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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY,

Defendant.

CR 05-60008 HO

DEFENDANT'S SENTENCING
MEMORANDUM

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Defendant Pirouz Sedaghaty, through counsel, Lawrence Matasar and Federal Public Defender Steven T. Wax, hereby submits this memorandum in support of sentencing. The Court will be required to make a significant number of specific decisions regarding sentencing. These include:

1. Motions for a New Trial and for Judgment of Acquittal;
2. Sentencing discovery issues;
3. objections to the presentence report generally;
4. the standard of proof;
5. the reliability of evidence;
6. guideline factors including:
 - a. offense level and tax loss;
 - b. sophistication and concealment enhancement;
 - c. terrorism enhancement;
 - d. enhancement for obstruction of justice;
7. paragraph by paragraph objections to the presentence report; and
8. the determination of a fair and just sentence.

Introductory Statement

Aside from the evidentiary issues and issues of statutory and Guidelines construction discussed below, we urge the Court to look at this case from a broader vantage point. The challenges and dangers presented by the threat of global terrorism cannot be understated. But we ask the Court to consider

where this case, and where Mr. Sedaghaty, fit into the galaxy of those fears and concerns.

In characterizing this case as a “tax case,” we are not blind to the presence of a Chechnya connection – the alleged support for the Chechen military struggle with Russia. We realize, of course, the fact that Mr. Sedaghaty was not charged with providing such support does not remove the specter of that element from the Court’s universe of sentencing considerations after the jury’s verdict. But its significance now for sentencing purposes needs to be assessed from a perspective that we feel, frankly, was lost or distorted in the government’s presentation at trial, even more so in the sentencing portions, and is lost in the Presentence Report (PSR).

At trial, Chechnya was supposed to be a back-door issue, relevant only as to knowledge and intent on the tax counts. Instead, Chechnya became synonymous with “terror.” And “terror” – Muslim terror – became the driving force of the trial. Mr. Kohlmann, a young but well-traveled “terrorism” witness submitted a prolix report detailing one horrific act of terror after another, not about Mr. Sedaghaty but about professional terrorists and assassins having no connection with him. The report was often boiler-plate, lifted from other Kohlmann cases involving charges of genuine terrorism actually committed by the defendants in those cases – actions such as plots to bomb American monuments, American soldiers, sailors and politicians, acts of hostage taking,

kidnappings, mayhem and murder. His testimony was reined in to some extent, but its undeniable, if tacit, purpose was to link Mr. Sedaghaty to violent actions and professional terrorists he knew nothing about. Notwithstanding a lip-service denial that this was a terror case, the tones and specter of terror coursed through the government's opening and closing including an insulting reference to and dramatic throwing of the Noble Quran.

The Court's sentencing deliberations should be insulated from this toxicity. The Presentence Report, arguments about the terrorism enhancement, and Mr. Ignatchenko's proposed testimony will continue the free-floating association of this defendant with actions he knew nothing about. Mr. Sedaghaty was a small-time player in a huge, world-wide organization most of whose activities for over half a decade have been perfectly legitimate and admirable. Mr. Ignatchenko's testimony might implicate some people in that organization with distributing funds to Chechens, as he might well confirm that many people and nations, western nations, did the same. But Mr. Ignatchenko cannot implicate Mr. Sedaghaty with passing funds to the Chechens. His testimony should not be permitted to perpetuate suggestions and inferences to the contrary.

We believe this thoughtful passage from an opinion of the District Court of Massachusetts, though specifically relating to a trial on the merits, has resonance for purposes of sentencing in the instant case. That case involved

charges that the defendants solicited and used tax exempt funds to support jihadist activities. The court said:

A further point should be emphasized. The struggle against religious and political extremism in general, and terrorism in particular, is likely to be the principal challenge facing this nation, and the rest of the world, for many years to come. At its core, that struggle is to protect and defend the most basic values of our society-indeed, of civilization itself. The difficulty and magnitude of that conflict can hardly be understated. But it is nonetheless important to bear in mind the proper place of the trial court in the American constitutional system. The role of this court, at least in this context, is necessarily narrow. It is not to help-or, for that matter, to hinder-American foreign policy. It is not to help or hinder American law enforcement priorities. It is not to make broad 'statements,' send 'messages,' or bestow symbolic 'victories' or 'defeats.' Instead, the role of the court is to make a relatively narrow and focused inquiry: whether the evidence presented at the trial, taken in the light most favorable to the government, was sufficient to support a conviction as to each defendant and as to each count. And it is to examine that evidence with a cold eye, not with inflamed passion-and without regard to any greater cause that this case may be deemed to represent, no matter how worthy that cause may be.

United States v. Mubayyid, 567 F.Supp.2d 223, 227 (D. Mass. 2008).

In considering the issues in this sentencing, it is also critical to keep in mind the distinction between what was known and what was reasonable to believe before, as contrasted with, after September 11, 2001. What may have appeared reasonable in terms of association in 1997 - 2001, is materially different than it is today.

The jury has spoken and, for the purposes of sentencing, we accept that fact. The jury did not, however, address or answer any of the sentencing

issues that must be resolved. The verdict answered the question of responsibility for the mistake on the tax return and Mr. Sedaghaty's purpose to get money to the mujahideen. The verdict did not, however, say whether that was for humanitarian or weapons purposes, or what happened to the money. Nor did it resolve the advisory guidelines questions addressed below. We are confident that this Court will dispassionately address those issues and separate fact from opinion, evidence from speculation, the quality of the Oregonians who have spoken for Mr. Sedaghaty, and the value of his life.

I. THE NEW TRIAL MOTION SHOULD BE HEARD FIRST.

At the outset, Mr. Sedaghaty objects to the manner in which this proceeding is being handled. On September 23, 2010, he filed an extensive and substantial Motion For New Trial. CR 477. That motion was accompanied by a Motion For Judgment Of Acquittal. The government's response to the Motion For New Trial raised factual questions. Mr. Sedaghaty believes that the new trial motion should be resolved first and that its resolution should obviate the need for a sentencing proceeding.

II. MR. SEDAGHATY IS ENTITLED TO DISCOVERY FOR THE SENTENCING HEARING.

Prior to proceeding with any evidence or argument regarding sentencing, Mr. Sedaghaty believes that the Court should resolve two outstanding matters regarding discovery: information necessary for resolution of a challenge to the admissibility of testimony from Russian FSB Agent Ignatchenko (section VII)

and information necessary for his cross-examination in the event the Court permits him to testify. The specific requests for discovery related to Ignatchenko are set out in the Motion for Discovery filed on November 15, 2010. CR 494.

In addition, the final version of the Presentence Report requires revisiting of the requests for discovery previously made regarding the unclassified summary of classified evidence contained in the document provided by the government in discovery labeled “Defendant’s Proposed Exhibit 730” (attached hereto as Exhibit 1). Just before and during the trial, Mr. Sedaghaty renewed his earlier requests for discovery of exculpatory information as it relates to proposed Exhibit 730. CR 420 at 8-9; Tr. August 26, 2010 at 9. He pointed out that the last sentence of the document was exculpatory. He further pointed out, however, that it was apparent that the document was a compilation of other documents and that it included editorial comments and words.

Because the presentence writer is now relying on a portion of Exhibit 730 (PSR ¶ 21a), and ignoring the exculpatory content of the last sentence, Mr. Sedaghaty believes it is necessary for the Court to revisit the order regarding disclosure of classified information as it relates to this document and provide Mr. Sedaghaty with the full measure of exculpatory information that was provided by Mr. Al Sanad. Failure to provide him the tools necessary to

combat the unsubstantiated opinions contained in the PSR that ignore the words of Mr. Al Sanad deprives Mr. Sedaghaty a fair sentencing under the Fifth Amendment and of his Sixth Amendment rights to compulsory process and to present a defense. *See Holmes v. South Carolina*, 547 U.S. 319, 331 (2006) (affirming the defendant's right to "have a meaningful opportunity to present a complete defense.") (internal quotation marks omitted). It also precludes complete cross-examination of Mr. Ignatchenko in violation of the Confrontation Clause of the Sixth Amendment and the Due Process Clause of the Fifth Amendment.

III. THE PRESENTENCE REPORT GENERALLY VIOLATED FED. R. CRIM. P. 32.

The PSR advocates for the maximum sentence permitted under the law. Mr. Sedaghaty believes that it does so based on assumptions and opinions that are not factually based. In the addendum to the report, the presentence writer states that all information in the report is derived from discovery, from case agent reports, or was obtained from the case agent (PSR Addendum pp. 3-4). Mr. Sedaghaty has combed the discovery for facts, as opposed to opinions and assumptions, to support a number of the statements to which specific objection is made below. While he can find opinion and understands that certain statements made in the PSR are the view of one or more of the case agents or prosecutors, he is unable to find substantiating facts. As a result, the report was not prepared in conformance with Fed. R. Crim. P. 32.

A second problem with the PSR is reflected in the statement contained on page 4 of the addendum that there is no limit on the information the Court may receive in imposing sentence. While a variation of that statement appears in the statute and guideline, it is not the law. As the Ninth Circuit has repeatedly held, a sentence can only be based on reliable and accurate information. *See, e.g., United States v. Jordan*, 256 F.3d 922, 931 (9th Cir. 2001). To the extent that the presentence writer has prepared the report based on the belief that a sentence may be based on unsubstantiated hearsay, inference or innuendo, the value of the report is significantly undermined, and it is in violation of Fed. R. Crim. P. 32.

A third major problem with the report is its failure to comply, in other respects, with Fed. R. Crim. P. 32(d)(1)(B). Under that section of the rule, the Probation Office has a duty to “calculate the defendant’s offense level.” The handling of the tax loss issue in this case is illustrative of this Rule 32 violation. The probation officer has been advised by the Internal Revenue Service that it believes there is a tax loss. She has been advised by the defense that our expert, the former head of the Charitable Tax Section of the Internal Revenue Service, believes that the opinion of the government is incorrect. This is not a fact-based issue. It is, rather, a legal issue.

The probation officer, in ¶24, states the position of the Internal Revenue Service, acknowledges that the question is “complex and that the government

will be providing a calculation to the Court,” but she goes on to recommend the enhancement. Based on the information in the report, it is entirely inappropriate for the presentence writer to state that there is a tax loss and to state that the advisory guideline calculation should begin at offense level 14. Accepting the opinion of the government without being able to confirm it and on a legal issue is, moreover, suggestive of a more general bias in the approach to the report, a bias reflected in the acceptance of the opinions of government agents as discussed below.¹

In *United States v. Sifuentez*, 30 F.3d 1047, 1049-50 (9th Cir. 1994), the Ninth Circuit addressed the question of the proper role of a presentence writer in preparing a report. There the court noted limits on the Probation Office, the importance of analysis, and the impropriety of excessive or impermissible

¹While the defense appreciates that the PSR writer has made changes to the draft PSR, the seriousness of the errors contained in the first draft PSR sent to counsel reveals a profound misunderstanding of this case which was continued into the final PSR. For example, the original draft contained an incorrect maximum sentence, misstated the names and nature of defense counsel, and contained the following inexplicable statements: “Mr. Sedaghaty was acquitted of Count 3 charging Failure to File Report of International Transportation of Currency or Monetary Instruments” (draft PSR ¶ 4); “Mr. Sedaghaty was acquitted of Count 3 which alleged Mr. Al-Buthe and Mr. Sedaghaty knowingly failed to report the transportation of more than \$10,000 from the United States to Saudi Arabia” (draft PSR ¶ 10); and, “Although the government proved Mr. Sedaghaty and Mr. Al-Buthe conspired to transport \$130,000 of the donation from Ashland to Saudi Arabia, they could not prove beyond a reasonable doubt Mr. Sedaghaty or Mr. Al-Buthe knowingly and willfully failed to file a report of the transportation.” (draft PSR ¶ 10).

advocacy or argument. While the report in this case does not contain inflammatory rhetoric or argument, its uncritical acceptance of opinion is equally at odds with the rule and the right to due process in sentencing.

IV. THE APPLICABLE STANDARD OF PROOF IS AT LEAST CLEAR AND CONVINCING EVIDENCE ON THE LOSS AND TERRORISM ENHANCEMENTS.

Although a preponderance of evidence standard is ordinarily applied to establish facts used in sentencing, when the combined effect of contested enhancements would have “an extremely disproportionate effect on the sentence imposed,” we apply a balancing test to determine whether the higher “clear and convincing” standard of proof should apply.

United States v. Garro, 517 F.3d 1163, 1168 (9th Cir. 2008) (internal citations omitted). In *Garro*, the court ultimately concluded that because the enhancements were based on conduct charged in the indictment and to which the defendant pled guilty, a preponderance of the evidence standard was appropriate. *Id.* at 1169. The facts in *United States v. Staten*, 466 F.3d 708, 717- 20 (9th Cir. 2006), were different and illustrates applicability of the clear and convincing standard.

In *Staten*, the defendant pled guilty to conspiracy to manufacture methamphetamine. The PSR recommended a fifteen-level advisory guideline increase for a substantial risk of harm to human life or the environment under U.S.S.G. § 2D1.1(b)(5)(B). *Id.* at 711. In reversing the district court’s decision and remanding for resentencing, the Ninth Circuit noted that the court erred in applying a preponderance of the evidence standard when the increase was

more than four levels and more than doubled the defendant's advisory guideline range. 466 F.3d 708, 717-20 (9th Cir. 2006). *See also United States v. Gonzalez*, 492 F.3d 1031, 1040 (9th Cir. 2007) (proof by clear and convincing evidence required because 9-level increase had an "extremely disproportionate effect" on the sentence relative to the offense of conviction); *United States v. Jordan*, 256 F.3d 922, 929 (9th Cir. 2001) (holding that heightened standard should have been applied when the sentence was more than doubled); *see also id.* at 934 (O'Scannlain, J., concurring) ("Since [*United States v. Hopper*, 177 F.3d 824 (9th Cir. 1999)], we appear to have consistently held that when the enhancement is greater than four levels and more than doubles the applicable sentencing range, then the enhancements must be proved under the 'clear and convincing' standard of proof." (collecting cases)).

Both the tax loss and terrorism enhancement fall within the "clear and convincing" requirements of the clearly established law. The loss calculation increases the offense level eight levels and raises the top of the range eight-fold. The terrorism enhancement raises the offense level by at least eighteen levels and increases the guideline range fifty-fold.

Mr. Sedaghaty also asserts that any facts that support the sentencing enhancements should be proven beyond a reasonable doubt. While recognizing that the courts have not yet adopted a beyond reasonable doubt standard, Mr. Sedaghaty believes that standard is applicable in the circumstances of this

case with respect to the terrorism enhancement and preserves that issue for future review. The core of the argument in support of a beyond a reasonable doubt standard is incorporated within the estoppel argument set out below and the gross deviation in approach to this case taken by the government in the pretrial phase and at trial, as contrasted with the approach taken at sentencing. When the government, as it does here, charges essentially a new crime in sentencing, with such a significant increase in sentencing, *United States v. Booker*, 543 U.S. 220 (2005), application of the “*Booker*” fix violates the Fifth and Sixth Amendments. Even if the *Booker* fix is applicable, the fact that we are now dealing essentially with a new crime means the reasonable doubt standard must be applied.

V. THE COURT MAY ONLY SENTENCE ON RELIABLE EVIDENCE.

In *Williams v. New York*, 337 U.S. 241 (1949), the Supreme Court stated that the courts have wide latitude in the types of evidence that they may consider in sentencing. Subsequent to that statement, however, the courts held that a sentence must be based on “reliable” evidence. *United States v. Weston*, 448 F.2d 626, 634 (9th Cir. 1971). More recently, particularly in the context of United States sentencing guideline calculations, the courts have made clear that an item of evidence must be sufficiently reliable for sentencing purposes. *United States v. Marin-Cuevas*, 147 F.3d 889, 895 (9th Cir. 1998). Conclusory statements are not sufficient. *See United States v. Rosacker*, 314

F.3d 422, 425-26 (9th Cir. 2002).

When an advisory guideline factor must be established by clear and convincing evidence, the reliability of evidence on which the government must rely, is heightened. This is based on concerns that criminal defendants receive adequate due process. “Where a severe sentencing enhancement is imposed on the basis of uncharged or acquitted conduct, due process may require clear and convincing evidence of that conduct.” *United States v. Treadwell*, 593 F.3d 990, 1000 (9th Cir. 2010). The Ninth Circuit has continued to recognize that “where the enhancement represents the overwhelming proportion of the punishment imposed, a court cannot reflexively apply the truncated procedures that are perfectly adequate for all of the more mundane, familiar sentencing determinations.” *Staten*, 466 F.3d at 720 (internal quotation marks omitted), *see also*, *Treadwell*, 593 F.3d at 1000. Rather, the district court must “ratchet up certain, . . . of the procedural protections afforded a defendant at sentencing, so as more closely to resemble those afforded at trial, by applying the clear and convincing evidence standard.” *Staten*, 466 F.3d at 720 (internal quotation marks omitted).

Here, much of the evidence presented by the government, and relied upon by the presentence report writer, are the uncorroborated opinions of case agents, multiple layers of hearsay, and reports provided by questionable sources. This information is not reliable as required by the Constitution, and

the Court may not simply rely on the factual statements in the PSR. *United States v. Showalter*, 569 F.3d 1150, 1160 (9th Cir. 2009); see also § 6A1.3 (a).

VI. FOUR ADVISORY GUIDELINE CALCULATIONS IN THE PSR ARE INCORRECT.

The PSR has assessed upward adjustments for four advisory guideline factors with which Mr. Sedaghaty takes issue: tax loss; sophisticated concealment; obstruction of justice; and terrorism.

A. There Is No Tax Loss.

The government has provided the defendant documents outlining a loss calculation of \$80,980, aggregating three amounts it alleges would have been due to the government, but for the commission of the offense. All three amounts are derived from a characterization of the underlying transaction as an “excess benefit transaction” involving the Al-Haramain Islamic Foundation [or “a charitable organization”] and the defendant. The PSR increases Mr. Sedaghaty’s offense level by eight levels and recommends restitution due to its uncritical acceptance of the IRS view that there was a tax loss of \$80,980. PSR p. 8, ¶ 32; PSR Sentencing Recommendation, p. 3.

The criteria for an excess benefit transaction, and the taxes applicable to such a transaction, are specifically defined in the Internal Revenue Code and federal tax regulations. Through the expert testimony of the former head of the IRS Exempt Organizations Division, the defense will establish that, based on an application of the facts alleged in the indictment and testimony at trial

to the federal tax code, regulations, applicable IRS guidance, and case law, the excess benefit transaction concept is completely inapplicable. Exhibit 2.

There is no tax loss in this case.

The PSR does not provide a basis for its position other than by declaring: “The Calculation of the tax loss by the Internal Revenue Service is complex and will be provided by the government at the time of sentencing,” (PSR p. 8, ¶ 24) and “Information pertaining to the tax loss was obtained from the case agent. The government supports the amount of the tax loss.” (PSR Addendum, p. 4.) As argued above, this recommendation as to tax loss and restitution, made without analysis or real calculation but merely based on unexplained faith in the government’s position, violates both Fed. R. Crim. P. 32(d)(1)(B): “The presentence report must calculate the defendant’s offense level and criminal history category,” and Fed. R. Crim. P. 32(c)(1)(B): “If the law permits restitution, the probation officer must conduct an investigation and submit a report that contains sufficient information for the court to order restitution.” These recommendations deserve no deference by this Court.

In any event, there was no tax loss to the government and no restitution should be ordered. The government’s position, which is inconsistent with its approach at trial, is that somehow Dr. El Fiki’s contribution should be deemed Mr. Sedaghaty’s personal income and subject to the “excess benefit transaction” tax. This approach is unsupported by facts or law. Moreover,

even if the IRS had retroactively revoked Al Haramain's status as a charity and declared it a taxable corporation as of the year 2000, Al Haramain would not have been required to pay corporate tax on Dr. El Fiki's contribution.

For his legal argument concerning tax loss and restitution, Mr. Sedaghaty relies upon and incorporates herein the attached letter from Marcus Owens, who served for ten years as the Director of the Exempt Organizations Division of the Internal Revenue Service. Exhibit 2.

In addition, there is no loss as a matter of fact. As argued elsewhere in this pleading, there is no clear and convincing evidence money went to a non-charitable purpose. Humanitarian relief to mujahideen is lawful. Nor is there clear and convincing proof Mr. Al Buthe receive any benefit.

B. There Was No Sophisticated Concealment.

In ¶33 of the PSR, the presentence writer urges a two-level enhancement pursuant to U.S.S.G. § 2T1.1(b)(2) for sophisticated concealment. Contrary to the opinions offered in that paragraph, the facts show that the transactions in this case were not complex, intricate, or concealed.

This transaction was in no manner complex. It was a straightforward purchase of travelers checks and a cashier's check in an open and above-board manner. The money was then deposited with Al Haramain Saudi Arabia as reflected in the receipts, and then transferred to the Al Haramain bank account in Saudi Arabia. With respect to difficulties Agent Anderson may have had in

obtaining some records, she acknowledged at trial this was her first case involving these issues. The record shows the banks involved had, and when requested, produced all relevant documents.

The suggestion that Mr. Sedaghaty and Mr. Al Buthe walking into the Bank of America branch in Ashland, dealing with Mr. Sedaghaty's banker with Mr. Al Buthe wearing his Saudi clothing, involved any effort to hide anything is absurd. On the Saudi end, again there was no concealment. Mr. Al Buthe used his own bank to cash the travelers checks and deposit the cashier's check.

