okay. Now, it's my understanding at some
19 point he made a contribution to the Holy Land Foundation. Is
20 that correct?"

21 Answer: "Yes."

22 Question: "Okay. And I want to ask you about that in a
23 minute. Let's put that aside for the moment. Other than that
24 contribution, are you aware of any relationship or involvement
25 that Mr. Abu Marzook had with the Holy Land Foundation?"

1 Answer: "No."

2 Q. Agent Burns, did Shukri Baker say anywhere in his
3 deposition that Mousa Abu Marzook intervened in a dispute
4 between the HLF and the Al-Aqsa Educational Fund?

5 A. No, he did not.

6 Q. Agent Burns, I want to move to a new topic.

7 A. Okay.

8 Q. You testified that the Holy Land Foundation held itself
9 out to be a charity.

10 A. Yes.

11 Q. And is one of the functions of a charity to raise money?

12 A. It is.

13 Q. In fact, have we seen a discussion or evidence of HLF
14 raising money?

15 A. Yes.

16 Q. Generally, based upon your review of the evidence, the
17 search warrant material, and the wiretaps, and everything you
18 have gathered, can you generally tell us how the HLF went
19 about raising money?

20 A. They raised money several different ways. They would
21 bring in speakers from overseas to raise money at mosques and
22 festivals and things likes that. They would also hold
23 teleconferences where speakers would call in and talk about a
24 topic of relevance and people would contribute or pay to
25 participate in the conversation or in the teleconference.

1 They would put ads in their periodicals in the Illa Falistines
2 and Al Zatounia papers, the Palestinian Committee papers, and
3 later on they started more the mass mailing campaigns and
4 things like that as well.

5 Q. And at the conferences, were some of those conferences
6 videotaped?

7 A. Yes, they were.

8 Q. We have seen a few of those videotapes already?

9 A. We have seen a few.

10 Q. Are you familiar with Mushtaha Search No. 1?

11 A. I believe that is a videotape.

12 Q. Where was that videotape seized from?

13 A. That was one of the buried videotapes that was in the
14 yard of Fawaz Mushtaha.

15 Q. Are the Defendants on this particular videotape?

16 A. Yes.

17 Q. Do you recall the year of this tape? Were you able to
18 date the year?

19 A. We were able to date it to approximately 1990.

20 Q. Okay.

21 MR. JONAS: Your Honor, at this time I would offer
22 into evidence Mushtaha Search No. 1.

23 MS. CAEDDU: No objections beyond those previously
24 stated, and relevance as to date.

25 THE COURT: All right. And those are overruled, and

1 that is admitted.

2 Q. (BY MR. JONAS) Agent Burns are we going to play the
3 whole tape?

4 A. No. It was about two hours in length, I believe, this
5 one.

6 MR. JONAS: If we can start the tape, please.

7 (Whereupon, Mushtaha Search No. 1 was played, while
8 questions were propounded.)

9 Q. (BY MR. JONAS) Obviously the quality of this tape is not
10 that great of quality. Do you have any idea why that is?

11 A. This was one of the tapes that had to be cleaned and put
12 back together because it was buried in the mud in the yard of
13 Fawaz Mushtaha.

14 Q. Agent Burns, do you recognize any of those individuals
15 sitting there?

16 A. Yes. Not in the first row that you are looking at, but
17 in the next row if you look closely there is a gentleman in
18 what appears to be a blue blazer and a striped tie. He has a
19 beard with dark hair. That is Hamas leader Mahmoud Zahar.

20 Q. Okay. I am holding up Demonstrative No. 17 again. Where
21 on this chart is Mahmoud Zahar?

22 A. Closest to you on the second row.

23 Q. The row I am pointing to?

24 A. Correct. Seated next to him, and you will see this
25 better once it starts moving, is the Defendant Mohamed El

1 Mezain.

2 Q. As we are facing the screen, on which side of Mahmud
3 Zahar is the Defendant El Mezain?

4 A. As we are facing the screen he is to the left. And then
5 to the left of Mohamed El Mezain, as you will see as the
6 videotape moves on just a little bit, is Hamas leader Jamil
7 Hamami that we have just been talking about.