Finally, there was no effort to conceal this transaction from the accountant. Mr. Wilcox was provided copies of both checks used to purchase the financial instruments, and copies of the charity's bank records containing the transaction. When Mr. Wilcox provided the IRS subpoenaed documents about the case, Mr. Sedaghaty paid for them, and was in touch with Mr. Wilcox. Contrary to obstruction or concealment, he directed Mr. Wilcox to be open in the investigation and directed his lawyers to be over compliant in producing subpoenaed AHIF records. In addition, the objective facts are that Mr. Sedaghaty discussed Chechnya with Mr. Wilcox. Mr. Wilcox eventually admitted that at trial. His records also show he was told about the purchase of a property for around \$400,000 as early as February 2001.

Failure of the presentence writer to mention Mr. Wilcox's admissions that

he discussed Chechnya with Mr. Sedaghaty and that his records included a discussion of purchase of property for approximately \$400,000 with one of Mr. Sedaghaty's attorneys as early as February 2001, is a further indication of the lack of objectivity in this report.

C. There Was No Obstruction Of Justice.

In ¶20, the presentence writer recommends a two-level increase for obstruction of justice pursuant to U.S.S.G. §3C1.1. This recommendation is based entirely on unsubstantiated opinion. While the final version of the PSR removed a statement of the case agent from the original draft regarding the date of creation of the documents the presentence writer believes supports the obstruction enhancement, it continues to rely on her unsubstantiated opinion. We do not doubt that Agent Anderson believes that the documents are fraudulent. Her belief, however, is not evidence. It cannot form the basis for an upward adjustment in the guideline calculation. *See Showalter*, 569 F.3d at 1160 (when defendant raises objections to the PSR at sentencing, the government bears the burden of proof and the court may not simply rely on the factual statements in the PSR).

The handling of the obstruction enhancement in ¶20 is, regrettably, further indication of the lack of objectivity in the report. Mr. Sedaghaty pointed out to the presentence writer that there is one affirmative piece of evidence on the question of the creation of the two contracts – the investigation

memorandum of one of the signers of the document, Mr. Sui. Exhibit 3.

Notwithstanding that fact, the presentence writer ignores it entirely in her discussion of the obstruction issue.

D. The “Terrorism Enhancement” Is Not Supported In Law Or Fact By The Charges And Findings In This Case Or By The “Relevant Conduct” Provision Of Sentencing Guidelines (§ 1B1.3).

This is a first-offender tax case. Mr. Sedaghaty was not charged with providing material support for or otherwise financing terrorism, or concealing material support, or attempting to provide material support, or anything having to do with terrorism. The government categorically conceded to the jury this is not a terrorism case:

What the indictment does not include, and I want to get this out right now based on some questioning and back and forth we had this morning, is there are not terrorism charges in this indictment. The government is not accusing Mr. Sedaghaty for being a terrorist. Right. No terrorism charges.

Government Opening Statement, 08/30/2010.

Government counsel reiterated this point during closing argument. He told the jury that its case was not hinged to any findings that Mr. Sedaghaty intended that the money be used to support terrorism. He stressed to the jury that Mr. Sedaghaty could be convicted of the tax fraud charges regardless of whether he intended the donation to support humanitarian causes or to assist the mujahideen in combat operations:

[M]embers of the jury, don't get lost in this blankets versus bomb

quagmire. When you get back there and say, you know, maybe he had an intent to food -- give food to people, blankets to people, or maybe he really did try to buy arms, the point of this is, if you are doing things like this as a charity, the IRS's antennae go way up, as they should be, when you're dealing with cash especially. And if you're going to take the position and say, I did good things with this, I gave this money to refugees, blankets, food, medicine, okay, but tell us about it. That's what you need to do as an exempt organization.

Government closing at 178-79.

As an initial matter, although the government now seeks to punish Mr. Sedaghaty for providing “material support” for terrorists under § 2339A, it did not charge him with that offense and, as noted, conceded that this was not a terrorism case. In that respect, the government’s posture at trial reflects the cornerstone principle requiring a meaningful connection between the defendant and the crime, and bespeaks a sense of proportion that the government now threatens to jettison for sentencing purposes.

Accepting all arguments and inferences in their worst light, the disconnect between Mr. Sedaghaty and the Chechen war is immense, immeasurably so. Mr. Sedaghaty was not a “player” in the Chechen war, a conflict that has been raging for centuries, concerning which he had zero influence or control. He was a small figure in a world-wide organization with massive resources and thousands of employees in 70 countries around the world whose charitable activities were well-recognized. He facilitated the transfer of the El Fiki money from the United States to Saudi Arabia and lost

any control over it after that.

But accepting the worst inferences as true, despite the vacuum of proof, if some of that money eventually went to Chechen mujahideen it was a drop in the bucket when compared with the vast amounts of monetary and other support being provided to the Chechen cause from sources all over the world, including from the United States and other western governments. The lines between Chechen insurgents and mujahideen, between war and terror, between humanitarian and military aid, were then, as now, fluid and blurry. The attempt by the government now, with the assistance of the Russian FSB, an “aggrieved party” with much skin in the game, to link the El Fiki donation with despicable acts of terror in Moscow perpetrated by unknown persons having nothing to do with this Defendant should be summarily rejected.

The government may not simply rely on videotapes or “common knowledge” that some Chechens at some time committed acts of terror. Even if there were evidence tracing the El Fiki money to Chechnya – which there is not (see below for further discussion) – it is improper to link this specific donation to actions of unidentified terrorists that may have occurred many years before or after the fact. The government did not, and could not, make that argument at trial on the basis of the evidence. It is the rough equivalent of arguing that aid provided by the United States government and other allied western nations to the cause of Chechen or Afghan nationalism is blood-stained by the

excessive actions of some people enlisted in the cause. Similarly, America's invasion of Afghanistan after 9/11 would never be seen as an act of terrorism, or the "promotion" of terrorism, notwithstanding our country's alignment in this war with Northern Alliance, tribal warlords and Pakistani militias, all of whom have had well-documented involvement in acts of terror.

1. *Judicial Estoppel Prevents The Government From Arguing That The Terrorism Enhancement Applies To Mr. Sedaghaty's Case.*

Both the PSR and government are urging the Court to impose the terrorism enhancement under U.S.S.G. § 3A1.4. Mr. Sedaghaty opposes the enhancement, believing that it is inapplicable as a matter of fact and law. In addition, the manner in which the government has handled this case precludes it from seeking the terrorism enhancement as a matter of estoppel.

Specifically, the government should be estopped from arguing two facts at sentencing that contradict its earlier position: (1) that the El Fiki donation could be traced to terrorist activity; and (2) that the Chechen combatants were terrorists.

Judicial estoppel is an equitable doctrine that prevents a party from "playing fast and loose with the courts" by reversing its position "in order to suit its current objective." *Whaley v. Belleque*, 520 F.3d 997, 1002 (9th Cir. 2008); *see also New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001). Often known as the doctrine of preclusion of inconsistent positions, judicial estoppel

“precludes a party from gaining an advantage by taking one position, and then seeking a second advantage by taking an incompatible position.” *Whaley*, 520 F.3d at 1002 (*quoting Rissetto v. Plumbers & Steamfitters Local 343*, 94 F.3d 597, 600 (9th Cir. 1996)). The doctrine is “most commonly applied to bar a party from making a factual assertion in a legal proceeding which directly contradicts an earlier assertion made in the same proceeding or a prior one.” *Russell v. Rolfs*, 893 F.2d 1033, 1037 (9th Cir. 1990).

At trial, the government claimed that the El Fiki money could not be traced once Mr. Al Buthe had cashed the 130 traveler’s checks. For example, government counsel argued to the jury in closing that: “You see [Mr. Al-Buthe] cashed the 130,000 American Express traveler's checks, and he got 486,850 Saudi riyals in cash. And that's gone. Trail dries up.” *Gorder Close* at 64. The government took the same position throughout the pre-trial phase as well as in repeated interactions with defense counsel. Not only was the government adamant that the money could not be traced once cashed, it actively fought introduction of defense exhibits offered to show the further flow of the donated funds, *see* Def. Exhibit² 704, 705, and failed to subpoena the Al Haramain Saudi bank account where the defense argued the money had gone.

²Attached as Exhibit 8. A Defense Exhibit List is attached. All of the Exhibits listed have been provided to the Court and to the government prior to and during trial. The list indicates by “*” exhibits that may not have been admitted at trial. Following the filing of this memorandum, those identified exhibits will be provided to this Court and to the government on a CD.

Additionally, the prosecution recognized the distinction between fighting mujahideen and terrorists and that it did not take sides in the conflict. During opening statements, the government flatly stated that “[t]he government is not accusing Mr. Sedaghaty for being a terrorist.” (Opening at 6). The logic of that position was obvious given the numerous defense exhibits showing the U.S. government’s support for Chechnya in 1999 and 2000. *See, e.g.*, Def. Exhibit 628, 629, 631, 633, 634, 1002(B). Any possible inference that Mr. Sedaghaty was supporting the Chechen fighters who were terrorists during those years was quickly extinguished when the prosecution stated in both opening and closing that the government would not take a position with respect to favoring either side in the conflict:

[T]his case does not involve us taking a side with either side. We’re not here to take sides. We’re not here to defend Russia’s actions or the mujahideen’s actions. We’re not here to judge that.

Opening at 28.

[W]e’re not taking sides in that conflict. It was brutal, brutal on both sides. If there is anything you can take from that, it’s how blessed we are to live in this country where we’re more likely to be killed in an auto accident than in the crossfire of a war.

Gorder Close at 57. While the prosecutors remained neutral about the war, official reports on the war from 1999-2001 show that the United States regularly condemned Russian aggression in Chechnya. Def. Exhibit 647, 648, 649.

Moreover, whatever might have occurred years later involving actual

terrorist acts against civilians, what Mr. Sedaghaty was aware of as reflected in the government exhibits from the websites, was a war. It was not acts of terror against civilian populations. This is seen in the government's exhibits. *See, e.g.*, SW-8, SW-16, SW-28.

Indeed, even the evidence the government claimed reflected Mr. Sedaghaty's mental state—the Sheeshan emails—shows an understanding at the time that the Chechen fighters were engaged in traditional warfare and not terrorist attacks. The emails, largely copied verbatim from the Qoqaz website, describe such military operations as attacks on enemy armor columns, the shooting down of a Russian military plane, and other offenses against “Russian Forces.” SW-28. Moreover, the Sheeshan emails specifically refuted any claim that the Chechen fighters were engaged in terrorism. *See, e.g.*, January 27, 2000 Sheeshan email (explicitly denying Chechen involvement in the 1999 Moscow apartment bombings). Exhibit 4.

In fact, many of the Sheeshan emails that were sent to Mr. Sedaghaty at the time of the El Fiki donation strongly condemned actions that would be considered terroristic in nature. For example, a February 15, 2000, Sheeshan email decried the “rampage” and “atrocities” committed by the “Russian Forces,” including “indiscriminate killing of men, women and children” and the use of “weapons of mass-destruction” against a “defenseless civilian population.” Exhibit 4. Similarly, a Sheeshan email sent three days later again vilified

“targeting civilians” and “indiscriminate killing.” Exhibit 4. Given that the government relied heavily on the Sheeshan emails at trial to establish Mr. Sedaghaty’s intent, it cannot now legitimately claim that Mr. Sedaghaty’s understanding of the conflict was different than what he would have learned from those documents.

The theory for the terrorism enhancement advanced in the PSR, is set out in ¶26. That paragraph opines that Russia’s presence in Chechnya was “lawful,” that the Chechens were “retaliating” against the Russians, and that the actions of the Chechen fighters were criminal when it calls them an “offense.” All of those positions are contrary to the positions asserted by the government before and during trial as reflected in the statements above.

Now, however, as evidenced in the PSR, the government seeks to argue the reverse of its trial positions. First, the government apparently will claim that the “Chechen mujahideen received the AHIF [El Fiki] donation on or after March 25, 2000.” PSR at 7. Second, the government now claims that at the pertinent time, the Chechen mujahideen were a terrorist organization. PSR at 3.

While these positions are untenable for the numerous factual and legal reasons set forth below, they should be precluded at the outset as an equitable matter. The doctrine of judicial estoppel seeks “to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions

according to the exigencies of the moment.” *United States v. Smith*, 574 F.3d 521, 527 (8th Cir. 2009) (*quoting New Hampshire*, 532 U.S. at 750). The government now seeks to change its factual position to gain an advantage at sentencing. This Court should exercise its discretion and estop the government from “playing fast and loose with the courts.” *See Whaley*, 520 F.3d at 1002.

2. *There Is No Basis In Law For The Terrorism Enhancement.*

Application of the terrorism enhancement requires proof that the offense of conviction “involved, or was intended to promote, a federal crime of terrorism.” 3A1.4 of the U.S. Sentencing Guidelines. The government must identify which enumerated “federal crime of terrorism” the defendant intended to promote. *United States v. Thurston*, 2007 WL 1500176 *6 (D. OR. May 21, 2007).

a. There is no Statutory Basis for the Terrorism Enhancement.

The draft PSR (§22) asserted the applicability of the terrorism enhancement based on Mr. Sedaghaty’s and Mr. Al Buthe’s “knowingly support[ing] terrorist activities, which actually occurred against Russia,” citing 18 U.S.C. § 2339B as the requisite statutory predicates. After receiving Mr. Sedaghaty’s explanation of the inapplicability of those sections, the PSR has now shifted and articulates the terrorism enhancement as being applicable

under 18 U.S.C. § 2339A concerning “material support for terrorism.” In the addendum section of the report, the writer notes that our objection to ¶26 is now resolved. That is not the case. For the reasons set out below, as a matter of law, the terrorism enhancement is not applicable under any guideline or statutory provision.

Further, the application of 18 U.S.C. § 2339A is inappropriate here because fighting a war does not violate 18 U.S.C. § 956. Under the laws of war, for one soldier to kill another is not a crime. William Winthrop, *Military Law And Precedents* at 782 (rev. 2d ed. 1920) (general rule that the operations of war on land can legally be carried on only through the recognized armies or soldiering of the state or duly enlisted or employed in its service). As reflected in the news reports introduced by the government during the trial, during the winter of 2000, what was taking place in Chechnya was a war between Russian and Chechen forces.

The normal characteristics of terrorism do not apply here. As noted above, during the relevant time period involved in this case (1999-2001), the Chechens were involved in a war of liberation with Russia, one in which the Chechen cause received diplomatic and other support from the United States and other western governments. (See, *e.g.*, Def. Exs. 0628, 0629, 0630, 0631, 0632, 0633, 0634, 0635, 0653.) The two recent wars, in the 1990's and early 2000, were accompanied by the expected sequellae of struggle between two

nations battling for control over the same territory – negotiations, peace treaties, development of independent governmental structures and advice, support and assistance from the international community. The Chechens also received military support from foreign allies, the “mujahideen,” but, as government terrorism expert witness Evan Kohlmann admitted, it was either that or be obliterated by the much stronger Russian army. That is why, presumptively, government counsel explicitly told the jury that this was a war in which we do not take sides.

Indeed, as shown in numerous government exhibits, such as the Kavkaz video and the pictures seized from emails on Al Haramain Ashland’s computers, the Chechen mujahideen were soldiers fighting in uniform against traditional military targets. EK-7, SW-8; *accord* Exhibit 4. As such, any acts committed against Russian forces, again the acts that are depicted in the government’s exhibits, were privileged and not criminal.

In addition to the fact that 18 U.S.C. § 956 does not apply to legitimate acts of war, the statute also does not – by its terms – apply to the particulars of this case. Specifically, the presentence report writer’s theory that the terrorism enhancement applies is based on a flawed application of § 956.

Section 956 criminalizes conspiracies to commit various acts, and requires that one of the conspirators is “within the jurisdiction of the United States.” § 956(a)(1), (b). Importantly, the presentence report writer seeks to

apply § 956 through § 2339A, the material support statute. Thus, in order for the terrorism enhancement to apply, the government must prove that Mr. Sedaghaty provided material support “knowing or intending” that that support would be used “in preparation for, or in carrying out,” a conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country, with one of the conspirators being “within the jurisdiction of the United States.” § 2339A; § 956.

The critical flaw in the presentence report writer’s logic hinges on the jurisdictional element in § 956; simply put, the government cannot show that anyone within U.S. jurisdiction was a party to a § 956 conspiracy. The government does not allege, nor has it produced any evidence, that Mr. Sedaghaty ever agreed, let alone met or communicated with, any individual who sought to violate the law.

b. § 2339C And 2339B Do Not Apply.

Turning to the other potential statutes, § 2339C (financing of terrorism) was not extant in 2001 and, thus, cannot form the predicate for a terrorism enhancement under the Guidelines that apply to the offenses of conviction that occurred in October 2001. *See Miller v. Florida*, 482 U.S. 423 (1987); *United States v. Seacott*, 15 F. 3d 1380, 1384-86 (7th Cir. 1994); *United States v. Schnell*, 982 F.2d 216, 218 (7th Cir. 1992); *Thurston*, 2007 WL 1500176. Moreover, § 2339C(a) would apply only if the alleged financing was used to

carry out (A) an act which constitutes an offense within the scope of a specified “treaty” or (B) an “act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”

Accordingly, § 2339C(a) does not apply for five reasons : (1) because it was not extant in 2001, it violates *ex post facto* principles; (2) there is no evidence, or argument, that the offenses of conviction violated a specified treaty; (3) there is no evidence that the offenses of conviction were intended to “cause death or serious bodily injury to a civilian;” (4) there is no evidence that the offenses of conviction were intended to cause death or serious bodily injury to a civilian “not taking an active part in the hostilities of armed conflict;” and (5) there is no evidence that the purpose of the offenses of conviction were “to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”

Nor does § 2339C(c) (Concealment) apply. That subsection covers concealment of financing that violated either § 2339B or § 2339C(a). For the reasons stated immediately above and immediately below, neither § 2339C(a) nor 2339B applies to this case. Accordingly, § 2339C is not a valid predicate for the application of the terrorism enhancement.

Section 2339B on its face does not apply because it requires proof of support to “foreign terrorist organizations,” a term defined by statute to mean “an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.” § 2339B(g)(6). We are not aware of an “organization” called the “Chechen Mujahideen” but, even if there were such an organization, it was not “designated as a terrorist organization under section 219 of the Immigration and Nationality Act.” Therefore, neither § 2339B nor § 2339C provides a proper basis for the application of the terrorism enhancement to this case.

3. *The Court Is Not In A Position To Make A Judgment On The Nature Of The War In Chechnya.*

A fundamental principle of our system of government is that the Executive is responsible for diplomatic actions and decisions. *Munaf v. Geren*, 533 U.S. 674, 689 (2008) (courts traditionally are reluctant to intrude upon the authority of the Executive in military and national security affairs.) *See also*, *Kiyemba v. Obama*, 561 F.3d 509, 515 (D.C. Cir. 2009) (“[S]eparation of powers principle . . . preclude the courts from second-guessing the Executive’s assessment of the likelihood a detainee will be tortured by a foreign sovereign”).

Guided by that principle, this Court may not rule that what was occurring in Chechnya in 2000 was an “offense” within the meaning of 18 U.S.C. §§ 956 or 2339A. At that time, the Executive Branch made the judgment that what was occurring in Chechnya was a legitimate conflict

between Chechnya and Russia. The Chechen fighters were not considered “terrorists” by the Executive. Def. Exhibit 629, 631, 633, 1002(B). Indeed, the U.S. government was likely funding the Chechen fighters. CR 495, Col. Lang Declaration at ¶¶31 and 33; see also CR 354. This Court has no authority to take a contrary position at this time.

Moreover, the estoppel argument set out above precludes the Executive from now changing positions on that subject.

4. *The Government Neither Argued Nor Attempted To Prove That The Offenses Of Conviction “Involved” Or Were “Intended To Promote” A Federal Crime Of Terrorism.*

Application of the terrorism enhancement in this case improperly conflates two separate arguments: (1) the alleged diversion of funds to the Chechen mujahideen, and (2) the tax fraud. Mr. Sedaghaty was not charged with diverting funds or providing support to or financing terrorism. Mr. Sedaghaty was charged with tax fraud. The government did not argue that the purpose of the tax fraud conspiracy “involved or was intended to promote” terrorism or to “affect the conduct of government by intimidation or coercion, or to retaliate against government conduct.” Rather, the government presented lengthy testimony (Wooten) to establish, and explicitly told the jury, that Mr. Sedaghaty’s motive was to protect Al Haramain USA’s tax exemption and to avoid exposing himself to tax sanctions and charges of civil and criminal fraud. Government Opening, 08/30/2010, Tr. 27.

The government's articulation of the motive at trial, though disputed, makes theoretical sense. Its argument now does not. Cheating on taxes in October 2001 cannot logically be conflated with supporting a Chechen effort to intimidate or coerce the Russian government in March 2000. The purpose and intention that may underlie a plan to cheat on tax returns in October 2001 might, as the government has previously argued, have been to avoid tax sanctions, but it could have nothing whatever to do with any effort to provide support for the Chechen actions against the Russians some 18 months earlier. Support for the Chechens, if it ever took place, was long since over and done with.

In other words, any conceivable attempt to promote acts of terror or to influence or affect or retaliate against the Russians by coercion or intimidation would arguably have occurred with the alleged one-time provision of support in March 2000. The tax fraud was perpetrated a year-and-a-half after the fact. There is no evidence that Mr. Sedaghaty was in any way involved in any effort to assist Chechen mujahideen at that time.

Even if the tax fraud were intended to conceal the earlier support to the Chechens in March 2000, it cannot be seen as an effort 19 months later to promote a federal crime of terrorism or to influence or affect the Russians and certainly not by intimidation or coercion as required by § 3A1.4 and 18 U.S.C. § 2332b(g)(5)(A). The government did not argue or offer any evidence that Mr.

Sedaghaty was continuing to support the mujahideen in October 2001 when he filed the tax returns. Rather, his conduct at that time can only be explained, and was in fact explained by the government, as being motivated by a desire to avoid tax problems and other sanctions, not to promote terrorism.

5. *The Terrorism Enhancement Cannot Be Justified On The Basis Of The “Relevant Conduct” Provision Of The Sentencing Guidelines (§ 1b1.3.).*

Section 1B1.3 of the Guidelines in relevant part permits the sentencing judge to consider not just the base offense but other acts “that occurred during the commission of the offense of conviction , in preparation for that offense, or in the course of attempting to avoid detection or responsibility for that offense.” If the “offense of conviction” had been “providing material support” or “financing terrorism” in violation of federal statutes, then it might be argued that a tax fraud that was calculated to conceal that action would be “Relevant Conduct.” But this case is the reverse. The “offense of conviction” here was the conspiracy to commit tax fraud and the filing of a tax return that the jury found occurred in October 2001. Any actions that occurred a year and a half before the offense of conviction, in March 2000 when the alleged diversion of funds took place, cannot be said to have occurred during, in preparation for or in avoiding detection for the offense of conviction. Accordingly, those facts relating to the government’s pursuit of the terrorism enhancement may not properly be considered “relevant conduct” within the Guidelines.

6. *The Presentence Report Relies on Unfounded Speculation Attenuated From Mr. Sedaghaty.*

In recommending the terrorism enhancement, the PSR relies in substantial part on a letter sent by government counsel to Mr. Wax, counsel for the Defendant. Exhibit 1, Proposed Exhibit 730. ¶21a. The letter informed Mr. Wax as follows:

The U.S. Government obtained information that Sami ‘Abd Al’ Aziz Al-Sanad worked during 2000 and 2001 for the Al-Haramain organization and was responsible for providing currency supplied by Al-Haramain, including the currency obtained by codefendant Soliman Al-Buthe from Al-Haramain USA, to a representative of Muhammad Al-Sayf, aka Abu ‘Umar, to be smuggled into Chechnya. Al-Sanad has claimed that the monies he provided to Al-Sayf’s representative were destined for needy Chechen families.

Exhibit 1.

This bare-bones recitation with no sources disclosed, and involving who knows how many layers of hearsay, was apparently accepted as fact on the mere “say-so” of government counsel. But, even more significantly, the paragraph provides the only direct evidence before this Court on the use of the El Fiki money – that it was used for humanitarian purposes. There is no basis before this Court, or in the PSR, on which a portion of the formerly classified statement of Al Sanad obtained by intelligence personnel can be ignored while other portions of the statement are accepted.

The PSR then proceeds to Evan Kohlmann’s testimony, also based on multiple layers of other sources, that Umar worked for the mujahideen, ¶21b,

and then to a purported intercept from the Russian KGB involving, as it happens, the two top leaders of the Chechen Mujahideen and Al-Haramain Saudi Arabia concerning the delivery of supplies to the mujahideen. This only explains a general pattern. It does not contradict the specific information about the only money in any way related to Mr. Sedaghaty.

Where does Mr. Sedaghaty fit into this picture? Apparently solely on the basis of the so-called “What Support?” e-mail he sent to Al Buthe forwarding a portion of a widely circulated request from Mr. Khattab for aid and assistance. See ¶ 22. The e-mail in no manner suggests that Mr. Sedaghaty was recommending military or any other support for the mujahideen. It only asked “What support?”, nothing more. The e-mail, if anything, reflects Mr. Sedaghaty’s preference to limit any support that might be considered for humanitarian assistance to needy Chechens. That is because Mr. Sedaghaty did not forward to Al Buthe the entire multi-page request from Khattab, only that portion that concerns requests for humanitarian assistance to Chechen victims, and only the first paragraph of the request, the paragraph dealing with humanitarian aid. SW 11.

The inferences that the PSR draws for this string of speculation are directly at odds with what the government claimed at trial. The government flatly admitted at trial that the El Fiki money could not be traced to Chechnya, that the trail “dries up” after it gets deposited in Saudi Arabia. Gorder Close at

64. As reflected in Section VI(D)(1) above, the government should be judicially estopped from asserting positions for sentencing purposes that are at odds with its position during the trial.

We realize the Court may consider hearsay for sentencing purposes but, as discussed above, more substance is required than self-serving, conclusory assertions that are suspect on their face, that contradict the government's position at trial, that are unaccompanied by any factual back-up from any primary source, and provide no real opportunity for the defense to challenge, in order to justify the very significant enhancement of a sentence that would otherwise be permissible under the Guidelines.

7. *Crediting The Verdict, The Government's Evidence Shows Mr. Sedaghaty Solely Sought To Fund A War*

As articulated above in Section VI(D)(1), the government's own evidence taken from Mr. Sedaghaty's computers showed his knowledge of the situations was that it was a war. The websites touted success in military campaigns. They spoke against civilian terror. To the extent this evidence is germane on the question of intent, as the government argued at trial, it shows Mr. Sedaghaty's intent was **not** to support acts of terror. There is no contrary evidence because application of the enhancement requires proof of Mr. Sedaghaty's intent, there is none to support the enhancement.

8. *Precedent Is Against The Government.*

To our knowledge, the only court to consider the applicability of the

terrorism enhancement in a case involving the Chechen war in the late 1990's declined to apply the enhancement. In *United States v. Arnaout*, 431 F.3d 994 (7th Cir. 2005), the Court of Appeals affirmed the district court's rejection of the terrorism enhancement's applicability to the conviction of a defendant, the head of a charitable organization, who admittedly diverted charitable contributions to the Chechen mujahideen specifically for use in fighting. Mr. Arnaout ran Benevolence International Foundation (BIF), a Saudi charity. He was charged with fraud on donors for diverting to Bosnian and Chechen militants money that was given for humanitarian aid. On February 10, 2003, Arnaout pled guilty, pursuant to a written plea agreement, to conspiring to violate RICO in violation of 18 U.S.C. § 1962(d). In the plea agreement, Arnaout acknowledged that beginning in May 1993, he was responsible for and directed BIF's operations in the United States. Arnaout admitted that he and others agreed to conceal from donors, potential donors, and federal and state governments that a material portion of the donations received by BIF were being used to support soldiers overseas. The support he provided included boots, tents, uniforms, walkie-talkies, and an ambulance intended for ultimate use by fighters in Bosnia and Chechnya. 431 F.3d 998.

The district court found that, "The government has not established that the Bosnian and Chechen recipients of BIF aid were engaged in a federal crime of terrorism, nor that Arnaout intended the donated . . . [equipment] to be used

to promote a federal crime of terrorism.” *United States v. Arnaout*, 282 F. Supp. 2d 838, 845 (N.D. Ill. 2003). The Circuit court affirmed, finding “no clear error” in that ruling:

[T]he district court did find that the record did not establish by a preponderance of the evidence that Arnaout attempted, participated in, or conspired to commit any act of terrorism. *The district court also found that the government had not established that the Bosnian and Chechen recipients of BIF aid were engaged in a federal crime of terrorism, or that Arnaout intended the donated boots, uniforms, blankets, tents, X-ray machine, ambulances, nylon or walkie talkies to be used to promote a federal crime of terrorism.* We find all of the district court's findings on this issue consistent with the record, not clearly erroneous, and sufficient to support the district court's refusal to apply § 3A1.4.

(emphasis added).

Thus, Mr. Arnaout – unlike Mr. Sedaghaty – as admittedly involved in diverting charitable funds to supply Chechen mujahideen with supplies having obvious military utility in the same conflict as is involved in the instant case and the trial and appellate courts found that none of his conduct was intended to promote terrorism.

While the Court found that the terrorism enhancement under the Guidelines is not applicable in Mr. Arnaout’s case, it varied upward based on many of the same facts. In that respect, however, the *Arnaout* case is materially distinguishable from Mr. Sedaghaty’s. Unlike Mr. Sedaghaty, Mr. Arnaout was involved in a pattern of conduct with full knowledge and intent to provide military support to mujihadeen. By contrast, Mr. Sedaghaty was

accused of only one act involving sending money overseas. Second, in contrast to Mr. Arnaout, there is no evidence that Mr. Sedaghaty intended to provide military support to mujahideen as approved to humanitarian support. Again, if the jury credited Bobby Cabral, the support was intended to be entirely humanitarian. Tr., August 31, 2010 at 279-80. That is the only direct evidence of Mr. Sedaghaty's intent. Third, in contrast to Mr. Arnaout, the one act of which Mr. Sedaghaty has been found guilty stands in stark contrast to his decades-long positive, peaceful, and humanitarian involvement and the continuing support he enjoys from prominent members of the Southern Oregon community. They continue to believe that he is not anti-Semitic or a person who has any desire to fund violent activities.

VII. MR. IGNATCHENKO SHOULD NOT BE PERMITTED TO TESTIFY AT MR. SEDAGHATY'S SENTENCING.

A. Ignatchenko's Proposed Testimony Is Irrelevant, It Involves New, Uncharged, Untried Offenses, Is Based On Multiple Levels Of Hearsay, Is Inherently Unreliable And Extraordinarily Prejudicial And Is, Therefore, Precluded Under The Fifth And Sixth Amendments To The Constitution And Under Federal Rules Of Evidence 401, 403 And 802.

On October 25, 2010, undersigned counsel received notice from the government of its intention to call Mr. Ignatchenko as a witness at the sentencing proceeding for Mr. Sedaghaty scheduled for November 23, 2010. His expected testimony is described by government counsel as including "some of the matters contained in his interview report provided by the FSB to the

United States government” that was previously produced in discovery.

The FSB reports that were previously produced in discovery include a report of an FSB interview with Mr. Ignatchenko in which he refers to transcripts of purported telecommunications intercepts that purportedly implicate Al Haramain Saudi Arabia in the transfer of funds to Chechen mujahideen. Ignatchenko did not testify at trial and the reports on which his proposed testimony is based were not introduced. Apparently, the government seeks to introduce his testimony now in an effort to justify imposition of the “terrorism enhancement” under U.S.S.G. § 3A1.4. Ignatchenko’s testimony cannot be justified on that ground.

First, the documents on which the proposed testimony is based do not trace the El Fiki money to Chechen mujahideen. The documents on which the proposed testimony is based do not mention Mr. Sedaghaty at all or suggest that Mr. Sedaghaty had any intention to deliver funds to the mujahideen, or that he had any knowledge of any plans or intentions of others to deliver the funds to the mujahideen.

Second, for multiple reasons developed above, the terrorism enhancement does not apply to the charges and findings in this case.

Third, Ignatchenko’s proposed testimony is inherently unreliable.

1. *The Government Cannot Establish Through Mr. Ignatchenko Or Otherwise That The El Fiki Money Was Diverted To Chechen Mujahideen.*

The Ignatchenko testimony is offered to support the uncharged, untried allegation that the El Fiki donation actually was transferred into the hands of Chechen mujahideen. There is nothing in evidence or in the FSB documents that is the basis of Ignatchenko's proposed testimony to support that theory. Government counsel explicitly conceded that it could *not* trace the El Fiki donation to Chechen fighters:

You see he cashed the 130,000 American Express traveler's checks, and he got 486,850 Saudi riyals in cash. And that's gone. Trail dries up.

Gorder Close at 64.

The basis of Mr. Ignatchenko's testimony consists of papers that were given to government counsel in this case by the Russian FSB in exchange for intelligence information provided by government counsel. The Russian FSB is a direct successor to the notorious Soviet secret police, the KGB, and has continued the KGB's deception and brutality. The FSB materials were provided to us in pre-trial discovery. They were not introduced into evidence or otherwise referred to in trial and, therefore, nothing contained in them is included in any findings made by the jury. More importantly for sentencing purposes, nothing in these documents establishes that the El Fiki donation was used to support Chechen mujahideen.

In pertinent part, the FSB documents relate to alleged intercepts of purported communications purportedly involving an Al Haramain official in Saudi Arabia and one or more alleged Chechen mujahideen. Aside from the myriad reasons these documents lack authenticity, they simply do not establish that the El Fiki money was ever delivered to any Chechens. All the government knows is that this money was deposited in a Saudi Arabian bank account. It has no evidence of what, if anything, happened to this money after that. Further, and critically, the FSB documents never mention, explicitly or implicitly, the defendant, Mr. Sedaghaty, and shed no light whatever on his state of mind with respect to the disposition of these funds.

2. *Mr. Ignatchenko's Testimony Should Be Precluded On The Basis Of Irrelevance, Excessive Prejudice, Inherent Unreliability And Hearsay Grounds.*

In proffering Mr. Ignatchenko, the government is seeking to impose on Mr. Sedaghaty the consequences of a crime of terrorism without shouldering the burden of proving the crime – and the government seeks to do this thorough a foreign witness, an agent of the Russian FSB, testifying in a foreign language by video. The due process implications of this position are self-evident, but they are magnified greatly by the inherent unreliability of this witness's testimony. Consider:

- There are many layers of hearsay implicated in the proffered testimony. Ignatchenko apparently will talk about a purported transcript of a wire or radio intercept that purportedly occurred more than a decade ago somewhere between Russia and Saudi Arabia. The actual intercept

recording is missing. Only a purported transcript exists. Can Ignatchenko testify first-hand that the conversations in the transcripts actually took place? Who actually conducted the intercepts? By what means? When? For what purpose? Who can identify with certainty that the participants in the intercepted conversation, if there was such a conversation, are who the transcripts identify them to be, and on what basis can that be said? Who recorded the purported transcript of the intercepts? When, where and under what circumstances? Who kept the transcripts for these many years and under what conditions and "in the regular course" --, the regular course of what or whom? Who has seen them over the years? In what manner and for what purpose have they been used over the years?

- Where is the actual recording of the intercept? Ignatchenko apparently says the actual recording was destroyed under a five year record retention program. So there is not a shred of corroboration for this incendiary testimony. How does Ignatchenko know the recording was destroyed, when, by whom and why? Is it even remotely possible that the Russian government would destroy such evidence because of a bureaucratic regulation even as its furious battles with the Chechens were intensifying? Why is it then that the Russians just happened to keep the paper record of the transcript? Isn't the record retention policy even more relevant to paper records?
- Just how were these transcripts produced? Certainly not in "the ordinary course." They were produced by a Russian spy agency, renowned world-wide for its fabrications of evidence, as part of a swap of intelligence with the prosecutors in this case who traveled to Russia to get evidence for this case.
- What is it exactly that the transcripts purport to establish? One of the FSB reports refers to the intercept of a fax from an unknown Chechen operative relaying to someone from Al Haramain Saudi Arabia the details of a secret imminent military operation. Not a very likely occurrence. The purported recording just happens to be between the top two figures in the respective organizations -- the "legendary" Commander Khattab from the Chechen side and Mr. Aqeel from Al Haramain Saudi Arabia. How convenient. Yet slavish obedience to the record retention policies destroyed the evidence? Not likely.

Col. Lang has previously provided this Court with extensive information

regarding the inherent unreliability of the FSB as an organization. CR 235-2. His report also explains that Ignatchenko's explanation for the unavailability of the tape is not credible. Given a choice between crediting the former head of Human Intelligence for our Defense Department or a Russian FSB agent, the choice is obvious.

VIII. SPECIFIC OBJECTIONS TO PRESENTENCE REPORT.

A. Custody.

The statements and the rationale that Mr. Sedaghaty used his personal beliefs to promote extreme acts of intimidation to the end is of the paragraph based on opinion, not fact.

B. Factors To Be Considered In Sentencing.

We object to all of the checked boxes.

C. Recommended Conditions.

We object to conditions 1 through 4, 6, 9, 12, and 13.

D. Restitution.

There is no restitution due because there was no loss. *See above.*

Paragraph 7. Reference to the Embassy bombing in Kenya has no relationship to Mr. Sedaghaty and should be stricken from the report.

Paragraph 8. There is a significant omission from this paragraph. Mr. Sedaghaty was not designated by OFAC or the United Nations.

Paragraph 9. There is no "organization" known as the "Chechen

Mujihadeen.” At the time, the Chechen fighters were fighting a war of liberation, not engaging in terrorist activities. There is no evidence of smuggling. The money was not “transported to finance a violent jihad.”

Paragraph 12. We are aware of no reports stating that Aqeel Al Aqeel delegated Mr. Al Buthe to establish a presence for AHIF in the United States.

Paragraph 15. The changes made in this paragraph from the draft report do not address significant issues. As argued above, in 1999-2000, Chechnya was experiencing a war between armies. Certainly that is what Mr. Sedaghaty knew. The details of the war are set out above. It remains a nationalist conflict. There is no evidence that the mujahideen fighting against the Russians with Khattab were primarily foreigners.

Paragraph 16. Testimony at the trial about the Kavkaz Institute was that it had a much broader purpose than reflected in the PSR. The websites were not all associated with groups known for terrorist activities.

Paragraph 17. The paragraph includes an incorrect chronological sequence. Dr. El Fiki contacted Al Haramain in early January, not February. This paragraph continues to omit the facts related to Mr. El Fiki’s well-known, nonviolent, philanthropic work as reflected in Exhibit C to the objection letter. Attached as Exhibit 5.

Paragraph 20. The statement “the case agent determined” has no place in a presentence report. There is no factual basis for this statement. Nor is

there a factual basis for the statement that inclusion of the \$36,000 “was an intentional effort” to conceal the instant offense and “fabricate false documentation.” This paragraph is, moreover, incomplete because it fails to reference the one piece of documentary evidence regarding the agreements between Mr. Al Buthe and Mr. Sedaghaty, the investigation report of Mr. Sui (attached to the objection letter as Exhibit D, attached hereto as Exhibit 3.

Paragraph 21. We are unaware of any evidence that Mr. Al Buthe “deposited the traveler’s check into an account.”

Paragraph 21(a). This is one of the most problematic paragraphs in the PSR. In it, the writer refers to defense proposed Exhibit 730, the unclassified summary of classified information. Exhibit 1. As discussed above, the presentence writer appears to accept at face value the government’s opinion regarding the evidence and does not give any credit to the one piece of affirmative evidence that exists in this case regarding the manner in which the funds were used in Chechnya – the statement of Sami Al Sanad that they were used for humanitarian purposes. It is difficult to understand how the government can have it both ways. The paragraph ends with several sentences describing what “they understood.” There is no factual basis for such statements. It is again inference, innuendo, and assumption.

Paragraph 21(b). This paragraph continues with the discussion of Mr. Al Sanad, noting that his “claim” “contradicts” Mr. Umar’s “well publicized role . .

.” While Mr. Umar may have had a publicized role, it was multifaceted. When the only direct evidence is that the money was used for proper humanitarian purposes, there is no legitimate basis on which to conclude that there is clear and convincing evidence that the El Fiki donation was used for a military purpose based on the asserted generalized nature of Umar’s actions.

Paragraph 22. There is no evidence that the El Fiki money was used to “fund daily operations of the mujihadeen” or for “terrorist acts.” Again, the government took a contrary position and its evidence shows Mr. Sedaghaty’s knowledge and intent had nothing to do with terrorism. The discussion of the January 2000 email on the subject of “what support” omits the fact that Mr. Sedaghaty only sent one of the two paragraphs in response to the question. It further omits the fact that the only question that Mr. Sedaghaty forwarded to Mr. Al Buthe was the one discussing humanitarian needs. He did not forward any of the other paragraphs related to warfare. The last sentence is again a conclusion without any evidentiary basis.

Paragraph 22(a). This statement ignores Col. Lang’s analysis of the lack of reliability in any information derived from the Russians. CR 235-2. In particular, it ignores the fact that Col. Lang says that it is exceedingly unlikely that the Russian FSB would have a systematic program for destroying tapes of the nature described. It is disturbing that the word of this patriot and presidential advisor is ignored in favor of a foreign agent. Col. Lang has

previously provided this Court with extensive information regarding the inherent unreliability of the FSB as an organization. CR 235-2.

Paragraph 22(b). This paragraph again ignores the fact that what was taking place in Chechnya in 2000 was a war and that soldiers in a war are privileged in their killing.

Paragraph 23. There is no proof that any agreement or scheme was devised at all, let alone “after the El Fiki donation was smuggled to the Chechen mujihadeen.” Again, this is inconsistent with the government’s statement throughout that it has no evidence of what happened to the money after Mr. Al Buthe took it out of the United States.

Paragraph 24. There is no tax loss. See above.

Paragraph 25. This paragraph removed the “tipped off” language from the draft report and replaced it with “as a result of the investigation.” There continues to be no evidence as to why Mr. Sedaghaty left the United States. This is, again, entirely speculative.

Paragraph 26. We object. See above.

Paragraph 27. We object. See above.

Paragraph 28. We object. See above.

Paragraph 32. We object. See above.

Paragraph 33. We object. See above.

Paragraph 35. We object. See above.

Paragraph 36. We object. *See above.*

Paragraph 37. We object. *See above.*

Paragraph 39. We object. *See above.*

Paragraph 42. We object. *See above.*

Paragraph 63. We object. *See above.*

Paragraph 67. We object. *See above.*

Paragraph 72. We object. *See above.*

IX. A SENTENCE OF TIME SERVED WOULD SATISFY ALL OF THE SENTENCING FACTORS.

Under 18 U.S.C. § 3553, the primary consideration in sentencing is the rule of parsimony. Section 3553(a)'s parsimony principle directs the Court to fashion "a sentence sufficient, but not greater than necessary" to meet the sentencing objectives set forth in 3553(a)(2). *Kimbrough v. United States*, 552 U.S. 85, 101 (2007); *Gall v. United States*, 552 U.S. 38 (2007).