8 Q. In regard to the Al-Aqsa Educational Fund issue?

9 A. The dispute. That is correct.

10 Q. Okay. Do you see Jamil Hamami on that screen?

11 A. Yes. That is the gentleman in the beard next to the
12 Defendant Mohamed El Mezain.

13 Q. We have three individuals on the screen now. Just so we
14 are clear, go from left to right as we face the screen.

15 A. As we face the screen, from left to right is Jamil Hamami
16 Hamas leader from the West Bank, Defendant Mohamed El Mezain,
17 Mahmud Zahar, Hamas leader from Gaza.

18 Q. Agent Burns, I know this is the beginning of the video so
19 it may not be clearest, but are we going to be able to
20 identify who these band members are?

21 A. Yes, we are.

22 Q. Is there anyone there -- Are any of the Defendants in
23 this band?

24 A. Yes. The defendant Mufid Abdulqader, and also Fawaz
25 Mushtaha I believe we will see in a little bit, the person

1 whose yard this videotape was found in.

2 Q. Who is that individual?

3 A. That is Fawaz Mushtaha.

4 Q. Okay. Who is that individual?

5 A. That is the Defendant Mufid Abdulqader.

6 Q. Who is the individual that just walked on the screen?

7 A. That is the Defendant Shukri Abu Baker, and you will see
8 him down there in that portion of the screen periodically
9 throughout this tape.

10 Q. Agent Burns, he says, "headquarters are located in your
11 city." Are you able to tell us what city that this conference
12 took place in based upon the date of the conference and by
13 that statement by the Defendant Mohamed El Mezain?

14 A. Based on the date and his statement, that would be in the
15 area of Los Angeles, California.

16 Q. That was prior to the Holy Land Foundation moving to
17 Richardson, Texas?

18 A. That is correct.

19 Q. Agent Burns, are you able to identify the individual on
20 the right of the screen?

21 A. Yes. The person on the right is the Defendant Mufid
22 Abdulqader.

23 Q. Agent Burns, the individual on the left, what is he
24 portraying?

25 A. He is portraying to be a Jewish soldier.

1 Q. Do you see the name Ahmed Yassin?

2 A. I do.

3 Q. Who is that?

4 A. The Hamas founder and former spiritual leader, the top
5 person on the Hamas leaders' chart there.

6 Q. Do you see the name Abdullah Azzam?

7 A. I do.

8 Q. A name we will be discussing in a few minutes?

9 A. Yes.

10 Q. Do you see who Shukri Abu Baker is thanking?

11 A. Shukri Abu Baker is thanking the guests that attended,
12 and he names them--Mahmoud Al-Zahar and Jamil Hamami, the two
13 people sitting beside El Mezain in the audience.

14 Q. Agent Burns, do you have before you Baker Declaration,
15 which was his sworn declaration in evidence filed in a civil
16 lawsuit?

17 A. I do.

18 Q. If you can turn to page 2.

19 MR. JONAS: If we can put that on the screen,
20 please.

21 Q. (BY MR. JONAS) Could you read the top line, please?

22 A. It says, "Neither I, nor to my knowledge, any of the
23 other founders of this charity have had any connection
24 whatever to Hamas, or to any terrorist groups, or to
25 terrorism."

1 Q. Agent Burns, I want to go back to some of the Elbarasse
2 records. Do you have before you Elbarasse Search No. 13?

3 MR. JONAS: If we can put Elbarasse Search No. 13,
4 page 7, on the screen. Enlarge the middle portion, please.

5 Q. (BY MR. JONAS) What is this document again?

6 A. This is a Palestine Committee report.

7 Q. Do you see No. 5?

8 A. I do.

9 Q. What does that say?

10 A. It says, "Six issues of Ila Falistine have been issued."

11 MR. JONAS: If we can go to Elbarasse Search No. 14,
12 specifically page 6. Enlarge the bottom.

13 Q. (BY MR. JONAS) Do you see anything on this page --

14 MR. JONAS: I am sorry. The top half?

15 THE WITNESS: No. 6, I believe.

16 Q. (BY MR. JONAS) Yes. What does that say?

17 A. It says, "Under the Islamic Association For Palestine
18 achievements," "Issuing nine issues from Al-Zatounia magazine,
19 four issues from the Palestine monitor newspaper in English,
20 and one issue from Ila Falistine, and reprinting and
21 distributing six statements for Hamas."