The law is also clear that an individual should be judged on the totality of his life, not the least of his acts. *See, e.g., United States v. Carty*, 520 F.3d 984, 991-93 (9th Cir. 2008); *Kuhn v. United States*, 518 U.S. 81, 112 (1996) ("it has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case is a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue."). Both the rule of parsimony and the importance of judging a man on the totality of his life

have their roots deep in the Judeo/Christian tradition.

Guided by these principles, the six months time served is a reasonable sentencing satisfying all of the factors in 18 U.S.C. § 3553.

EARLY LIFE AND FAMILY HISTORY

Pete Sedaghaty grew up in a well-established family in Tehran. His grandparents were Muslim and ran a restaurant in Iran. His father rose through the army to become a Colonel under the Shah. After leaving the army in the mid to late 1960's, his father went into business, doing well for many years working for an American vegetable oil distribution company. Pete Sedaghaty's childhood was normal and happy.

He was not a scholar. In fact, he has dyslexia that has plagued his ability to study his entire life. He excelled, however, at activities involving hand/eye coordination, becoming a national motocross racing champion at age 17.

During the early 1970's, the family began to chafe under the rule of the Shah and Pete Sedaghaty's father arranged for the boys, one by one, to leave Iran. After the older boys settled in Oregon, Pete joined them in 1976. Pete's older brother, Bijan, had settled in Ashland. His brother, Bay, had settled in Eugene. His mother joined the boys several years later and ended up living with Pete in Ashland until she died in November 2002.

PETE SEDAGHATY'S LIFE IN ASHLAND

Pete Sedaghaty's early years in the United States were described at trial by his good friend, David Rodgers (Tr. September 7, 2010 at 91-97), and by the Associate Minister at the Medford United Methodist Church, Rev. Caren Caldwell.

Rev. Caldwell testified:

I came to know him in the mid '80s soon after I arrived in Ashland. And he was a college student then, and came to our church to ask to rent some space for a Friday evening prayer group.

* * *

[Pete Seda] was familiar as the tree person. He used to drive a great big tree truck through town on the Fourth of July, and that was his business. And he was also familiar in the peace community in Ashland. We had, you know, a number of events, interfaith events and peace events, and he would be on panels or speaker (sic) or offer some kind of, you know, offering in the services and the panels.

* * *

[Pete Seda] participated in interfaith services. We have Thanksgiving services every year that are inter-faith in nature in Ashland. We've had some, you know, special services, particularly at the time of the murders of two women, when the whole community kind of turned out, out of concern.

Tr. September 3, 2010 at 155-57.

Pete Sedaghaty took some classes at what was then Southern Oregon College and did a fair amount of exploring of lifestyles and spirituality. He was always a hard worker. As Mr. Rodgers described, he became a leader of a

group of men in the Ashland area who worked in the forests, eventually getting contracts with the United States Forest Service, falling in love with the tree business, learning civil culture and by the late 1980's, establishing his own business, The Arborist. *See e.g.*, TR, September 7, 2010 at 92. *See* Def. Exhibit 608, 609, 937, 946.

Early in his life, Pete Sedaghaty married and divorced a couple of times. Then, in approximately 1981, Pete Sedaghaty had a significant relationship with Dana Ann Smith, the mother of his two children, Jonah and Joseph. They ultimately separated in the late 1980's. Pete Sedaghaty fought for and was granted custody of his two young sons. At the end of 1993, Pete Sedaghaty married Laleh Zahedi. They divorced in 2000. He has been married to Summer Rife since 2005.

PETE SEDAGHATY IS A COMMUNITY LEADER

Pete Sedaghaty has been active in public life in Oregon almost since his arrival. When the Iran hostage crisis occurred in 1979, Pete Sedaghaty, as one of the few Iranians in Southern Oregon and a person who has never been afraid to speak out on the issues, took up the mantel of explaining what he could about the situation and how wrong he believed the actions of the hostage takers were.

As described by David Rodgers and Rev. Caldwell at the trial, Pete Sedaghaty became the center of the small Islamic community in Southern

Oregon, opening his home to worshipers of all varieties of Islam. *See e.g.*, TR, September 7, 2010 at 100-01.

A number of witnesses at trial explained that Islam is as diverse a religion as Christianity and Judaism in terms of the spectrum of practice from liberal reform to conservative fundamental. Pete Sedaghaty has always been a person who believes in openness and tolerance and from the outset opened his home to and accepted all varieties of practice of Islam. He helped the community by locating space to rent from Southern Oregon College and Minister Caren Caldwell. He later opened his home which became the center of worship in the 1990's and eventually obtained the funding from Al Haramain Saudi Arabia that led to the purchase and creation of the prayer house on Highway 99. *See* Def. Exhibit 612.

Pete Sedaghaty continued to be a spokesperson for moderate Islam throughout his time in Ashland. Whenever something involving Islam or the Middle East was in the news, Pete Sedaghaty was sought out for comment. Ashland Rabbi David Zaslow, an interfaith colleague of Pete Sedaghaty, expressed his general view of Pete Sedaghaty's work in the community in a letter to Judge Coffin that was introduced at the release hearing:

From the time I was ordained until several years after September 11, 2001 Pete Seda was my peace partner in bringing a bit of hope to both the Jewish and Muslim communities of southern Oregon. He spoke passionately against violence, Islamic terrorism, and for reconciliation with the Jewish community. He took some personal risk not only to associate himself with the

Jewish community here, but to proclaim a very positive, public view about Israel.

Rabbi Zaslow also testified at trial:

I would say in a small city in the size of Ashland, approximately 20,000 people, Pete Seda . . . certainly was the go-to person when people had questions about Islam.

So - - and any kind of event that would occur, a negative event, a terrorist attack, or whether it was a positive thing like some kind of peace ideal of people coming together, Pete Seda was the go-to person.

So he was often in the newspapers, you know, representing a moderate, balanced, healthy American positions about how people should live pluralistically.

* * *

[Pete Seda] was ecumenical in the sense of pluralism and really promoting the pluralistic ideal of the United States or what I believe in as well.

TR, September 3, 2010 at 35-36.

In addition to his public persona regarding Islam and the Middle East, Pete Sedaghaty became a fixture in the Ashland community for involvement in civic affairs, particularly when it involved trees or other environmental issues. *See* Def. Exs. 925-929, 931. He as there when the community needed him doing good works. *See e.g.*, TR, September 3, 2010 at 37 (Rabbi Zaslow); Exhibit 6. *See also*, Def. Exhibit 934, 936, 939. In addition to those who testified, many community members provided information regarding Mr. Sedaghaty's good works and community involvement. Investigation reports of

persons who did not testify are attached here as Exhibit 7.

One of the clips on a video that will be shown at the sentencing hearing shows Pete Sedaghaty driving one of his Arborist trucks around town when the city of Ashland lost its water supply in 1996. At his own expense, he purchase a 600 gallon water tank and drove around town delivering thousands of gallons of water to people in need. Another of the clips on the video is of Pete Sedaghaty helping clean up Ashland after a devastating storm. Another is of Pete Sedaghaty volunteering his time working in the forests cleaning up. Those actions are the measure of the man.

In addition to his direct volunteer and charitable work in the community, Pete Sedaghaty took his lighter side into such things as the annual Fourth of July Ashland parade. His large Arborist truck became a fixture in the parade as did his camel, Mandub. *See* Def. Exhibit 610, 968

As described by Rabbi Zaslow and Minister Caldwell, Pete Sedaghaty was also a prominent and outspoken person for tolerance and interfaith activity in the Ashland religious and peace communities.

Rev. Caldwell testified:

[She invited Pete Seda to speak at her church on] at least two occasions. He came early on after I first met him, and I asked him to do what we call a mission moment in the Sunday service talking about his faith. And then a few years later, several years later, I asked him to come again when our adults were doing a study of world religions. So he came for two Sundays in a row to talk about Islam and share with an hour-long class.

* * *

[Pete Seda shared] the basics, this is what people of the Muslim faith believe, the five principles, or I don't always have the right lingo. And then he had, you know, a number of questions that people would ask, something about, you know, well, what's women's role in Islam? And he would just, you know, be glad to talk about any of that. How they thought about, you know, jihad, or what a spiritual life - - a spiritual obligation was for a Muslim.

* * *

[Pete Seda] was the go-to person what whenever we wanted to have that kind of an event to build bridges across, you know, differences in the community, he was the one we went to to talk about Islam.

TR, September 3, 2010, at 158- 59. See Def. Exs. 611, 956, 957(A), 967, 968, 970, 971, 976, 977, 978.

Rabbi Zaslow testified:

[He and Pete Seda would] go to the mosque or go to [Pete Seda's] house and have a cup of tea and just talk about political issues, things we disagreed or agreed about.

But certainly I remember one Sunday morning, we have a Hebrew school, and we brought our kids [to the tent]. He had a camel, and it was sort of a - - kind of a famous mosque because it was a tent and he had a camel there. And so we brought our kids there to learn about Islam. And he had a guest speaker, I can't remember the fellow's name, who talked about Islam to our kids so they would learn and have a direct experience with another religion rather than just reading about it in a book.

TR, September 3, 2010 at 33-34.

Rabbi Zaslow also testified about conversations that he had with Pete Sedaghaty about their different religions.

We talked about our differences, our commonalities. The

differences between Judaism and Islam, what we had in common. I remember one time, there was a tree in my backyard that broke. And one tree fell down. [Pete Seda] came to my yard as an arborist. And he said this is like the Jewish and Muslim people. We're really one tree and it shouldn't have broken. So we would talk anecdotally on a personal level like that.

TR, September 3, 2010 at 34. While condemning the anti-Semitic literature of Al Haramain, Rabbi Zaslow spoke eloquently of Pete Sedaghaty's tolerance.

CONCLUSION

Pete Sedaghaty has been a respected community leader and a strong force for peace and inter-faith harmony in Ashland since the 1990s. Even at his own personal peril, Mr. Sedaghaty has repeatedly spoken out against terrorism and the forces of evil. The events at issue here occurred in 2000 and 2001, when few people, not even leaders in the United States Senate and State Department, appreciated the complex geopolitical factors relied upon by the government at trial and at sentencing. For the reasons stated herein, it is not necessary under 18 U.S.C. § 3553(a) that this Court impose a prison sentence. This Court should impose a sentence of six months, with credit for time served.

Respectfully submitted this 18th day of November, 2010.

/s/ Steven T. Wax

Steven T. Wax

Federal Public Defender

/s/ Lawrence H. Matasar

Lawrence H. Matasar

Bernard J. Casey

On the Memorandum

EXHIBIT 1



U.S. Department of Justice

Karin J. Immergut

United States Attorney

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RECEIVED MAR 2 0 2009

March 25, 2009

RECEIVED MAR 2 6 2009

Steven T. Wax
Federal Public Defender
101 SW Main Street, Suite 1700
Portland, OR 97204

Re: United States v. Sedaghaty
CR 05-60008-HO

Dear Mr. Wax:

Pursuant to Judge Hogan's orders of March 18, 2009, filed on March 20, 2009 (Docket # 160), this letter will inform you of the following unclassified summary of certain classified documents responsive to your discovery requests:

The U.S. Government obtained information that Sami 'Abd Al 'Aziz Al-Sanad worked during 2000 and 2001 for the Al-Haramain organization and was responsible for providing currency supplied by Al-Haramain, including the currency obtained by codefendant Soliman Al-Buthe from Al-Haramain USA, to a representative of Muhammad Al-Sayf, aka Abu 'Umar, to be smuggled into Chechnya. Al-Sanad has claimed that the monies he provided to Al-Sayf's representative were destined for needy Chechen families.

Very truly yours,

KARIN J. IMMERGUT

United States Attorney

CHARLES F. GORDER, JR.

Assistant United States Attorney

Anti-Terrorism Coordinator

District of Oregon

cc: ✓ Lawrence Matasar, Esq.
AUSA Chris Cardani



EXHIBIT 2



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November 15, 2010

Mr. Steven T. Wax
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Portland, OR 97204

**RE: The Government's Proposed Application of 26 U.S.C. § 4958 to Assert a
Tax Loss in *United States v. Pirouz Sedaghaty* (No. CR-05-60008-HO)**

Dear Mr. Wax,

I have reviewed the October 8, 2010 IRS Form 4549-A ("Income Tax Discrepancy Adjustments") and accompanying narrative setting forth the basis for the Government's claimed tax loss of \$80,980, plus penalties and interest of \$104,003.48, in the above-captioned case. The Government's proposed adjustments arise from its conclusion that the misreporting of a \$151,000 donation allegedly made to the al-Haramain Islamic Foundation ("al-Haramain-USA")—a United States public charity—and subsequently transferred overseas in the form of (a) \$130,000 in travelers' checks and (b) a \$21,000 cashier's check, caused two "excess benefit transactions" within the meaning of section 4958 of the Internal Revenue Code.¹

This letter provides my opinion that the excise tax on excess benefit transactions is inapplicable to the facts and circumstances of the underlying offense for which Mr. Sedaghaty was convicted and, accordingly, does not provide a basis for the Government to assert a monetary loss against Mr. Sedaghaty in this case. After discussing the Government's position at trial and during sentencing in Part I of this letter, Part II describes the purpose and mechanics of the "intermediate sanctions" excise tax on "excess benefit transactions" imposed by section 4958. Part III addresses the alleged reporting errors upon which Mr. Sedaghaty's conviction was based, and explains why these errors—individually and cumulatively—do not provide evidence of an

¹ Unless otherwise stated, all "section" references are to the Internal Revenue Code of 1986, as amended (the "Code") and all regulatory references are to the Treasury Regulations in effect under the Code in (the "Regulations" or "Treas. Reg.") in 2000, when the alleged transactions occurred.



excess benefit transaction. Part IV discusses the factual circumstances underlying the offenses for which Mr. Sedaghaty was convicted and explains why they, too, could not give rise to an excess benefit transaction. Finally, Part V concludes that the tax loss suffered by the Government as a result of Mr. Sedaghaty's involvement in the alleged misreporting is at most \$2,100 and, more likely, zero.

The opinions in this letter are based on my knowledge of the federal tax laws applicable to tax-exempt organizations, gained during 35 years of practice in this area; my experience serving for 25 years in the Exempt Organizations Division of the Internal Revenue Service—including ten years as Director of the Division during the period when section 4958 was enacted. In preparing this opinion, I have reviewed and relied on the trial and sentencing materials and other documents cited herein, as well relevant guidance including, but not limited to, the Code and Regulations, judicial decisions, and official IRS publications including, but not limited to, revenue rulings, general counsel memoranda, private letter rulings, and the Internal Revenue Manual.

I. The Government's Evolving View of the Underlying Transaction.

The Government's position regarding the mechanics of the underlying transaction—and, more significantly, its beneficiaries—appears to have shifted during the course of the prosecution and subsequent sentencing phase of this case.

A. *Position at Trial: "Diversion" of \$151,000 in Charitable Funds to Soliman Al-Buthe and, Ultimately, Chechnan Mujahideen.*

In its indictment and at trial, the Government alleged that al-Haramain-USA's Saudi Arabian affiliate ("Al-Haramain-Riyadh") issued a call for donations to support the mujahideen in Chechnya.² In response, an Egyptian named Mahmoud El-Feki "decided to wire [a] \$150,000 [contribution] to al-Haramain-USA for Chechnya."³ Once received by al-Haramain-USA, this contribution (the "El-Feki contribution") was converted to \$130,000 in travelers' checks and a \$21,000 cashier's check payable to Soliman Al-Buthe, an officer of both al-Haramain-USA and al-Haramain-Riyadh. Contending that "Mr. Sedaghaty, on behalf of the al-Haramain[-USA] organization, conspired with [Mr. Al-Buthe and] others to secretly smuggle this money out of the country without the government, the U.S. government, being able to find out about it,"⁴ the Government alleged that Mr. Al-Buthe "transported [the funds] out of the United States," cashed

² See, e.g., Transcript of Government's Opening Statement at 11 ("So al-Haramain, we will show you, is promoting the cause of the mujahideen in Chechnya. Now, that word, mujahideen and jihad, will be explained to you later on. But they were interested in raising money for Chechnya, al-Haramain was.").

³ *Id.* at 12.

⁴ Transcript of Government's Opening Statement at 6; *id.* at 43 (same).

the travelers' checks at Al Rajhi Banking and Investment in Saudi Arabia and deposited the cashier's check into Mr. Al-Buthe's account at the same bank.⁵

Ultimately, according to the Government, the \$130,000 in cashed travelers' checks was used "to help fund acts of violence in the mujahideen in Chechnya."⁶ Indeed, the Sentencing Recommendation makes it clear that **"the basis for the application of the terrorism enhancement, under Guideline § 3A.1.4, is the financial assistance Mr. Sedaghaty and Mr. Al-Buthe provided to the mujahideen in Chechnya in 2000, on behalf of [al-Haramain-USA], to intentionally and knowingly support terrorist activities."**⁷

Thus, at trial and in its Sentencing Recommendation the Government describes a transaction wherein: (a) with Mr. Sedaghaty's assistance, \$150,000 in charitable funds belonging to al-Haramain-USA was transferred to Mr. Al-Buthe; (b) Mr. Al-Buthe secretly transported the funds overseas; (c) Mr. Al-Buthe deposited a cashier's check representing \$21,000 of the diverted funds in his personal bank account; and (d) Mr. Al-Buthe funneled \$130,000 of the diverted funds to the mujahideen in Chechnya, to fund acts of violence. In its opening statement at trial, the Government explained that it was offering evidence of "this whole Chechnya, jihad, mujahideen stuff . . . to show [the jury] that the defendant had a motive to conceal his transaction from the government" by misreporting the El-Feki contribution on al-Haramain-USA's IRS Form 990—the crime for which Mr. Sedaghaty was convicted.⁸ Echoing this analysis, the draft Sentencing Recommendation plainly states:

The basis for Counts 1 and 2 is a conspiracy between Mr. Al-Buthe and Mr. Sedaghaty to defraud the United States Internal Revenue Service (IRS), by smuggling a \$150,000 donation [al-Haramain-USA] received from an Egyptian citizen to fund a terrorism organization named Chechen Mujahideen in Chechnya.⁹

B. Position in the Form 4549-A: Diversion of \$150,000 in Charitable Funds Conferred an Excess Benefit on Mr. Sedaghaty, in Violation of Section 4958.

In the Form 4549-A, the Government asserts a different position regarding the underlying transaction. Instead of alleging that the \$150,000 El-Feki contribution was diverted to Mr. Al-Buthe for his benefit or for the benefit of the mujahideen in Chechnya—the position taken at

⁵ See Government's Submission of Redacted Indictment in *United States v. Sedaghaty*, No. CR 05-60008-HO, § II, ¶¶ J–M, O. In fact, Count 3 of the Indictment charges Mr. Al-Buthe with failure to file a Report of International Transportation of Currency or Monetary Instruments, in violation of 31 U.S.C. § 5316(a)(1)(A), when he "knowingly transported . . . \$130,000 in travelers checks from Oregon to New York to Saudi Arabia."

⁶ See Transcript of Government's Opening Statement at 27.

⁷ Draft Sentencing Recommendation at 7, ¶ 22 (emphasis in original).

⁸ Transcript of Government's Opening Statement at 27.

⁹ Draft Sentencing Recommendation at 3, ¶ 9.

trial—the Government argues that Mr. Sedaghaty personally “misappropriated” \$151,000 in charitable funds belonging to al-Haramain-USA, and this “caused” an excess benefit transaction.¹⁰ Based on this new theory, the Government asserts that:

- \$21,000 in “embezzled funds” and \$130,000 in “funds intended for distribution” constitute personal income to Mr. Sedaghaty, requiring a \$151,000 income adjustment to his 2000 Form 1040 and subjecting him to an additional \$33,230 in personal income tax;
- Mr. Sedaghaty received an inappropriate economic benefit—or “excess benefit”—from al-Haramain-USA, valued at \$151,000, and is liable for the 25 percent excise tax (\$47,750) imposed by section 4958 on any director, officers, or other “disqualified person” of a charity who benefits from an “excess benefit transaction” with the charity; and
- Mr. Sedaghaty is also liable for a \$10,000 excise tax imposed on any officer, director or other “organization manager” who knowingly participates in an excess benefit transaction.

Thus, the Government’s allegation that it suffered a “**criminal tax loss of \$89,980**”¹¹ is premised on its conclusion that Mr. Sedaghaty received \$151,000 from al-Haramain and that this diversion of charitable funds constitutes an excess benefit transaction between Mr. Sedaghaty and al-Haramain-USA. This conclusion is incorrect as a matter of law. As I explain in the analysis that follows, the evidence produced at trial—and, indeed, the Government’s arguments at trial, which necessarily formed the basis of the jury’s decision to convict—clearly demonstrate that there was no “excess benefit transaction” involving Mr. Sedaghaty and al-Haramain-USA within the meaning of section 4958 of the Code.

II. “Intermediate Sanctions” Under Section 4958.

To ensure that individuals do not take advantage of the charities they control, federal tax law requires close scrutiny of any transactions, contracts, or compensation arrangements involving a charity and its officers, directors, or other “insiders.” Sometimes, these arrangements are so egregious that they clearly violate the requirement of section 501(c)(3) that the “no part of the [organization’s] net earnings . . . inures to the benefit of any private shareholder or individual.” In such cases, the IRS may revoke the organization’s exemption, typically retroactive to the year in which the acts occurred.