22 Q. Have you seen any of these issues of Illa Falistine?

23 A. I have.

24 Q. Okay. Did you obtain them in the search warrant or by
25 grand jury subpoena or anywhere like that?

1 A. No.

2 MS. HOLLANDER: Can we approach, Your Honor?

3 THE COURT: Yes.

4 (The following was had outside the hearing of the
5 jury.)

6 MS. HOLLANDER: Your Honor, in looking through these
7 Illa Falistines, we would ask that they not be -- that you not
8 admit Illa Falistine No. 2. They have four others. And this
9 one has a long article about Azzam that includes discussions
10 about Afghanistan, Malaysia. It makes it sound as though
11 Hamas is international. That is not what is intended here,
12 but that is what it is going to sound like. That page and the
13 page before. But they can make the point with the others.

14 MR. JONAS: Your Honor, Abdullah Azzam is an
15 individual who the Holy Land Foundation used to raise funds,
16 and what I mean by that is not in person. They used his image
17 and videotapes of him. And we are going to get to that soon.
18 And then on the screen will flash "Send your donations to the
19 Occupied Land Fund."

20 And he is a radical figure and he doesn't talk about
21 sending money for children or anything flowery. It is
22 weapons. He is a radical figure. There is no question about
23 it. And in that article, the very end says, "Send your money
24 to the OLF." So there is no way of sugarcoating this.

25 MS. HOLLANDER: Well, there is another mention of

1 him here. And, you know, we didn't really get into this last
2 time, but he came to the United States on a visa. He was
3 fighting -- He was asking for money for the mujahideen
4 fighting the Russians, and that doesn't come out in this
5 video. I mean, there is a lot of problems we can't address
6 because -- In fact, he was killed probably by Osama bin Laden
7 later in Afghanistan. We can't get into that, obviously. He
8 came here -- This is 1988, because he was killed in 1989.

9 THE COURT: The objection is to the mentioning of
10 Afghanistan--as I understand it, because I am letting it in;
11 it is in--and the Philippines and Afghanistan.

12 MS. HOLLANDER: If we can just take this article
13 out, there is another place where it is mentioned.

14 THE COURT: Do you want to take the entire article
15 out?

16 MS. HOLLANDER: That article. They can mention him
17 here because, I mean, it is not as bad, because at least there
18 he is talking about fighting the communists. He is not
19 talking about everything else.

20 The problem is, Your Honor, we can't address this; we
21 really can't, without getting into how he was killed.

22 THE COURT: Why would you get into why he was
23 killed?

24 MS. HOLLANDER: Well, I don't want to, but if they
25 just take out that article and leave the other one, this also

1 says -- This one, too, says give to -- It is the article that
2 concerns me, because it goes into detail.

3 THE COURT: Are you planning on getting into this
4 right now?

5 MR. JONAS: Given that we are breaking soon, I
6 probably won't get to it, but it is probably going to be early
7 on Thursday I guess at this point. And I am going to lay a
8 foundation as to how the HLF used the image of Abdullah Azzam
9 to raise funds.

10 And if you want us to black out the word Afghanistan,
11 that is fine, but I think this article should come in.

12 MS. HOLLANDER: Your Honor, the problem is he was
13 here in 1988, we are talking about. He came I believe on a
14 visa from the United States who asked him to help, because at
15 that time the United States was supporting this fight against
16 the Russians in Afghanistan, and he was very -- He was raising
17 money for this fight against the Russians that in fact the
18 United States was supporting financially. And he talks about
19 the mujahideen. He is very fiery, but he is talking about --
20 You know, it is a whole different timing era, and we can't
21 respond to it, because to respond to it we would have to
22 explain who killed him.

23 MS. MORENO: If I may just add one thing, Your
24 Honor. My recollection is that Azzam was used in IAP videos,
25 not Holy Land videos.

1 MR. JONAS: At the end of the videotape of a speech,
2 in fact in several tapes like this, it is not just one, of
3 Abdullah Azzam, it flashes on the screen "send your tax
4 deductible donations to the OLF." They are the ones, the
5 Defendants, who did that. And they kept that tape until 2001.