Indeed, until 1996, revocation was the sole enforcement tool available to the IRS when it discovered that a person had abused a public charity by using his influence to extract unwarranted benefits for himself or his family.¹² Revocation often provided an imperfect remedy for such abuses because it was either disproportionate to the underlying offense or it punished the wrong

¹⁰ See narrative explanation of tax loss accompanying the Government’s Form 4549-A.

¹¹ Draft Sentencing Recommendation at 7, ¶ 24 (emphasis in original).

¹² See *Taxpayer Bill of Rights 2*, H.R. Rep. 104-506, 104th Cong., 2d Sess., at 54 (March 28, 1996).



party—that is, it threatened the existence of the public charity and its ability to perform needed services for its community while allowing those who had abused the charity to retain the benefits of their misconduct.¹³

The absence of any sanctions short of revocation for public charity violations of the private inurement and private benefit rules created serious enforcement problems for the IRS.¹⁴ To address this gap in the tax law, Congress enacted section 4958 of the Code, which imposes “intermediate sanctions” as an alternative to the harsh penalty of revocation for enforcing the prohibition against private inurement. Under section 4958, insiders (referred to in the statute as “disqualified persons”) who personally profit from “excess benefit transactions” bear the cost of tiered penalty excise taxes. Additionally, managers of the organization—*i.e.*, its officers and directors—who knowingly and willfully approve excess benefit transactions, may also incur financial penalties. However, the charity itself is not liable for an excise tax under this regime.

A. “Excess Benefit” Transactions.

An “excess benefit transaction” is any transaction in which an “economic benefit” is provided directly or indirectly to or for the use of any disqualified person, and the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received by the charity in exchange.¹⁵ Examples of excess benefit transactions that trigger intermediate sanctions penalty taxes would include:

- the charity’s purchase of property from a disqualified person for more than the property’s fair market value;
- the charity’s sale of property to a disqualified person for less than the property’s fair market value;
- the charity’s payment of more than market rate to an independent contractor for services; and
- the charity’s payment of more than “reasonable”¹⁶ compensation, including gratuitous transfers, to a disqualified person.

¹³ See *Federal Tax Laws Applicable to the Activities of Tax-Exempt Charitable Organizations*: Hearings Before the Subcomm. on Oversight of the House Comm. on Ways & Means, 103rd Cong. (1993) (statement of Margaret Richardson, Commissioner of Internal Revenue) (discussing the need for intermediate sanctions, short of revocation, for violations of the prohibition against inurement in section 501(c)(3)).

¹⁴ See *id.*

¹⁵ See Treas. Reg. § 53.4958-4(a)(1).

¹⁶ The Regulations under section 4958 define “reasonable compensation” as the “amount that would ordinarily be paid for like services (whether taxable or tax-exempt) by like enterprise under like circumstances.” Treas. Reg. § 53.4958-4(b)(1)(ii); see also Treas. Reg. § 1.162-7 (b)(3) (same).

The Regulations provide that an excess benefit may be provided directly by the applicable tax-exempt organization, or indirectly through (a) an entity “controlled” (more than 50-percent owned) by the applicable tax-exempt organization, such as a taxable subsidiary, or (b) an intermediary where there is an agreement or understanding that the intermediary will provide economic benefits to or for the use of the disqualified person, or the intermediary provides benefits to a disqualified person without any business or exempt purpose in doing so.¹⁷

B. Parties to an Excess Benefit Transaction.

As the foregoing description suggests, the intermediate sanctions regime applies only to transactions between “applicable tax-exempt organizations” and “disqualified persons.” An “applicable tax-exempt organization” is an organization that:

- is currently described in section 501(c)(3) or 501(c)(4) of the Code and exempt from federal tax under section 501(a) of the Code, without regard to the excess benefit transaction,¹⁸ or
- was described in these provisions at any time during the five-year period ending on the date of the transaction.¹⁹

For purposes of section 4958, an organization will be treated as described in section 501(c)(3) and exempt under section 501(a) only if the IRS is permitted to treat the organization as such under the rules of section 508.²⁰ Section 508 applies only to organizations that:

- have received a written determination from the IRS that they are described in section 501(c)(3);²¹
- are churches, integrated auxiliaries of churches, or conventions or associations of churches;²² or
- are not private foundations and have annual gross receipts that are normally less than \$5,000.²³

¹⁷ Treas. Reg. § 53.4958-4(a)(2)(iii).

¹⁸ Because the excess benefit transaction would constitute inurement in violation of the requirements of section 501(c)(3) and section 501(c)(4), if taken into account, it would necessarily affect whether the organization was described in section 501(c)(3) or 501(c)(4).

¹⁹ Section 4958(e); Treas. Reg. § 53.4958-2(a)(1).

²⁰ See Treas. Reg. § 53.4958-2(a)(3).

²¹ Section 508(a)(1).

²² Section 508(c)(1)(A). The definition of the term “church” is a term of art and includes all houses of worship, regardless of their religious affiliation.

²³ Section 508(c)(1)(B).

Thus, for example, when the financial transfers at issue occurred in 2000, al-Haramain-USA would have been considered an applicable tax-exempt organization for purposes of section 4958. However, al-Haramain-Riyadh would not have been considered an applicable tax-exempt organization because the IRS never recognized its exempt status and it was not exempt by operation of U.S. law.

For purposes of the section 4958 penalty tax regime, a “disqualified person” is any person who was in a position to exercise “substantial influence” over the affairs of the applicable tax-exempt organization at any time during the five-year period ending on the date of the transaction.²⁴ Certain persons are deemed *per se* “disqualified persons” by virtue of their official powers or responsibilities or the interests they hold. Thus, for example, voting members of an organization’s governing body (*e.g.*, officers and directors like Messrs. Sedaghaty and Al-Buthe) are considered *per se* disqualified persons, as are the persons functioning as the charity’s chief executive officer, chief operating officer or chief financial officer.²⁵ Others are “disqualified persons” by virtue of a familial relationship to a disqualified person (*e.g.*, a spouse, parent, child or sibling).²⁶ For other cases, whether a person has the requisite potential to exercise substantial influence is determined using a facts and circumstances analysis.²⁷ For purposes of section 4958, the term “disqualified person” also includes any entity that is more than “35 percent controlled” by a disqualified person.²⁸

C. Enforcement: Penalty Taxes and Required Disclosure to the IRS.

The penalties imposed under section 4958 can be substantial. Any disqualified person is liable for a tax of 25 percent of the excess benefit he receives from each excess benefit transaction.²⁹ If more than one disqualified person benefits from a particular transaction, all such persons are jointly and severally liable for the tax.³⁰

In addition to the tax imposed on disqualified persons, section 4958 may also penalize managers of the organization—*e.g.*, its officers, directors, and trustees. Specifically, if the IRS concludes that there has been an excess benefit transaction between an applicable tax-exempt organization and a disqualified person, organizational managers who participated in the transaction knowingly, willfully and without reasonable cause may be held jointly and severally

²⁴ Section 4958(f)(1)(A); Treas. Reg. § 53.4958-3(a).

²⁵ Treas. Reg. § 53.4958-3(c).

²⁶ Treas. Reg. § 53.4958-3(b)(1).

²⁷ Treas. Reg. § 53.4958-3(e).

²⁸ See section 4958(f)(3).

²⁹ Section 4958(a)(1); Treas. Reg. § 53.4958-1(c)(1).

³⁰ Section 4958(d)(1); Treas. Reg. § 53.4958-1(c)(1).

liable for a tax of 10 percent of the excess benefit.³¹ In 2000, this “managers’ tax” was subject to a cap of \$10,000 per transaction.³²

Charities must also disclose excess benefit transactions and the disqualified person(s) involved on their annual information returns (IRS Form 990). In 2000, this disclosure was made on Part VI, line 89b, which asks:

Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year?
If ‘Yes,’ attach a statement explaining each transaction.

On its 2000 IRS Form 990, al-Haramain-USA responded “No” to this question. Count 2 of the Government’s case (“False Return By Exempt Organization”) alleges that al-Haramain-USA’s 2000 information return contained several material errors. However, the Government did not challenge the accuracy of the organization’s response on line 89b in its indictment or, to my knowledge, at trial. Furthermore, the sentencing materials I have reviewed do not challenge this specific response either.

III. None of the Alleged Reporting Errors That Formed the Basis of Mr. Sedaghaty’s Conviction Constitutes Evidence of an Excess Benefit Transaction.

At trial, the jury convicted Mr. Sedaghaty of Counts 1 and 2 of a three-count indictment. Count 2 charges Mr. Sedaghaty with subscribing to an IRS Form 990, under penalties of perjury, that he believed was not true and correct as to every material matter, in violation of section 7601(1) of the Code. Specifically, the Government alleges that al-Haramain-USA’s 2000 Form 990 contained three “material” errors:

- it understated “contributions, grants, and similar amounts received” by failing to report the El-Feki contribution on line 1;
- it understated “grants and allocations” paid by failing to report the \$130,000 and \$21,000 transfers of the El-Feki contribution on line 22; and
- it overstated the basis of a building in Springfield, Missouri on line 57a.

Because there were no specific findings from the jury as to the nature of the underlying transaction and on the question of the materiality of the 990 items, I can only speculate as to the basis for the jury’s decision to convict Mr. Sedaghaty of Count 2—*i.e.*, whether it concluded that al-Haramain-USA’s 2000 Form 990 contained one, two, or three misstated items. Even if, however, the jury ultimately determined that the contribution and subsequent distribution of the El-Feki contribution were properly reportable on lines 1 and 22 and that the alleged misstatement

³¹ Section 4958(a)(2), (d)(1)-(2); Treas. Reg. § 53.4958-1(d).

³² Section 4958(d)(2) of the Code as in effect prior to August 17, 2006.

on Line 57(a) was material, these errors would not result in—and, as a matter of law, are wholly unrelated to—any tax imposed by section 4958.

Section 4958 does not operate as an additional sanction when charitable assets are diverted to noncharitable purposes—for example, if funds contributed to al-Haramain-USA had used to purchase weapons or fund acts of violence. Rather, the sole remedy for the noncharitable use of charitable funds is revocation of the charity's exempt status. Nor does section 4958 operate as an additional sanction for misreporting items on a Form 990 generally. Penalties for such inaccurate returns are found in section 6652 of the Code and are “paid by the exempt organization,” not its officers or directors.³³ Further, a prerequisite for the application of section 4958 is that a disqualified person *personally receive* an inappropriate financial benefit as a result of a transaction, such that the earnings of the organization inure to the benefit of an insider. In the absence of any such benefit—which is precisely the case with regard to [each] alleged misreported item—section 4958 is, quite simply, facially inapplicable.

A. The Reporting on Line 1 of al-Haramain-USA's Form 990 Does Not Provide Evidence of an Excess Benefit Transaction.

Line 1 of the Form 990, for instance, calls for the organization to report the contributions that it received during the year in question. The mere receipt of a contribution by a charity cannot constitute an excess benefit transaction taxable by section 4958 because, by definition, the value of a contribution flows to the charity, rather than to a disqualified person. I do not see any credible argument that Mr. Sedaghaty or any other disqualified person received a financial benefit as a result of Mr. El-Feki's contribution to al-Haramain-USA—the funds were transferred from Mr. El-Feki directly to the charity's bank account.

B. The Reporting on Line 22 of al-Haramain-USA's Form 990 Does Not Provide Evidence of an Excess Benefit Transaction.

Likewise, section 4958 is inapplicable to any error that may have occurred on Line 22 of al-Haramain-USA's Form 990. The Government's position at trial was that Mr. Al-Buthe took control of the funds from al-Haramain-USA and personally carried those funds to Saudi Arabia in contravention of U.S. law. Specifically, the Government asserted that at least \$130,000 went to al-Haramain-Riyadh to benefit the mujahideen in Chechnya. Until the sentencing phase of this case, the Government never alleged that these funds personally benefited Mr. Sedaghaty or any other disqualified person in any way. Thus, with respect to these funds, there is simply no legal basis to conclude that the failure to include this transfer on Line 22 is evidence of an excess benefit transaction.

While the disposition of the remaining \$21,000 is unclear, the Government's case at trial never alleged that this money benefited Mr. Sedaghaty. Even if Mr. Al Buthe embezzled that

³³ See section 6652(c).

money and al-Haramain-Riyadh never received it, Mr. Al Buthe—not Mr. Sedaghaty—would be the beneficiary of such a transaction. As I understand its position, the Government is asserting that Mr. Sedaghaty, as a manager of al-Haramain-USA, approved the transaction and is liable for the “managers’ tax” of 10% (*i.e.*, \$2,100) on this transaction. I believe that the Government’s interpretation suffers from three logical fallacies.

First, al-Haramain-USA never received these funds as income for tax purposes and, thus, they should not have been reported on Line 22. This point is explained in detail in Part IV below.

Second, the Government has not conclusively established that Mr. Al Buthe did not, in fact, expend this money for charitable purposes. I understand that the Government has presented evidence that the \$21,000 was deposited in a bank account in his name. However, I also understand that there is some controversy whether those amounts remained in this account or were transferred to al-Haramain-Riyadh, presumably to advance the intended charitable purposes of the El-Feki contribution. Moreover, to my knowledge the Government has neither assessed the section 4958 excise tax against Mr. Al Buthe, nor initiated an examination under section 4958. A prerequisite for the imposition of the “managers’ tax” is a determination that an excess benefit transaction occurred in the first place. In my considerable experience with section 4958 since the statute’s enactment, I have never encountered a situation in which the IRS imposed the “managers’ tax” liability without also penalizing the disqualified person who benefited from the transaction.³⁴

Third, Mr. Sedaghaty does not appear to have knowingly, willfully and without reasonable cause approved this transaction. It is my understanding that the sole evidence advanced by the Government that Mr. Sedaghaty approved the transaction knowingly, willfully and without reasonable cause is the fact that he signed the check used to purchase the cashier’s check. In my experience, merely signing a check is insufficient evidence for the Government to impose the “managers’ tax” under section 4958. Instead, the Government must establish that the manager knew and intended for the funds to be transferred as part of an excess benefit transaction. Based on the evidence I have reviewed, the Government has not met this standard. The emails submitted at trial demonstrate that Mr. Sedaghaty was informed he should arrange for the transfer of the funds to al-Haramain-Riyadh to benefit the “Muslim brothers.”³⁵ To the best of my knowledge, the Government has not presented any evidence that Mr. Sedaghaty intended to do anything other than effectuate that transfer.

³⁴ The Internal Revenue Manual, section 7.27.30.1.7, makes it clear that assertion of the excess benefit excise tax is a prerequisite to the assertion of the organization manager tax.

³⁵ See, *e.g.*, Feb. 20, 2000 email from al-Haramain-Riyadh to Mr. Sedaghaty; accord March 11, 2000 Agreement between Messrs. Sedaghaty and al-Buhte, remitting the El-Feki donation.

C. *The Reporting on Line 57(a) of al-Haramain-USA's Form 990 Does Not Provide Evidence of an Excess Benefit Transaction.*

Similarly, an error on Line 57(a), relating to the basis of the charity's property, is in no way related to an excess benefit transaction in this case. The Government has alleged that al-Haramain-USA misreported the basis on a building it purchased in Springfield, Missouri. The allegation, however, is simply that al-Haramain-USA did not accurately report the purchase price of the building to the IRS. The organization did not purchase the building from Mr. Sedaghaty or from any other disqualified person, and no disqualified person received any economic benefit from this transaction. Again, there is simply no basis in law to apply section 4958 to a line 57a reporting error.

D. *The Government Did Not Challenge al-Haramain-USA's Reporting on 89(b).*

Finally, as noted above, the IRS Form 990 specifically requests information regarding whether a charity has engaged in a transaction subject to section 4958 on Line 89(b). Because al-Haramain-USA did not believe that it engaged in such a transaction in 2000, it responded to this question in the negative. While the Government challenged the accuracy of al-Haramain-USA's responses to several questions on its 2000 Form 990, the Government did not challenge in its indictment or, to my knowledge, at trial, the organization's response on Line 89b.

E. *No Possible Combination of Errors on Lines 1, 22 and 57(a) of al-Haramain-USA's Form 990 Could Cumulatively Result in an Excess Benefit Transaction*

Moreover, based on the facts presented at trial in this case, no aggregation of the errors on Lines 1, 22 and 57(a) would transform these errors into an excess benefit transaction—the facts in this case do not support the conclusion that any earnings of the organization inured to Mr. Sedaghaty or any other disqualified person. The particular reporting errors charged and convicted in this case are, simply put, completely unrelated to the excise taxes imposed by section 4958.

IV. *There was No Excess Benefit Transaction in This Case.*

In the narrative accompanying its Form 4549-A, the Government contends that there were two excess benefit transactions involving the \$151,000 El-Feki contribution.

- The first excess benefit transaction allegedly occurred when \$130,000 of the El-Feki contribution was converted to travelers' checks by Mr. Al-Buthe, an officer of both al-Haramain-USA and al-Haramain-Riyadh, who, according to the Government, "transported [the funds] out of the United States," used the funds "to help fund acts of violence in the mujahideen in Chechnya."³⁶

³⁶ See Transcript of the Government's Opening Statement at 27.

- The second excess benefit transaction allegedly occurred when the balance of the El-Feki contribution (\$21,000) was distributed to Mr. Al-Buthe in a cashier's check.³⁷

There is a fundamental fallacy with the Government's assertions, however. As explained above, for an excess benefit transaction to occur, an "applicable tax-exempt organization"—*e.g.*, an organization recognized by the IRS as a section 501(c)(3) public charity—must provide an inappropriate economic benefit to a "disqualified person." In this case, there was no "applicable tax-exempt organization" involved in the alleged transactions. Nor has the Government established that any economic benefit was provided to a disqualified person of al-Haramain-USA.

A. The Organization that Participated in the Transfers of the El-Feki Contribution al-Haramain- Riyadh—is not an "Applicable Tax-Exempt Organization."

I have reviewed the e-mail exchanges surrounding the El-Feki contribution. Based on these exchanges, it is my opinion that, as the Government argued at trial, Mr. El Feki's \$150,000 charitable contribution was made to al-Haramain-Riyadh—the Saudi organization—to support Muslims in Chechnya. The El-Feki contribution was not made to al-Haramain-USA and, significantly, al-Haramain-USA never took title to the donated funds.

1. Circumstances Surrounding the El-Feki Contribution.

The record in this case reveals the following sequence of events involving the El-Feki contribution:

- al-Haramain-Riyadh solicited contributions for the mujahideen in Chechnya;
- Mr. El-Feki responded to these solicitations and emailed al-Haramain-Riyadh regarding a proposed donation "supporting our Muslim brothers in Chyshan"³⁸;
- al-Haramain-Riyadh responded to Mr. El-Feki's emails and advised that Mr. El-Feki could wire his contribution to one of al-Haramain-Riyadh's "account[s] for Chechnya relief fund": either its "account in Saudi Arabia" or its "account in [the] USA"³⁹;
- Mr. El-Feki notified al-Haramain-Riyadh of his decision to wire the donation "to your USA account . . . in order to participate in your nobel [sic.] support to our Muslim brothers in Chychnia"⁴⁰;

³⁷ See narrative explanation accompanying Form 4549-A; *accord* draft Sentencing Recommendation at 6, ¶ 18 (describing the cashier's check).

³⁸ Jan. 11, 200 email from Mr. El-Feki to al-Haramain-Riyadh.

³⁹ Jan. 18, 2000 email from Jazak Allah Khair, al-Haramain-Riyadh, to Mr. El-Feki.

⁴⁰ Feb. 20, 2000 email from Mr. El-Feki to al-Haramain Riyadh.

- al-Haramain-Riyadh notified al-Haramain-USA that the El-Feki contribution would be wired into the latter's bank account, and asked al-Haramain-USA to notify it when the funds arrived⁴¹;
- al-Haramain-Riyadh sent Mr. El-Feki a letter, on its corporate letterhead, acknowledging his contribution and assuring him of the organization's "commitment to continue ever effort to help ending the Chechnyan crisis"⁴²; and

Three conclusions necessarily flow from this evidence. First, Mr. El-Feki intended to make a donation to al-Haramain-Riyadh and believed he was transferring the funds to a U.S. account owned by al-Haramain-Riyadh. Second, both al-Haramain-Riyadh and al-Haramain-USA understood that al-Haramain-Riyadh was the intended recipient of the El-Feki contribution, and al-Haramain-USA's role was to facilitate the transfer of funds from Mr. El-Feki to al-Haramain-Riyadh. Third, al-Haramain-USA was not empowered to exercise independent control over the El-Feki contribution. Given these circumstances, it is my view that the El-Feki contribution was made to al-Haramain-Riyadh, not al-Haramain-USA.

2. The El-Feki Contribution Constituted Income to al-Haramain-Riyadh, Not al-Haramain-USA.

As you are aware, U.S. taxpayers, including individuals like Mr. Sedaghaty and charities like al-Haramain-USA, are required to report their annual gross income to the IRS. "Gross income" is defined broadly to include "all income from whatever source derived."⁴³ Under general principles of U.S. tax law, an income item is only received by a taxpayer (and, thus, included in gross income) if the taxpayer has *unfettered use* of that money. By contrast, "[a]mounts received by a taxpayer burdened with the obligation to expend them for a specific, limited purpose are *excluded* from gross income if the taxpayer earmarks these funds and administers them as an agent, conduit or trustee."⁴⁴ As the IRS has explained:

if the taxpayer has only ministerial powers over the disposition of the funds, the funds will be excludible from its gross income. On the other hand, if . . . the use of the funds is subject to the taxpayer's discretion, the funds must be included in the taxpayer's gross income."⁴⁵

⁴¹ Feb. 20, 2000 email from al-Haramain-Riyadh to Mr. Sedaghaty.

⁴² Feb. 21, 2000 Letter from Aqeel Abdul-Aziz Al-'Aqeel, General Manager of al-Haramain's "Head Office-Riyadh" to Mr. El-Feki.

⁴³ Section 61(a).

⁴⁴ Gen. Couns. Mem. 33885 (July 22, 1968).

⁴⁵ Gen. Couns. Mem. 37203 (July 28, 1977) (citing Rev. Rul. 74-321, 1974-2 C.B. 16; Rev. Rul. 74-319, 1974-2 C.B. 15, and Rev. Rul. 56-152, 1956-1 C.B. 56).

In other words, for an item to constitute “income,” the taxpayer must do more than take possession of earmarked funds and follow instructions concerning their disposition. The taxpayer must exercise affirmative control over the funds and have discretion to decide how they are used. The IRS and courts have applied this principle in a variety of circumstances.⁴⁶ Of particular relevance, the IRS has ruled that charitable contributions received by one organization, but earmarked for another, were not includable in the recipient’s gross income when it paid the gross amount received to the other organization.⁴⁷

3. Al-Haramain-USA Did Not Participate in Either Transfer of Funds From the El-Feki Contribution.

Based on the record and legal principles described above, I do not believe that the El-Feki contribution was made to al-Haramain-USA. Rather, the evidence demonstrates that the contribution was made to al-Haramain-Riyadh, and the funds constituted income to that organization. Because the El-Feki contribution was made to al-Haramain-Riyadh, the funds comprising the \$130,000 in traveler’s checks and the \$21,000 cashier’s check were, necessarily, transferred to Mr. Al-Buthe and, ultimately, to individuals or organizations in Chechnya, from al-Haramain-Riyadh, not al-Haramain-USA.

In 2000 when the transfers occurred, al-Haramain-Riyadh was not recognized by the IRS as a section 501(c)(3) public charity and, therefore, was not an “applicable tax-exempt organization” for purposes of section 4958. Because the organization involved in the transfers was not an “applicable tax-exempt organization, section 4958 *cannot apply* to these transactions. Thus, there were no “excess benefit transactions” involving the funds contributed by Mr. El-Feki and the Government’s assertion of a tax loss based on section 4958 is unfounded in this case.

B. The Government has not Established that the Transfer of \$130,000 in Travelers’ Checks, or the Transfer of the \$21,000 Cashier’s Check, Conferred an Economic Benefit on a Disqualified Person.

Even if the El-Feki contribution properly belonged to al-Haramain-USA—which is not the case—neither the transfer of the \$130,000 in travelers’ checks, nor the transfer of the \$21,000 cashier’s check, conferred an “economic benefit” on a “disqualified person” of the organization. Accordingly, the transfers cannot constitute “excess benefit transactions” within the meaning of section 4958.

⁴⁶ See, e.g., *Seven-Up Co. v. Commissioner*, 14 T.C. 965 (1950), *acq.* 1950-2 C.B. 4 (amounts received by the Seven-Up Company from its customer-bottlers, pursuant to an agreement that the funds would be used solely in a national advertising campaign, did not constitute gross income to the company because it was a conduit for those funds which were specifically earmarked for a limited purpose); General Counsel Memorandum 34825 (Mar. 30, 1972) (amounts received by a clergyman from his congregants, as agent for his church, which were not used for his personal living expenses but rather paid over to the church, were not includable in the clergyman’s gross income).

⁴⁷ Revenue Ruling 58-276, 1958-1 C.B. 73.

1. The \$130,000 in Travelers' Checks Were Not Transferred to Disqualified Persons of al-Haramain-USA.

It is abundantly clear that the conversion to travelers' checks and subsequent transfer of \$130,000 of the El-Feki contribution did not constitute an excess benefit transaction. In its indictment, at trial, and in its draft Sentencing Recommendation, the Government has not wavered from its position that these funds were provided to the mujahideen in Chechnya—and not to disqualified persons of al-Haramain-USA.⁴⁸ Indeed, the Government emphasizes in its draft Sentencing Recommendation that this diversion of these funds “to the mujahideen in Chechnya in 2000, on behalf of [al-Haramain-USA]” provides “[t]he basis for the application of the terrorism enhancement under Guideline § 3A.1.4” in this case.⁴⁹ For the Government to contend now that the same funds enriched a disqualified person of the organization would undercut its entire theory of the case.

2. The Government has not Established that the Transfer of the \$21,000 Cashier's Check Conferred an Economic Benefit on Mr. Al-Buthe.

If the El-Feki contribution had belonged to al-Haramain-USA—which, again, is not the case—then the transfer of the \$21,000 cashier's check to Mr. Al-Buthe, a disqualified person of the organization, would pose a closer question. However, based on the information I have reviewed, it is my view that the Government has not conclusively established that Mr. Al Buthe retained these funds for his personal benefit. The evidence on this point appears to be mixed, at best. On one hand, I understand that the Government presented evidence that the \$21,000 cashier's check was deposited in a bank account in Mr. Al-Buhte's name. On the other hand, I understand that the Government has not presented evidence that Mr. al-Buhte used these funds for his own personal purposes. I further understand that credible financial records from al-Haramain-Riyadh suggest that the \$21,000 was promptly transferred to the organization, presumably to advance the donor's intended purpose.

Finally, I note that that the Government took the position at trial and in its draft Sentencing Recommendation that the entire \$150,000 El-Feki contribution—which necessarily includes the \$21,000 converted to a cashier's check—was used “to fund a terrorism organization named Chechen Mujahideen in Chechnya.”⁵⁰ And, while the Government has long been aware of this

⁴⁸ See, e.g., Transcript of Government's Opening Statement at 6, 27–28, 35; Draft d Recommendation at 3, ¶ 9; *id.* at 5–6, ¶¶ 17–18; *id.* at 7, ¶ 22–23; *id.* at 8, ¶ 26.

⁴⁹ Draft Sentencing Recommendation at 7, ¶ 22 (emphasis in original); see also *id.* at 8, ¶ 26 (“As previously noted, Mr. Sedaghaty and Mr. Al-Buthe smuggled \$150,000 to the mujahideen in Chechnya in an effort to help finance terrorist activities”).

⁵⁰ Draft Sentencing Recommendation at 3, ¶ 9; see also Transcript of Government's Opening Statement at 6 (contending that the El-Feki contribution “was intended to make its way into an area of the world called Chechnya which at the time was going – going through a war with Russia. It was a very violent conflict going on in Chechnya at the time these funds were destined for a war zone.”); Indictment § II, ¶¶ C–K (describing the El-Feki contribution and quoting correspondence regarding its use for Chechnya).

transfer, to my knowledge it has not assessed the section 4958 excise tax against Mr. Al Buthe or initiated an examination under section 4958. Given the thin evidence on this point, this is not entirely surprising. In my view it would be difficult for the IRS to conclude that the transfer of the \$21,000 conferred an economic benefit on Mr. Al-Buhte in violation of section 4958.

V. The Government Tax Loss Calculations are Erroneous.

Based on its claims that he participated in, approved, or otherwise “caused” an excess benefit transaction—assertions that, for the reasons set forth above, are generally problematic—the Government has assessed \$80,980 in additional tax, plus \$104,003.48 in penalties and interest, against Mr. Sedaghaty. The Government’s loss calculation consists of the following:

- \$37,750 in section 4958 excise taxes: \$32,500 with respect to the \$130,000 transfer and \$5,250 with respect to the \$21,000 transfer;
- \$10,000 in section 4958 manager’s tax with respect to the entire \$151,000 that was transferred; and
- \$33,230 in additional income tax resulting from a \$151,000 adjustment to Mr. Sedaghaty’s personal income.

The Government’s loss calculation is inaccurate and vastly overstated. In my opinion, there was no excess benefit transaction in this case. Thus, the tax loss attributable to Mr. Sedaghaty, and the additional taxes assessed against him, should be zero.

A. *The Government’s Imposition of the Section 4958 Taxes is Improper.*

As I explain in detail in Parts III and IV of this letter, the reporting errors charged at trial, the transfer of the \$130,000 in travelers’ checks, and the transfer of the \$21,000 cashier’s check, do not constitute excess benefit transactions between an applicable tax-exempt organization and a disqualified person. Accordingly, it is my view that the Government’s assertion of section 4958 excise taxes and manager’s taxes against Mr. Sedaghaty is erroneous.

I note, however, that if the court were to find that (a) the El-Feki contribution was made to al-Haramain-USA (and not, as I believe, to al-Haramain-Riyadh), and (b) Mr. Al-Buhte was personally enriched by the \$21,000 cashier’s check, there would be room to conclude that the transfer of the cashier’s check to Mr. Al-Buhte constituted an excess benefit transaction.⁵¹ Were this to occur, the maximum amount the Government could credibly assess against Mr. Sedaghaty would be \$2,100—the manager’s tax that would be imposed under section 4958. It is important to note, however that the manager’s tax could only be imposed against Mr. Sedaghaty only after the Government first determined that Mr. Sedaghaty knowingly approved the transfer of these funds to Mr. Al-Buhte and then asserted the section 4958 excise tax against Mr. Al-Buhte.

⁵¹ This stands in contrast to the \$130,000 transfer that benefited men and women in Chechnya who, very clearly, were not disqualified persons of al-Haramain-USA.

B. The Government's \$151,000 Adjustment to Mr. Sedaghaty's Income is Improper.

The Government's attempt to recalculate the taxes owed on Mr. Sedaghaty's *personal* Form 1040 based on an alleged violation of section 4958 is inappropriate and inconsistent with the federal tax law. Mr. Sedaghty did not receive any personal economic benefit from these transfers and, thus, realized no income. Further, even if Mr. Al-Buthe embezzled the \$21,000 cashier's check, as the Government contends, the Government has not presented any evidence that these funds were ever received as income by Mr. Sedaghaty. Accordingly, Mr. Sedaghaty's *personal* income tax would be unaffected by these transactions.

C. The Alleged Errors on al-Haramain-USA's 2000 Form 990 Would Not Cause Any Additional Tax Loss to the Government.

Even though the alleged reporting errors on al-Haramain-USA's Form 990 involved tens-of-thousands of dollars, these errors, if true, would not create any additional tax loss for the Government. This is not surprising. In cases involving charitable organizations, the Government often loses no revenue, even in situations involving reporting errors, because the charity itself is not subject to tax on income related to its exempt function and income from charitable contributions.⁵² Thus, even if al-Haramain's Form 990 contained material errors, the organization's income and excise tax liability to the Federal Government would be unaffected by these errors.

In my experience this result is not uncommon. Because tax-exempt organizations generally do not, by definition, pay tax on the items reflected on their Forms 990, errors on these forms generally do not result in any loss of revenue to the Government. Indeed, even assuming that (a) the el-Feki contribution was made to al-Haramain-USA, (b) the Government had revoked al-Haramain-USA's tax-exempt status retroactive to 2000 (such that it would have been treated as a taxable corporation in the year of the El-Feki contribution), al-Haramain-USA would not have been subject to federal income tax on its contribution income. Rather, the el-Feki contribution and other contributions would be treated as gifts to a taxable corporation and, as such, would not be subject to federal income tax under section 102 of the Code.⁵³

VI. Conclusion.

Based on the facts and legal analysis set forth above, it is my opinion that the alleged facts and reporting errors forming the basis for Mr. Sedaghaty's conviction (taken individually or cumulatively) do not provide a legitimate basis for the Government's proposed application of section 4958 in this case. Section 4958 does not operate as an additional sanction for

⁵² Section 501(a).

⁵³ See section 102(a) ("Gross income does not include the value of property acquired by gift."); *Branch Ministries v. Rossotti*, 211 F.3d 137, 143 (D.C. Cir. 2000) (explaining that "revocation of the exemption does not convert bona fide donations into income taxable to [the former section 501(c)(3) organization]" and citing section 102(a) for this proposition).

misreporting items on a Form 990. Rather, it penalizes “disqualified persons” who personally receive an improper economic benefit—such as excessive compensation or a below-market rate financial transaction—from a U.S. public charity. Had there been evidence showing that funds belonging to al-Haramain-USA been deposited in Mr. Sedaghaty’s personal account or otherwise diverted to his personal use, section 4958 could be applicable. However, these are not the circumstances in this case. Here, the transactions alleged by the Government to be “excess benefit transactions” involved (a) the transfer of funds belonging to a foreign organization, al-Haramain-Riyadh—not an “applicable tax-exempt organization”; (b) to individuals and organizations in Chechnya—not “disqualified persons.”

If the Government were to prevail on its argument that section 4958 is applicable to the errors charged and convicted in this case, this would, to the best of my knowledge, be an unprecedented use of section 4958. I am unaware of any court case, Federal Regulation, IRS authority, or other interpretation sanctioning the use of section 4958 in this regard. The purpose of section 4958 is not to penalize instances in which a charity misdirects funds for non-charitable purposes or misreports information on its Form 990. Rather, it is designed to enforce the prohibition against private inurement set forth in section 501(c)(3).⁵⁴ Because all of the elements of an excess benefit transaction are simply not present in this case, the court should reject the Government’s proposed application of section 4958 in this case and its related proposed adjustments to Mr. Sedaghaty’s income. Quite simply, there was likely zero tax loss attributable to Mr. Sedaghaty in this case, and the Court should reject any basis for sentencing premised on the amounts reflected on the Government’s Form 4549-A.

Sincerely,



Marcus S. Owens

⁵⁴ See *Taxpayer Bill of Rights 2*, H.R. Rep. 104-506, 104th Cong., 2d Sess. (March 28, 1996), at 54 (explaining that new section 4958 “provides for intermediate sanctions that may be imposed when nonprofit organizations described in section 501(c)(3) or 501(c)(4) engage in transactions with certain insiders that result in private inurement.”); Preamble to Proposed Regulations, *Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements; Taxes on Excess Benefit Transactions*, 63 Fed. Reg. 41486, 41488 (“in practice, the excise taxes imposed by section 4958 will be the sole sanction imposed in those cases in which the excess benefit does not rise to a level where it calls into question whether, on the whole, the organization functions as a charitable or other tax-exempt organization.”).

EXHIBIT 3

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Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY,

Defendant.

CR 05-60008 HO

**DECLARATION OF FEDERAL
PUBLIC DEFENDER
INVESTIGATOR JAMES
STRUPP**

I, Jim Strupp, declare:

1. I am an Investigator employed by the Federal Public Defender for the District of Oregon. As part of my duties, I was assigned to conduct investigation

in the above captioned case for Steven T. Wax, along with Federal Public Defender Chief Investigator William Teesdale. This Declaration is made in support of Defendant's Motion for a Continuance, or in the Alternative, a Motion to Allow Witness Testimony Via Two-way Video Conferencing.

2. Specifically, I was requested by Mr. Wax to locate and, if possible, interview Muhammad Sui. I understood Mr. Sui to be an individual who may or may not be living overseas, and who may have relevant information about this case. Mr. Teesdale was also given the same request, and in preparation of this declaration I spoke with him about his efforts in that regard.

3. I have been trying to locate Mr. Sui intermittently for approximately 16 months. I have used multiple public and proprietary sources to research possible locations for him, possible relatives, and possible associates through which I might make contact.

4. Mr. Teesdale has told me that in April, 2009, he made a request of co-defendant's counsel to inquire of several individuals in Saudi Arabia whether current contact information existed for Mr. Sui. Mr. Teesdale also consulted the online public records reseller Accurint, of which this office is a subscriber, for possible leads for locating Mr. Sui. Mr. Teesdale was advised that a number of individuals in Saudi Arabia made efforts to locate Mr. Sui. These efforts did not bear any fruit, and did not result in any viable contact with Mr. Sui.

5. I also consulted Accurint on several occasions, attempting to develop

leads for Mr. Sui. Accurint is a proprietary public records reseller, which aggregates and cross-references public record references for particular individuals, based on search criteria (such as name, date of birth, possible address, etc.) supplied by the user. I was able to conclusively identify Mr. Sui's personal identifiers within Accurint. Using searches derived from this information and subsequent search results, I was able to establish possible leads to relatives and other associated individuals.

6. In February, 2010, I made several contacts based on these leads, and inquired about other records concerning Mr. Sui's possible whereabouts. These records included New York property records, New York City Taxi and Limousine Commission records, tax assessor records, New York State court records, California business records, California and New York public phonebook information and Internet white pages listings. None of the information produced led me to Mr. Sui. I also consulted other public records, which allowed me to conclusively identify a brother of Mr. Sui, who had been residing in the United States as a graduate student. I did not know whether that brother was still currently in the United States. Consulting university directories, academic publications, patent records, academic websites, and other sources, I attempted to locate his brother. Eventually, I did develop what I believe to be several e-mail addresses for the brother, at least two of which I consider to be current and valid.

7. In May, 2010, I contacted a possibly related individual in New York State by telephone, as well as a possibly related individual in Texas by telephone. Neither of those individuals was cooperative with me in providing current contact information for Mr. Sui. In June, 2010 I also developed a possible method of contacting Muhammad Sui through an online service. On June 2, I sent a request for contact to Mr. Sui through the service, without any response from him.

8. In June, 2010 I sent several e-mail messages to Mr. Sui's brother's e-mail addresses, as well as to two of his known colleagues - one in California and one in Saudi Arabia. I also attempted phone contact with one of the colleagues. None of these attempts resulted in further contact from any recipient, or information about Mr. Sui's whereabouts.

9. In early August, 2010, I again inquired of co-defendant's counsel whether he had any possible contact information for Mr. Sui. On August 16, 2010 I received two overseas telephone numbers and a possible e-mail address for Mr. Sui, from co-defendant's counsel. That same day, I called Mr. Sui at the phone numbers, and did speak with him. He is currently located in Guangzhou, China. I asked him several questions concerning the areas in this case about which he may have information, and completed a phone interview with him. He told me that he is a U.S. Citizen with a valid U.S. Passport. He resides in Guangzhou, China, which is about two hours travel time from Hong Kong. A summary of that interview is attached to Defendant's Motion for a Continuance, or in the

Alternative, a Motion to Allow Witness Testimony Via Two-way Video Conferencing as Exhibit B. Subsequent to the interview of August 16, I transmitted a copy of an agreement also depicted in Government's Trial Exhibit AHIF-3, which appears to bear Mr. Sui's signature. The copy I transmitted was not received from the Government through discovery in this case, and as such, is not subject to the Court's Protective Order concerning discovery. The copy of the document I transmitted to Mr. Sui is attached to Defendant's Motion for a Continuance, or in the Alternative, a Motion to Allow Witness Testimony Via Two-way Video Conferencing as Exhibit C.

10. I have had several phone conversations with Mr. Sui since August 16, attempting to secure his appearance at trial in this court. He has indicated that he is unwilling and unable to voluntarily travel to the United States from China to attend Mr. Sedaghaty's trial as a witness. He has said that travel to the United States on short notice would severely jeopardize his current business interests in China. He has also told me that he is a Muslim and has religious concerns about traveling during the holy month of Ramadan, and on the days of Eid to attend trial.

11. I most recently spoke with Mr. Sui over the phone on August 23. In response to my question, he said that he would be willing to accept voluntary service of a subpoena in order to provide testimony to this court through live two-way video conference link at the U.S. Consulate General in Hong Kong.

12. I do not believe that I can currently serve Mr. Sui with a valid criminal subpoena in this case. Service of subpoena on witness in a foreign country is governed by 28 U.S.C. §1783, which states, in part, "Service of subpoena... shall be effected in accordance with the provisions of the federal Rules of Civil Procedure relating to service of process on a person in a foreign country." Federal Rule of Civil Procedure 4(f) states:

(f) Serving an Individual in a Foreign Country.

Unless federal law provides otherwise, an individual - other than a minor, an incompetent person, or a person whose waiver has been filed - may be served at a place not within any judicial district of the United States:

- (1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;
- (2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:
 - (A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;
 - (B) as the foreign authority directs in response to a letter rogatory or letter of request; or
 - (C) unless prohibited by the foreign country's law, by:

- (i) delivering a copy of the summons and of the complaint to the individual personally; or
- (ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or
- (3) by other means not prohibited by international agreement, as the court orders.

13. I have learned that China is a party to the Hague Convention on Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters, as is the United States. I have also learned that valid service of legal process in China can only be accomplished under the terms of the Hague Convention, through the Chinese Central authority, which is the Department of Judicial Assistance and Foreign Affairs, Ministry of Justice, People's Republic of China. I further learned that the Department of Judicial Assistance and Foreign Affairs in China advises litigants that service of process usually takes 3 to 4 months.

14. I further learned through United States State Department published information that service of subpoena by mail in China is prohibited for compulsory process. Additionally, according to the State Department the compulsion of testimony and documents within China pursuant to the Hague convention, letters rogatory, and other requests are typically unsuccessful and

can require up to one year.

15. If valid service of the United States criminal subpoena were possible prior to the conclusion of trial in this case, it is not clear to me what viable enforcement options would be available should the witness declined to comply with the subpoena. I have learned that the United States and China are party to a Mutual Legal Assistance Agreement. However, actual cooperation between judicial authorities in the two nations is often only successful on a case-by-case basis. See the United States, China, and Extradition: Ready for the next Step?, MacCormack, Anne, 446 Legislation & Public Policy, [Vol. 12:445, 2009].