6 And, Your Honor, the tape I just played I left one
7 segment out which I plan on playing soon where the Defendant
8 El Mezain gets up there and talks about Azzam and praises
9 Azzam and says he was with Azzam and he worked with Azzam.
10 They are the ones who took advantage of Azzam and who he was
11 to raise funds, and we should not be precluded from getting
12 into who he is. And we are not getting into the bin Laden
13 issue.

14 MS. HOLLANDER: I know. But we can't respond is the
15 problem without getting into the bin Laden issue. That is the
16 problem, because he was here to raise money for the mujahideen
17 fighting Afghanistan. That is what it was all about for him.
18 And he doesn't say -- Azzam I don't think says "Give money to
19 the Holy Land Foundation." They have taken this --

20 THE COURT: It says it in here.

21 MS. HOLLANDER: I know. But he doesn't say it. He
22 is dead when this comes out. What they have done is they have
23 these videos, and at the end they just flash "Give money to
24 Holy Land," but there is really no link between him and Holy
25 Land. The link is --

1 THE COURT: He is there at that conference.

2 MS. HOLLANDER: Azzam? No, no. He was dead.

3 MR. JONAS: El Mezain mentions him.

4 MS. HOLLANDER: He mentions him, though, because he
5 was a Palestinian hero who was fighting the Russians. That is
6 what he was. And then he got into a hassle with bin Laden who
7 killed him.

8 MR. JONAS: Your Honor, I find this argument by Ms.
9 Hollander very ironic. There is a video of Abdullah Azzam
10 standing up there and saying "Give to the Occupied Land Fund."
11 She would likely come back and say, "Well, he is saying it.
12 We are not saying it." In this instance it is the Defendants
13 who are taking his image and his speeches and slapping their
14 ads on it.

15 MS. HOLLANDER: It is IAP who is doing that.

16 MR. JACKS: IAP is a co-conspirator.

17 THE COURT: I understand that is your position. The
18 position is they are linked, and they have certainly
19 introduced evidence --

20 MS. HOLLANDER: I understand. But it is not Holy
21 Land. But it is just -- The 403 issue with Azzam is so great
22 that all we are asking them to do is remove that. I mean,
23 they have got plenty of other things they can talk about, they
24 have got plenty of other people they can talk about without,
25 including Azzam and without including that video of Azzam.

1 They have got plenty of other things. Because that video, and
2 I mean, maybe you should look at it. He is raising money, I
3 believe, for Afghanistan.

4 THE COURT: What exhibit number is that?

5 MR. JONAS: There are several videos like that, but
6 one is Mushtaha No. 2; one is Mushtaha No. 9.

7 Your Honor, we strongly, strongly object to not being
8 able to play that.

9 THE COURT: Well, I haven't seen it yet. I will
10 take a look at it.

11 MR. JONAS: Let me just make one other point. These
12 Defendants are holding themselves out to be a charity, a
13 peaceful charity, and yet they are taking this fiery rhetoric
14 by this person and slapping their -- I understand Ms.
15 Hollander saying it is IAP, but IAP is a co-conspirator.
16 Assuming the IAP is doing it. We don't know if the IAP is
17 doing this. Some of these tapes I think were found at the
18 HLF, and some at Mushtaha. I am not sure about that 100
19 percent.

20 MS. HOLLANDER: But Your Honor, he is missing the
21 point. Azzam was talking about something else. I mean, we
22 can't get into Afghanistan and fighting the Russians and the
23 U.S. support of that. I mean, if you want to get into that,
24 that is going to get us down a road that we don't want to go
25 to.

1 MR. JONAS: On the tape he doesn't identify who he
2 is talking about. He doesn't say Afghanistan or Mujahideen.
3 And in that clip with the Defendant El Mezain, he refers back
4 to the same speech. El Mezain refers back to something that
5 Azzam says which is on the videotape of Azzam.

6 THE COURT: What are you going to do now between now
7 and the lunch break?

8 MR. JONAS: This is not the Illa Falistine I am
9 getting into right now with this witness.

10 THE COURT: Are you getting into this right now.

11 MR. JONAS: I am not getting into this one now, but
12 it is coming soon.

13 THE COURT: Well, before we break for lunch?

14 MR. JONAS: Probably not.

15 THE COURT: We can take a look at that this
16 afternoon, the videotape you are talking about. And I read
17 this earlier, but there are five of these and three newspaper
18 articles. I need to go back and read them again.

19 Just take a look at that tape. I know we can't do it
20 before lunch, but we will take a look at it this afternoon.

21 (The following was had in the presence and hearing
22 of the jury.)

23 Q. (BY MR. JONAS) Agent Burns, I was asking about the Illa
24 Falistine magazines and if you looked at any.

25 A. Yes, I have.

1 Q. Do you have before you what has been marked as Illa
2 Falistine No. 1?

3 A. I do.

4 Q. Okay. And are you able to -- What language is it in?

5 A. Arabic.

6 Q. Do you have it translated, or some pages of it
7 translated?

8 A. Parts of it.

9 Q. And you testified that the IAP published the Illa
10 Falistine magazines?

11 A. That is correct. According to the documents that we have
12 looked at.

13 MR. JONAS: Your Honor, at this time I would offer
14 into evidence Illa Falistine No. 1.

15 THE COURT: Any objections, besides those that have
16 been submitted in writing?

17 MS. HOLLANDER: Not any additional.

18 THE COURT: Those have been overruled and this
19 exhibit is admitted.

20 MR. JONAS: If we can turn to page 5.

21 Q. (BY MR. JONAS) Agent Burns, what is the title of this
22 article or writing?

23 A. It says, " Hamas Hayzum has come."

24 Q. Have you read it?

25 A. I have.

1 Q. Okay.

2 MR. JONAS: And can we just go to page 7, the end of
3 it?

4 MS. HOLLANDER: Can you give us a date on this
5 magazine?

6 Q. (BY MR. JONAS) Are you able to date the issue?

7 A. It is from 1990.

8 Q. 1990? Okay.

9 Agent Burns, on page 7, this is the end of the writing,
10 the article. How would you describe this? What would you
11 call this?

12 A. It is like a poem.

13 Q. A poem. Okay. And the title was again?

14 A. " Hamas Hayzum has come."

15 Q. Would you read the last three lines and the author?

16 A. Yes. "The youth who spoke for the dead and acted on
17 behalf of the living.

18 "The Hamas Hayzum has arrived, and we will not accept
19 other than Hamas."

20 Q. Who wrote this according to this document?

21 A. Shukri Abu Baker.

22 Q. Who is that?

23 A. The Defendant Shukri Abu Baker, who also sat on the IAP's
24 advisory board.

25 Q. Can you turn back to Baker Declaration, please?

1 A. Yes.

2 Q. Page 2 on the top. What does that top line say?

3 A. Shukri Abu Baker says here, "I reject and abhor Hamas,
4 its goals, and its methods. I reject terrorism by anyone."

5 Q. That is fine. And the last line of that poem was?

6 A. "We will accept none other than Hamas." I will get it
7 out and read it exactly. "We will not accept other than
8 Hamas."

9 Q. In this Illa Falistine, if you can turn to page 8, what
10 is that?

11 A. This is an advertisement, or the translation of it, for
12 the Occupied Land Fund, which is the Holy Land Foundation.

13 Q. Okay. Did you see other Illa Falistine magazines that
14 had ads on it for the Occupied Land Fund or the HLF?

15 A. I did.

16 Q. Do you have before you Illa Falistine No. 3, 4, and 5?

17 A. I do.

18 Q. What language are these documents in?

19 A. They are in Arabic.

20 Q. Did you have some of them translated, some pages of them?

21 A. Some parts of them, yes.

22 Q. What are the dates of these issues, if you can tell us by
23 issue?

24 A. Illa Falistine No. 3 is from October of 1988; Illa
25 Falistine No. 4, December of 1988; Illa Falistine No. 5,

1 February 1989.

2 Q. Okay.

3 MR. JONAS: Your Honor, at this time I would offer
4 into evidence Illa Falistine No. 3, Illa Falistine No. 4, and
5 Illa Falistine No. 5.