16. I have also learned that the United States and China are not signatories to an extradition treaty.

17. On August 22 and again on 23rd, 2010, I consulted separately with two consular officers at the United States Consulates General in Guangzhou, China, and Hong Kong & Macau. Both consular officers told me that live video conference equipment is available at their facilities. The consular officer in Guangzhou said that there may be prohibitions upon taking sworn depositions for use in a foreign court by a foreign consular officer, within Chinese territory. At my request, she is consulting her legal advisers at the State Department in Washington DC to clarify whether the prohibition on taking sworn depositions would apply to providing live video feed testimony to this court. She also stated that these legal prohibitions may not apply in Hong Kong, which enjoys a separate

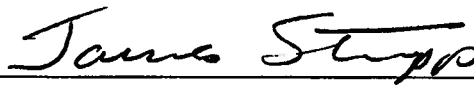
legal framework than mainland China. She is also seeking this clarification about this, at my request.

18. The consular officer in Hong Kong said that they can provide a consular officer to preside over live video feed testimony to this court, from a location in Hong Kong, whether private or at consular facilities. A U.S. consular officer would administer the oath to the witness, and swear any court reporters or other personnel attending the testimony in Hong Kong if needed, and certify the proceedings to this court. The consular officer indicated that, generally, there are security concerns that may prohibit them from taking the testimony at the Consulate's facility, but the consular services are available to be performed at private locations in Hong Kong. The consular officer I spoke with is consulting with her superiors to see whether two way video link facilities would be available at the Consulate's office, if a private location were not suitable. In either case, the Consulate can provide staff to properly oversee the taking of the video testimony for this court.

19. In connection Muhammad Sui's possible travel to the U.S. and appearance as a live witness in this court, the U.S. Marshals initiated a check of the National Crime and Information Center (NCIC), based on personal identifying information I supplied to them, including date of birth and Social Security number. It was reported to me that Mr. Sui does not show any criminal history, wants, or warrants in the NCIC system.

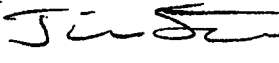
20. Based on the foregoing, I believe that there are no viable means to secure Muhammad Sui's testimony through the issuance of a properly served subpoena in this case, and that he is effectively unavailable as a compulsory witness. Further, I believe that his sworn testimony could be secured in live fashion for this court, through two-way videoconference means during trial.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of knowledge and belief, and that this declaration was executed on August 25, 2010, at Portland, Oregon.



James Strupp

INVESTIGATION MEMORANDUM

Case: U.S. v. Sedaghaty; CR 05-60008-HO
Attorney: Steven T. Wax
Invest: Jim Strupp 
Witness: Muhamed Sui

Date: August 16, 2010

On August 16, 2001, I spoke with Muhamed Sui telephone number listed above. In summary, he related the following:

Mr. Sui lives in Guangzhou in Guangdong Province, China. He has lived there for about 8 years. He is a businessman there.

He traveled from Saudi Arabia to the United States, and back again, with Soliman Al Buthe in March, 2000. They traveled from Saudi Arabia by air, and landed at John F. Kennedy Airport in New York. They transferred to a domestic flight in Newark, New Jersey, and continued on to Portland, stopping in Tennessee along the way.

The purpose of his trip was to do some sightseeing and make new friends. He also knew of Pete Seda and his family through Soliman prior to the trip and part of his purpose was to meet Mr. Seda.

Mr. Sui was born in Saudi Arabia. He is a US citizen and holds a valid US passport. He was naturalized as a US citizen, in approximately 1996, in New York City where he lived at the time.

He understood Solomon Al Buthe's trip was to conduct business as a part of the Al Haramain Foundation, Saudi Arabia, with Pete Seda, whose organization was part of Al Haramain, located in Oregon.

He recalled funds being transferred from Pete to Solomon. He signed an agreement memorializing this transfer, as a witness to Pete and Soliman. He understood that the money referred to in the agreement were collected donations for the foundation in Saudi Arabia and the transmission of money to Solomon was for that purpose. The agreement was for the collection and the receipt of collection of those monies. He does not recall what the money was to be spent on. Mr. Sui was also read a copy of the agreement that he made verbatim. He has also been provided a copy and verified his signature.

Mr. Sui is Muslim. To sign a form as a witness is to witness before Allah, he said.

He does not recall any discussion between Pete, Solomon, or anyone else that Al Haramain concerning this document relating to fighting, jihad, or mujahideen. He does not recall having any discussions with Pete Seda at any other time concerning any of these subjects, relating to any other matter.

On the way to Oregon, they met and were accompanied by Nabil Rajeh, who traveled with them to Oregon from Tennessee. He recalls him being in Oregon but he does not recall him signing the document, except upon being refreshed in his recollection about this fact.

He does not recall a discrepancy between two amounts on the agreement he signed. He recalls some calculations being done to arrive at the amount on the agreement. He recalls Solomon Al Buthe had a balance sheet or accounting sheet of some sort that he used to arrive at the figure placed in the agreement.

He recalls seeing travelers checks with Solomon Al Buthe in connection with the monies that were being collected and transmitted. He does not recall a cashiers check.

He recalls that the Islamic Society of North America (ISNA) had a big event fundraiser concerning raising money for Chechnya refugees around that time. He not recall whether ISNA donated funds to Al Haramain in Oregon.

Inbound to the United States, they landed at JFK airport. He does not recall meeting anyone in the city. He does not recall renting a car and driving to upstate New York.

He traveled back to Riyadh, Saudi Arabia with Solomon Al Buthe, through JFK to Riyadh. They traveled from JFK on Saudi Arabian Airlines. They did not encounter any Customs inspections on the way out. They were not personally presented with any Customs forms at their departure of JFK. He does not recall any signage, kiosks, or stands containing Customs forms that were presented to travelers in the airport.

He has traveled from JFK to Riyadh, Saudi Arabia approximately 20 times. The trip in March, 2000 was his most recent travel from the United States. He has never encountered Customs inspection, forms, kiosks, signage or any other Customs stations requiring customs forms on his outbound departure from JFK to Saudi Arabia. He recalls encountering Customs inspections every time he entered the United States at JFK and every other airport through which he entered the U.S.. He recalls that at the airline gate he had to deposit an I-94 immigration entry/exit form with the airline staff. It was common for other travelers Saudi Arabia that he knew to forget to deposit that form.

He not recall speaking with Soliman about any Customs forms on their travel back to Riyadh. He did not know specifically whether Soliman was hand carrying any travelers checks. There was no discussion whatsoever between the two of them regarding Customs or reporting currency.

In Oregon he recalls going to a bank with Soliman, but does not recall it associated with getting travelers checks and does not recall any details about the stop. It occurred during a shopping trip.

Specifically, he does recall seeing travelers checks in connection with the amount that was signed for. He does not know whether it was \$188,000. He does not recall seeing any cash in connection with this amount. He does not recall whether the monies that were being memorialized in the agreement that he signed were monies for Zakat.

He has never known Pete Seda to espouse jihad, mijahadeen, or violent forms of Islam. He has known Solomon Al Buthe to be a supporter of the poor, needy, and the families of oppressed peoples. He has had no discussion about this case with Solomon or Pete prior to this phone call.

Bismillah

May prayers and peace be upon the Messenger Muhammad

This is an agreement bet Soliman and Abu Yunus. This agreement states, that Abu Yunus is turning all monies and responsibilities that were collected for the Brothers and Sisters in Chechnya over to Brother Soliman. Soliman states that he has received monies in the amount of \$ 188,465.⁰⁰, and he also fully relieves Abu Yunus of all responsibilities to the money.

X

X

Date: 4th of Thul Hijjah, 1420

Witness #1:

Witness #2:

AHIF 000601

AHIF 000601

101829 B&W

EXHIBIT C

EXHIBIT 4

From: abdqaadir
Sent: Tuesday, January 04, 2000 2:02 AM PST
To: Undisclosed-Recipient;
Subject: News From The Mujaahideen As of Jan. 2, 2000
Attachments: db7.jpg

Sunday 2nd January 2000 Russian Special Forces Entered a Village...

Russian Special Forces entered a village called Kaarfankah in the outskirts of the capital, where they did not find anyone except the aged and incapable from amongst the Muslims. These Forces set out to slaughter 15 from them with knives, as a revenge for their killed ones in the battles during the last two days.

A Picture of Today's Severe Bombardment [see attachment]

The bombardment does not cease to continue with the severity that has no likeness in the past upon the district of Shatoi and the city of Khanti, as many of the buildings have been destroyed as a result of random bombardment, and many have been killed and injured.

Saturday 1st January 2000 Allah Will be Sufficient For Them

Military convoys were witnessed carrying sealed containers, from northern territories approaching the eastern hills of the capital. As these containers arrived on the outskirts of the city, a herald came to the Mujahideen and informed them that those containers contain chemical material, which Russia intends to make use of against them after waiting for an appointed time. We ask Allah to make their plans go against them.

They were given their horses and infantry, but Allah failed them..

Very fierce battles took place in the districts of Shatoi and Veden. In the district of Veden, in the village of Dabor-Yurt, Allah humiliated the Russian Army. A humiliation similar to this had not come before. The forces and their motorised units advanced from everywhere under the cover of heavy artillery and missiles. But Allah favoured the Mujahideen by making them able to repel the attack, which happened under the leadership of Abul-Waleed al-Ansaari. They destroyed 6 motorised units, and captured 2, as well as some amount of reserves and a platform for Milan missiles. They killed more than 60 Russian soldiers, and the injured were many in number amounting to tens, so the Russians quickly evacuated them from the battlefield.

Pictures From Today's Battle

Do not be weakened or saddened, as you are high above them...

In Veden, Russian motorised units advanced followed by the infantry, in order to take control over the peak of Shormolaam which is 1701 metres high. Very fierce battles took place, where Mujahideen destroyed 5 motorised units, and killed tens. The huge number of the Russians and the intensity of

bombardment upon the Mujahideen had a great impact on the events of the battles, which made difficult for them to continue defending the peak. After the battle was prolonged, Russia took control over the peak, we ask Allah to turn the Russians back to where they came from as losers. 3 Mujahideen were killed in this battle, and one of them was from the foreign Mujahideen.

The Mujahideen do not cease to be the men of action in the capital...

In the east of the capital, Grozny, the Mujahideen were able to destroy a motorised unit called the Betaayer and 10 Russian soldiers were killed during the reconnaissance of enemy positions. The capital does not cease to be under the control of the Mujahideen.

Farewell! O brave men!

Three foreign Mujahideen met up with the caravans of martyrs, and they are: Abul-Mundhir al-Imaraati (from Emirates), Abu Dujaanah al-Yamaani (from Yemen) and Abu 'Abdullah al-Labnaani (from Lebanon) and 3 from the Chechens. We hope that Abul-Mundhir falls under the statement of the Messenger of Allah – may Salaah and Salaam be upon him: “Verily Allah is amazed at the man who plunges his bare hands in the enemy, and does not look back at his companions”. As he – may Allah have mercy upon him – attacked the enemy defences on his own and massacred them, after which they sought to kill him amongst their motorised units, so congratulations to him upon martyrdom.

From: Abdul-Qadir
Sent: Thursday, January 06, 2000 2:25 AM PST
To: Undisclosed-Recipient;
Subject: News From the Mujaahideen As of Monday 3rd January 2000

Monday 3rd January 2000 The Mujahideen Surprise the Russians With Shamil's Attack

The daring Mujahideen launched an attack on the two cities of Kankalah and Yarmolak this morning from several cores, under the leadership of Field Commander's Shamil Basayev, 'Arabi and Jihaad, may Allah preserve them. With the help of Allah, they were able to drive out the occupying Russian Forces, and inflict upon them heavy losses in lives and equipment, reaching more than 64 soldiers and the destruction of 21 motorised units; from them 15 lorries and army personnel carriers and six armoured vehicles. The Mujahideen captured two Kamaaz lorries, a fuel tank, a quantity of various reserves and a portion of light Klashnikov weapons. Three brave Chechen Mujahideen were killed in this battle. O Allah! Accept them from the martyrs.

They Were Not Successful in Disassembling the Siege...

The Mujahideen surrounded a group from the Russian Forces in the city of Yarmolak and asked them to surrender. The Russians took the initiative to send a support group of infantry to them, lead by four motorised vehicles. The Mujahideen became engaged with the group and destroyed two motorised vehicles, whilst most of the soldiers ran away. Then the Mujahideen attacked the surrounded group, killed four and took the rest as captives.

Destruction of the Russian Leadership....

The Mujahideen launched an attack on the village of Najr-Yurt, which is on the Grozny-Russian route, and fierce battles took place there. The Mujahideen destroyed the headquarters of the Russian Leadership in the village. More than 25 soldiers from the enemy were killed, three were captured, one of them a Commander. Likewise, in this battle; the Mujahideen destroyed two army personnel carriers, a movable Shalacher, captured two Tanks, two BMP vehicles and a lot of ammunition. No one from the Mujahideen was killed, except four who suffered small injuries.

The Cowards Rebelled...

The Russian soldiers announced their disobedience to their leaders, when they wanted them to enter the village of Dabor-Yurt, in which the Russians suffered heavy losses in the past two days. The Mujahideen heard a conversation via radio communications between the Army generals and the soldiers, who were attempting to persuade them to enter the village, but without any success.

From: Abdul-Qaadir Abdul-Khaaliq
Sent: Wednesday, January 12, 2000 7:24 PM PST
To: Jeddah-Net
Subject: News From The Mujaahideen As Of Jan. 10, 2000

Monday 10th January 2000 A Number From the Mujahideen and Ansaar are
Martyred

The operation of the attack upon Russian Forces in Argun and its surrounding areas resulted in the Martyrdom of 10 Mujahideen. Five from Chechnya, Three from Dagestan, and Two from the Ansaar (foreign helpers) and they were: Abu-Habeeb An-Najdi and Abu-Yaasir An-Nashmi. We ask Allah that they are accepted from amongst the Martyrs and that to the Eternal Paradise is their abode forever. Main News from Today: - The Mujahideen attack the centre of Russian Military Police in Shali. Result: 24 of the Russian Military are killed, Two Army vehicles destroyed. - 120 Russian Soldiers killed and 18 Military vehicles destroyed in the Battle raging around the city of Argun and Maskar-Yurt today. - Support from the people of Chechnya for the operations of the Mujahideen: After the liberation of Argun from the hands of the Russian Abusers, the inhabitants of the city offered all types of help to the Mujahideen, by treating their wounded, burying their killed and offering food to them. - The Russians enter the city of Vedenov in an attempt to overpower it: After the previous loss of the Russian Forces in Vedenov, they had concentrated on the peak of a mountain overlooking the city. They were able to enter Vedenov and now they are concentrating within it. The Mujahideen have prepared a surprise for them, which will result in their shattered corpses, If Allah- Mighty and Magestic - Wills.

Sunday 9th January 2000 Russian is Bombing Argun Without Leniency

Russian aircraft set out with random continuous bombardment of Argun and the villages surrounding it. The Mujahideen destroy the Operations Base of the Russian Forces in Argun, and kill a major and a group of commanders: After the attack of the Mujahideen on the Russian Military Operations base in Argun, they demanded from the commanders present inside to surrender themselves and their weapons, but they refused to surrender, and took the initiative to open fire on the Mujahideen. So the brave soldiers of Allah finished them off and killed them all. There number was eight commanders and the leader of the Base at the rank of Major. Allahu-Akbar! Allahu-Akbar! Allahu-Akbar!` There is no victory except from Allah, the All-Mighty, All-Wise. `

Sunday 9th January 2000 The Day of Conquests

The Mujahideen were able to attack the city of Argun and the village surrounded by it this morning, and their full control on the city was accomplished, and the city was cleansed off Russia. The city is that third important city in Chechnya. The results of this operation was the destruction of 20 motorised vehicles, and a number close to 155 Russians killed and tens were captured. The destruction of a convoy was accomplished that was on its way to Argun in order to back up the Russian Forces based there. The convoy composed of soldiers, reserves and motorised vehicles, so

its complete destruction was accomplished that was the destruction of 15 motorised vehicles and 70 Russian soldiers and praise be to Allah. The Russian convoy tried to escape from the city of Argun, which was then resisted by the daring soldiers of Allah, who set out to completely destroy the convey, and most of the soldiers in it were killed and the rest were captured. There were 12 motorised vehicles and 35 Russian soldiers and praise be to Allah.

In a strange incident that proves the measure of confusion, dismay and the failure that exists amongst the ranks of the Russian Forces, the Russian Forces set out to bombard the Russian soldiers and their motorised vehicles with aircrafts, as they decided to leave Argun, so that they do not end up in the hands of the Mujahideen, so praise be to Allah from before the incident and after. We have not been able to calculate the results of this bombardment until now, with the knowledge that we can see the smoke rising from the coffins of motorised vehicles. The Mujahideen were able to cut off a meaningful route of supplies for places where the brutal Russian Forces are based in the east of Grozny, Serzhen-Yurt, Shali and the way of Shatoi, after taking control of the city of Argun and the village surrounded by it, introduced by the retaking of the city of Gudremes Insha`Allah.

At this moment, fierce battles are taking place around it with the Russian Forces based inside. The Mujahideen negate what the Russian News Agencies announced about the control of the Russian Forces over the city of Vedenov. What has actually happened is their entry to some of the outskirts of the city only, and the expulsion of their bodies and the shredded limbs, from it will be accomplished Insha`Allah. The daring Mujahideen captured a group from the motorised vehicles and five carriers carrying reserves and some medium and light weapons. So far two Mujahideen from the Chechens have been martyred and one from the Foreign Arab who is ³Abul-Ansaar ash-Shimaali².

The battles do not cease to continue fiercely until now. We ask Allah to honour His soldiers.

Thursday 6th January 2000 O Allah! O Destroyer of the Armies, Destroy Them!

(Main points)

- Calmness spread throughout all the frontlines from yesterday evening until today. This was due to thick cloud and fog, which made it impossible for anyone to move within this. - Extreme cold conditions made the Russian Forces descend from the top of a peak they had previously concentrated to, to one with less harsh conditions. - One thing well worth mentioning was that many of the Russian Forces became sick and left the places they had concentrated upon, in search for food and respite from the cold! - Chechen Field Commander `Arabi continues to exercise control over the regions which had been completely taken from the enemy forces. These are the regions of Khankala and Yarmolak. - Chechen Field Commander Abdul-Rahman regained health after being injured in the Battle of Dabor-Yurt and returned to his position as Commander.

Wednesday 5th January 2000 Russian Forces do Not Cease to Undertake Losses

(Main points) - A battle erupted today in the village of Karwali on the road of Khankala and Urus-Martan.

- The Mujahideen caused heavy losses in both lives and equipment upon the Russian Forces. - 20 Russian soldiers killed. Two Tanks, 2 Canons (1 of them SPG-9) and no injuries amongst the ranks of the Mujahideen and All Praises are to Allah, Mighty and Majestic. - Russian Forces bombarded the village of Maakhaakati in the district of Vedenov, killing 12 from the residing inhabitants and refugees. In the same day, a rocket fell in a market and killed 3 civilians. - Continuous bombardment does not cease to continue upon the majority of villages.

- The Russian Forces entered the outskirts of Shamil-Kotar in the district of Vedenov. Tuesday 4th January 2000 Indeed Allah Defends Those who Believe The Mujahideen observed a failed operation, in which Allah turned the enemy plots against them. This operation was meant to comb the trenches of the Mujahideen in the front of Serzhen-Yurt. The enemy Infantry Forces advanced, headed by two armoured vehicles and two tanks. These armoured vehicles were carrying missiles (which are highly explosive). These missiles are fired from the armoured vehicle which drops behind it a rod with its skin full of RDX, which is highly explosive. The length of this rod is about 300 m, and by merely falling on the ground the rod explodes which is spread across the ground, and causes destruction on a large magnitude on both sides of the rod. As they began to make use of this weapon against the trenches of the Mujahideen, an accident occurred which heals the hearts of the Mujahideen. Which is that when one of the armoured vehicles fired a missile, it did not leave the platform and exploded in the heart of the armoured vehicle full of other explosives and reserves. So the armoured vehicle exploded with whoever was in it, resulting from it the destruction of the other armoured vehicle and the two tanks. With that all of the soldiers who were present in the place were killed, and their number was more than 35 soldiers. -- May Allah bless and protect those who follow His guidance. Ameen

From: Abdul-Qaadir Abdul-Khaaliq
Sent: Thursday, January 27, 2000 5:54 AM PST
To: sheeshaan@eGroups.com
Subject: [sheeshaan] FW: jeddah: Fw: Independent | News | Russian agents 'blew up Moscowflats'

From: "Jeddah (Saudi Arabia) Area Network" <jeddah@muslimsonline.com>
To: <jeddah-net@muslimsonline.com>
Subject: jeddah: Fw: Independent | News | Russian agents 'blew up Moscow flats'
Date: Thu, 6 Jan 2000 21:17:54 +0300

Bismi Allah ArRahamMan ArRahim

In the name of Allah, The Compassionate, The Merciful

NOW THE TRUTH COMES OUT - AFTER THOUSANDS OF CHECHEN WERE KILLED BY FALSE ACCUSATION.

<http://www.independent.co.uk/news/World/Russia/rusagent060100.shtml>

The Independent has obtained a videotape on which a Russian officer, captured by the Chechens, "confesses" that Russian special services committed the Moscow apartment-block bombings that ignited the latest war in Chechnya and propelled Vladimir Putin into the Kremlin.