6 THE COURT: Any objections, beyond those previously
7 made?

8 MS. HOLLANDER: No, sir.

9 THE COURT: And those documents are admitted.

10 MR. JONAS: If we can put on the screen Illa
11 Falistine No. 3, page 3.

12 Q. (BY MR. JONAS) Agent Burns, is this the cover page?

13 A. It is.

14 Q. And what does it say in terms of what is contained within
15 the content of the magazine?

16 A. It indicates that the charter of the Islamic Resistance
17 Movement Hamas was contained therein.

18 Q. Turn to page 4. What do you see in the middle?

19 A. An ad for the Occupied Land Fund, which is the Holy Land
20 Foundation.

21 Q. Juxtaposed to the ad what is right above it?

22 A. It is an article about Hamas.

23 Q. Is that the whole article, or is that just part of the
24 article?

25 A. I believe it is continued from a previous page.

1 MR. JONAS: And if we can turn to Illa Falistine No.
2 4, page 3, please.

3 Q. (BY MR. JONAS) And what does this cover page say is
4 contained within this magazine?

5 A. This translation says that the magazine contains
6 information on the Palestinian state and also field visits to
7 the families of the martyrs.

8 MR. JONAS: Can we jump to page 1?

9 Q. (BY MR. JONAS) This is the cover of the magazine
10 untranslated. Correct?

11 A. That is correct.

12 Q. And you see there is a picture there?

13 A. I do.

14 Q. All right.

15 MR. JONAS: If we can jump back to page 3, please.

16 Q. (BY MR. JONAS) What does it say in English that is under
17 the caption of that picture?

18 A. Under the caption of the picture, it says, "The
19 Palestinian flag dipped in blood in one hand, the Quran in the
20 other, a scene from the martyrs' funeral in Nablus."

21 MR. JONAS: Can we turn to page 4, please?

22 Q. (BY MR. JONAS) And what is on the bottom half of this
23 page?

24 A. The bottom half is a solicitation for donations from the
25 Occupied Land Fund, Holy Land Foundation.

1 Q. You see it says P.O. Box 38, Plainfield, Indiana?

2 A. I do.

3 Q. What is that?

4 A. That was the original address that the HLF used.

5 Q. What is above the solicitation for donations to the
6 Occupied Land Fund?

7 A. A communication from the Islamic Resistance Movement
8 Hamas.

9 MR. JONAS: If we can focus on the middle right hand
10 side, please.

11 Q. Is that where you are getting the information?

12 A. Yes. You can see at the bottom where it is signed
13 Islamic Resistance Movement Hamas.

14 MR. JONAS: If we can turn to Illa Falistine five,
15 please, page 1. And if we can go to page 5, please.

16 Q. (BY MR. JONAS) What do we see in the bottom half?

17 A. An advertisement for the Occupied Land Fund, the HLF.

18 Q. What is above that?

19 A. A statement from the Islamic Resistance Movement Hamas.

20 MR. JONAS: If we can enlarge the bottom right hand
21 side.

22 Your Honor, I am at a point --

23 THE COURT: All right. Let's go ahead and break
24 here for the day. Be back Thursday morning at 9:00.

25 Please recall the instructions that we have been over

1 about not discussing this case with anyone, or not letting
2 anyone discuss it with you. See you back Thursday morning.

3 (Whereupon, the jury left the courtroom.)

4 THE COURT: Anything we need to address before we
5 recess?

6 We will be back at 3:00. Did you want your client here
7 at 3:00?

8 MR. CLINE: If we may have one moment?

9 MR. JONAS: Your Honor, are we going to address the
10 issue we discussed at sidebar, because I am at that point.

11 THE COURT: Yes. Just be sure to bring that up.
12 And have you had a chance to look at their list, their
13 exhibits?

14 MR. JONAS: Not really. We will do that during the
15 break.

16 MR. CLINE: Yes, Your Honor. Mr. Elashi would like
17 to be here.

18 THE COURT: So be back at 3:00, then. And have Mr.
19 Elashi here. And I will be prepared to rule on the objections
20 to the Defense exhibits and this issue we just discussed at
21 the sidebar.

22 MS. CADEDDU: Your Honor, the Defendants don't have
23 to be here, though?

24 THE COURT: No, they are not required to be here for
25 this.

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(Lunch Recess.)