On the video, shot by a Turkish journalist last month before Grozny was finally cut off by Russian forces, the captured Russian identifies himself as Alexei Galtin of the GRU (Russian military intelligence service). The bearded captive acknowledges as his own papers displayed by the Chechens that identify him as a "Senior Lieutenant, Armed Special Services, General Headquarters for Special Forces of the Russian Federation".

The Ministry of Defence was checking yesterday whether there was indeed such a GRU officer. "Even if he exists, you understand what methods could have been used on him in captivity," said a junior officer, who asked not to be named.

Colonel Yakov Firsov of the Ministry of Defence said on the record: "The (Chechen) bandits feel their end is near and so they are using all manner of dirty tricks in the information war. This is a provocation. This is rubbish. The Russian armed forces protect the people. It is impossible that they would attack their own people."

On the video, Lieutenant Galtin said he was captured at the border between Dagestan and Chechnya while on a mine-laying mission. "I did not take part in the explosions of the buildings in Moscow and Dagestan but I have information about it. I know who is responsible for the bombings in Moscow (and Dagestan). It is the FSB (Russian security service), in cooperation with the GRU, that is responsible for the explosions in Volgograd and Moscow." He then named other GRU officers.

Nearly 300 people died when four multi-storey apartment blocks were destroyed by terrorist bombs in September. The attacks provoked Mr. Putin, appointed prime minister the month before, to launch a new war in Chechnya.

Sedat Aral, a photographer with ISF News Pictures, said he shot the video in a bunker in Grozny, where he met Abu Musayev, head of Chechen rebel intelligence. Mr Musayev said the Chechens could prove they were not responsible for the apartment-block bombings.

The Russian public backs the "anti-terrorist campaign" in Chechnya, which has so boosted the popularity of its author, Mr Putin, that Boris Yeltsin has retired early to make way for his chosen successor.

However the war started, the beneficiary is clearly Mr Putin. The former head of Russia's domestic intelligence service is now poised to realise his presidential ambitions.

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From: AQ at Yahoo
Sent: Tuesday, February 15, 2000 9:23 PM PST
To: sheeshaan@eGroups.com
Subject: [sheeshaan] Tuesday 15 February 2000: Russian Forces Repeat Bosnia and Kosova Atrocities in Chechnya

Tuesday 15 February 2000: Russian Forces Repeat Bosnia and Kosova Atrocities in Chechnya

Russian Forces have gone on rampage across much of Chechnya, and have re-enacted the atrocities committed by their Serb brethren against the Muslims of Bosnia and Kosova. Mujahideen sources confirm that the enemy is committing wide-spread and indiscriminate killing of men, women and children, in addition to the complete destruction of buildings, the pollution of the environment and the pillage of property.

In Grozny, Russian troops rounded-up unarmed male civilians and killed them in groups and individually. In the town of Gheki-Chu in the Province of Urus-Martan, the enemies of Allah launched a savage and cowardly attack against the civilian population simply because the Mujahideen had bypassed the village during their withdrawal from Grozny. The Russians are confirmed to have caused the destruction of much of the town, having burnt down homes and shelters. Atrocities against the civilian population included the mass-arrests of men, many of whom were machine-gunned, while others were sent to undisclosed locations and to an uncertain fate.

In other villages across Chechnya, the Russian Military has continued to launch attacks against civilian populations. Mujahideen sources confirm that helicopters, fighter-bombers, heavy artillery, 1,500 kg bombs and other weapons of mass-destruction are being used to target the defenseless civilian population of Chechnya.

It is clear beyond a shadow of a doubt that Russia and its military are waging this war with the aim of exterminating the Chechen population, and to terrorize the Chechen people in hopes of disuading them from providing any form of support to the Mujahideen who may come across their villages. This policy will not succeed, and will only lead to the strengthening of the people's faith and reliance on Allah, and to their increased support for the Mujahideen.

It must be asked at this point, where are the voices and actions of 1.5 billion Muslims against this cowardly war of extermination? Are the people of Chechnya no longer considered brothers? Are they no longer part of the Ummah? Why is the Islamic World indulging in a self-defeating slumber?

Meanwhile, the Western World openly condemns the Russian actions, yet continues to provide financial support to Russia (On Saturday, the world community agreed to 'forgive' Russia of more than US\$20 billion in foreign debts and to extend new credit!) These moves clearly show the true intentions of the "New World order" when it comes to Muslims. What separates Chechnya from East Timor? Why should one cause be supported and not the other. The reasons are clear to anyone who seeks the truth: Muslims are being fought militarily and financially from every corner, that they may not realize their aspirations to live in freedom according to the light of Allah's Shariah. Truly:

"They seek to put out the light of Allah, but Allah will spread His light even if the infidels hate it."
[Quran 9:32]

May Allah bless those who follow His guidance.

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From: AQ at Yahoo
Sent: Friday, February 18, 2000 11:02 PM PST
To: sheeshaan@eGroups.com
Subject: [sheeshaan] Wednesday 16 February 2000: Russian Forces Expand Terror Campaign Against Civilian Population

Wednesday 16 February 2000: Russian Forces Expand Terror Campaign Against Civilian Population

The Russian Military has routinely bombarded civilian areas, and has systematically murdered, raped and imprisoned thousands of Muslims all across Chechnya. In the past few days, this campaign of targeting civilians took a turn for the worse, with the enemy imposing curfews, blocking civilian movement, and continuing with a broad range of crimes against humanity.

Russian Forces Seal-off Grozny:

Russian forces have declared Grozny an "out of bounds" area, and have not allowed any civilians to return to the city. The enemy claimed they were obliged to take this decision because the city was heavily mined by the Mujahideen. This is not so; Mujahideen sources confirm that the Russian actions are part of an overall strategy to keep all populated centers empty of their original inhabitants until Russian forces conclude their operations in the southern mountains of Chechnya. It is also part of the enemy's effort to keep the Mujahideen out of the Capital. Both strategies will not succeed, Insha-Allah.

Russians Block Civilian Movements:

Under the guise of banning "illegal" congregations, the Russian Military has banned the Muslims of Chechnya from the basic rights of freedom of movement and assembly. Mujahideen sources confirm that the enemy has banned people from moving freely between towns and villages. This includes banning children from going to school, and for adults to conduct routine civilian work. Worst of all, the Russians are not allowing families to bury their loved ones in graveyards. This has forced the people to bury their dead in the yards and gardens of their homes. This Russian strategy re-enacts the crimes committed by the Russians against the Chechen population during the Stalinist and Soviet era in 1944.

Torture, Mass-arrests Continue Unabated:

Thousands of Chechens have been arrested and sent to concentration camps in Chechnya and in Russia. The Russian campaign of mass-arrests increased its tempo recently with large numbers of young men being detained under the false pretense of collaboration with the Mujahideen. These Muslims were sent to the "Near" concentration camp in the North of Chechnya. Eye witnesses have confirmed that the Muslims in these camps are suffering from indiscriminate killings and some of the most horrible methods of torture. May Allah hasten their release and may He bestow His Mercy upon those who have died.

Russia Continues to Bomb "Liberated" Villages:

With no justification other than the clear yet unofficial goal of exterminating the Muslim population of Chechnya, Russian forces have maintained their cowardly bombardment of Chechen villages. What baffles the mind and goes against all logic is that many of the targeted villages have already been captured by Russian forces, and are known not to host any Mujahideen. In an attempt to stop the bombing, the elders of these towns approached Russian officers and asked them to spare the villages. The elders, whose methods were full of dignity and fairness, were met by Russians who beat them, humiliated them and warned them that they would be killed unless they stopped 'complaining.'

Frigid Temperatures Claim the Lives of Civilians:

Russian forces had cut off all electricity and gas supplies to Chechen cities, towns and villages since the beginning of the war. More recently, Russian soldiers have also banned Chechens from cutting wood for the basic uses of heating and cooking. This has led to several deaths amongst the civilian population, and has forced survivors to use the little amounts of wood in their homes to meet their basic necessities.

ON THE BATTLEFIELD: Russian forces are building up their strength in preparation for an offensive against Mujahideen positions in the mountains. This would be at least the eighth major attack launched by the enemy against the area. All previous attempts have failed with disastrous consequences for the enemy. Insha-Allah, this time the Russians will find something even more special than defeat waiting for them.

May Allah bless those who follow His guidance.

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EXHIBIT 5

FD-302 (Rev. 10-6-95)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/14/2005

(U) On 1/31/05, Mahmoud Talaat Hasan El Fiki, date of birth, 5/9/32, was interviewed at the Nasr City, Egypt offices by SSIS Major Muhammad. El Fiki was interviewed at a remote location in the facility and was observed from a conference room via closed circuit television. Internal Revenue Service-Criminal Investigations (IRS-CI) SA Colleen Anderson and FBI Cairo ALAT Nael Sabha were also present in the conference room observing the interview, as was SSIS Major Ahmed Maher who acted as translator during the interview. El Fiki was previously interviewed by the SSIS pursuant to receiving questions via EC from Portland FBI. On 1/30/05, a meeting was held at SSIS' downtown offices to discuss the specific questions that would be posed to El Fiki by SSIS investigators.

(U) During the aforementioned meeting, the SSIS advised they conducted extensive investigation into El Fiki's finances. They advised El Fiki has donated upwards of approximately 35 million Egyptian Pounds (converted to U.S. dollars using conversion rate of 5.87 Egyptian pounds to the dollar, is equivalent to approximately \$5.9 million), during his lifetime to various charitable causes throughout Egypt. He has been primarily involved in the construction of, and the purchase of equipment for hospitals in Egypt. He prefers to use his money to build facilities or to purchase specific equipment as opposed to donating cash.

(U) El Fiki has no interest in seeking publicity for his philanthropy and deflects inquiries about his charitable works. He has never had a hospital named after him. He typically directs hospital administrators in charge of naming their facilities to use the names of honored deceased individuals to name the buildings. Earlier in his life El Fiki donated approximately 10% of his income to Zakat. Investigation conducted by SSIS revealed that later in life El Fiki donates approximately 80% of his income to charity.

(U) El Fiki is an engineer who received a Ph.D in Engineering from Sofia University in Sofia, Bulgaria. El Fiki owns and operates the Cairo Construction Company (CCC). CCC was, and continues to be a prominent builder of hospitals in Egypt. The company has been involved numerous large building projects throughout Egypt.

Investigation on 1/31/05 at Nasr City, Egypt

File # 315N-PD-45427

Date dictated 2/9/05

by SA David A. Carroll



FD-302a (Rev. 10-6-95)

315N-PD-45427

Continuation of FD-302 of Mahmoud Talaat El Fiki, On 1/31/05, Page 2

(U) El Fiki maintains money in bank accounts in CIB, Egypt, as well as in various institutions in Cairo, Alexandria, Egypt, the Bank of Kuwait in London, England and the United Arab Emirates (UAE).

(U) El Fiki advised he became aware of Al Haramain Islamic Foundation through his son, Sharif El Fiki. S. El Fiki attended the Hajj in Saudi Arabia in 2000. Upon S. El Fiki's return to Egypt he was carrying flyer's prepared by the Al Haramain Islamic Foundation soliciting donations for providing humanitarian aid to Chechnyan widows, orphans and refugees. El Fiki advised his son showed him the flyer when he came home from the Hajj. The flyer depicted various photos of conditions in Chechnya and included photos of women and children.

(U) El Fiki checked with his contacts in Saudi Arabia to determine AHF's reputation. He also consulted with his friend and employee, Mohammed Salat, about AHF's reputation. Salat had contacts in Saudi Arabia and made inquiries about the foundation. Salat reported to El Fiki that the foundation had a good reputation for providing humanitarian aid and recommended making the contribution. El Fiki's other associates in Saudi Arabia also vouched for Al Haramain as being a reputable organization.

(U) After seeing the flyer, consulting his associates and accessing AHF's website, El Fiki made the decision to donate \$150,000 to the cause of supporting widows, orphans and refugees in Chechnya. After making the decision, he contacted AHF via email through their website, AlHaramain.Org., and advised the foundation of his desire to donate \$150,000. El Fiki received a response via email indicating the foundation's appreciation for his financial support. In AHF's responding email, El Fiki was provided two bank accounts as an alternative for submission of the donation.

(U) The first option was an AHF account at the Bank of America (BOA) in Ashland, Oregon. The second was an AHF account at Al Rajhi Banking & Investment Corporation in Riyadh, Saudi Arabia. Subsequent to the completion of El Fiki's interview, the SSIS investigators allowed the interviewing agents the opportunity to view El Fiki's email to AHF indicating his desire to donate to the widows, orphans and refugees in Chechnya. They also presented for display the AHF responding email thanking El Fiki for his support and directing him to wire the money to one of the two aforementioned accounts. The SSIS advised the FBI would be provided with copies of these documents at a later date.

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FD-302a (Rev. 10-6-95)

315N-PD-45427

Continuation of FD-302 of Mahmoud Talaat El Fiki, On 1/31/05, Page 3

(U) El Fiki advised he chose to send his donation to the Bank of America account provided in AHF's response because the bank was more well known and he had more confidence in the United States banking system than the banks in Saudi Arabia. El Fiki contacted the Bank of Kuwait in London, England and directed them to wire transfer \$150,000 to the aforementioned AHF account at the BOA in Ashland, Oregon. In directing the Bank of Kuwait to wire the money, El Fiki requested, and received a receipt, indicating the cost of the transaction was \$40.00. SSIS also presented this receipt for review by writer and SA Anderson.

(U) El Fiki advised the donation was for Zakat to support widows and orphans. After making the donation, a month passed and El Fiki had not received an acknowledgment from AHF indicating the foundation received the money.

El Fiki did not know Albuthe and had never heard of him. This disturbed El Fiki and he therefore sent another email requesting acknowledgment of the donation. In response to El Fiki's inquiry about the delay in AHF's acknowledging his donation, the foundation sent him an email directing him to contact Salat. El Fiki was told Salat had the receipt for the donation.

(U) El Fiki advised he never had any telephonic contact with anyone at AHF, nor has ever spoken with anyone employed by the foundation. AHF did not return any of the money to him and questioned the interrogator as to why would they return money to him. El Fiki had no idea how his donation was actually spent. He advised he had no method or means to determine how the money was specifically spent. El Fiki was unaware if the money was spent on Chechnyan mujahedin. He reiterated that he would have no way of knowing how the money was actually spent.

(U) SSIS personnel indicated El Fiki provided the following time line of events regarding his contact with AHF.

January 11, 2000 - El Fiki's first contact with AHF via email through their website.

Approximately within a week's time of 1/11/00, AHF responded providing the two choices of bank accounts available to receive donations.

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FD-302a (Rev. 10-6-95)

315N-PD-45427

Continuation of FD-302 of Mahmoud Talaat El Fiki, On 1/31/05, Page 4

Approximately within a week after receipt of response from AHF, El Fiki directs his bank to wire the money to the BOA in Ashland, Oregon.

February 20, 2000 - El Fiki's follows up with an email to AHF inquiring as to why he has not received acknowledgment of his donation.

March 23, 2000 - El Fiki resends his email asking for a receipt for his donation.

Thereafter, El Fiki received a letter from his bank confirming the transfer.

El Fiki subsequently received an AHF receipt through Salat indicating the cash was received by the foundation.

El Fiki's last contact with AHF was the March 23, 2000 email seeking confirmation and acknowledgment that his donation was received.

(U) El Fiki described another charity he provided money to during the period 1997-2000. The organization employed approximately 250 people. El Fiki's accountant told him his contributions to this charity were being wasted on unnecessary employees and not properly spending the money on children as promised. The information provided by his accountant caused him to more closely scrutinize to whom he provided financial support. This information also showed him how difficult it is to monitor funds donated to any organization. El Fiki ultimately stopped giving to his particular charity because it was abusing his trust and donations.

(U) El Fiki advised he donated \$150,000.00 in three separate installments of \$50,000.00 each to the Islamic Center of Southern California (ICSC), located at 434 South Vermont Ave, Los Angeles, California. These funds were also sent to an account maintained at the Bank of America. These donations occurred in February and April, 1995. This money went towards establishing a new school at the facility. The school was known as "The Straight Path." El Fiki's connection to the ICSC was through his association with Dr. Hassan Hatout. El Fiki knew Hatout from their time together in Kuwait. Hatout is a gynecologist practicing in Los Angeles. El Fiki last donated money to the ICSC in 1996. El Fiki

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FD-302a (Rev. 10-6-95)

315N-PD-45427

Continuation of FD-302 of Mahmoud Talaat El Fiki, On 1/31/05, Page 5

remains in contact with Hatout and described meeting him once a year in Kuwait.

(U) El Fiki donated money to an Islamic Center in Cairo that is run by Dr. Abdul Gafar(phonetic). El Fiki recalled an Egyptian student named Mohammad Turki that solicited him for donations for a mosque in the United States. Turki called in approximately mid-2001 after the events of 9/11/01. Turki's father worked with El Fiki in Kuwait. El Fiki had doubts about what the money would be used for and declined to donate. He has never heard from Turki since that time.

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EXHIBIT 6

Havurah Shir Hadash
חבורת שיר חדש
P.O. Box 1262
Ashland, OR 97520



To: Judge Thomas Coffin
Re: Pete Seda
Date: August 14, 2007
From: Rabbi David Zaslow
Havurah Shir Hadash Synagogue
www.havurahshirhadash.org
(541) 621-0782

Dear Judge Coffin:

I have been the rabbi and spiritual leader of one of the three synagogues in Ashland, Oregon since 1995, and have known Pete Seda since the early days of my rabbinic studies in the late 1980's. I realize the task before you today is to assess if Mr. Seda is a flight risk, and if he might pose any danger to the community if he is free on bail.

I can tell you unconditionally that Mr. Seda would not have returned to face our judicial system if he were a flight risk, and I unconditionally believe that he will pose no danger whatsoever if you permit him to be free on bail while he prepares for his trial.

From the time I was ordained until several years after September 11, 2001 Pete Seda was my peace partner in bringing a bit of hope to both the Jewish and Muslim communities of southern Oregon. He spoke passionately against violence, Islamic terrorism, and for reconciliation with the Jewish community. He took some personal risk not only to associate himself with the Jewish community here, but to proclaim a very positive, public view about Israel.

I do not write these words lightly. In regard to the charges I have no personal knowledge of Pete's guilt or innocence. I am a strong supporter of our nation's War on Terrorism, and our alliance with Israel. At the same time, it was Muslim-American leaders like Pete Seda who were able to bring a measure of comfort and hope to communities across American after September 11. I have absolutely no doubt that Pete Seda will be a model citizen as he awaits trial should you grant his bail request.

Please do not hesitate to call me on my cell phone at the number above if you have any questions whatsoever.

Sincerely,
Rabbi David Zaslow

EXHIBIT 7

INVESTIGATION REPORT

CASE: United States v. Pirouz Sedaghaty
CR 05-60008-HO

ATTORNEY: Steve Wax; Larry Matazar

INVESTIGATOR: William Teesdale



WITNESS: Abdul-Quadir Abdul-Khaaliq

DATE: March 25, 2010

On the above date I made telephonic contact with Mr. Abdul-Quadir Abdul Khaaliq, introduced myself as an investigator with the Federal Public Defender's office and explained our representation of Pete Seda. Mr. Abdul-Quadir agreed to speak with me. Mr. Abdul-Quadir told me that he was not personally involved in financial aspects of the Al Haramain organization, but was involved in working for Al Haramain previous to the "explosion of anti-Muslim sentiment" prior to 9/11. Mr. Abdul-Quadir said that he was involved in sending material that he cut and pasted from the Qoqaz website, which he stopped sending when there were accusations being made about that conduct, and he then wrote a "public letter" about that.

Mr. Abdul-Quadir said that the distribution of Qoqaz information was about spreading the news in a format that was a precursor to blogging. Mr. Abdul-Quadir said his job was generally sitting in front of a computer in the Kingdom of Saudi Arabia. During that period of time, Mr. Abdul-Quadir said that everyone was asking about what was going on in Chechnya. Mr. Abdul-Quadir told me that the Muslim world had a huge interest in what was happening in Chechnya and there was the issue of Russians attacking the Muslim community.

Mr. Abdul-Quadir said that there was a website that was translating news from the front lines in Chechnya and there was another site that he also reviewed. Mr. Abdul-Quadir said that he took information from the Qoqaz website and was not editing it, but then sending it out to that "forum." Mr. Abdul-Quadir said that when it became evident that some people had been prosecuted or accused of terrorism or support for Al Qaeda, because they were sending reports from the Mujahideen, he then stopped forwarding the information from Qoqaz, because he did not want to get into "hot water." Mr. Abdul-Quadir said that he is aware that there were insinuations that he personally had contact with the Mujahideen, but he did not.

Mr. Abdul-Quadir said that Pete Seda was on the Sheeshan (Arabic for Chechnya) mailing list. Mr. Abdul-Quadir said that he personally supported the Muslim cause because the Chechnyans had been unjustly attacked. Mr. Abdul-Quadir said that he saw it as an unjust ethnic cleansing and therefore wished to support his Muslim brethren. Mr. Abdul-Quadir said that at the time, they started to learn

about issues regarding Chechnya in 1994, and at that point the United States supported Chechen independence from Russia. Mr. Abdul-Quadir said that it was only later, after the incident in Beslan at the school, that the picture changed. Mr. Abdul-Quadir said that Muslims, in general, supported the Chechen cause. Mr. Abdul-Quadir said it was an important issue at the time about what was going on there in Chechnya and everyone felt that the Chechens had a right to protect themselves. Mr. Abdul-Quadir said that he believes that in 1999 the United States supported the independence of Chechnya and had the sense that the Russians had gone too far, but later the position changed.

Mr. Abdul-Quadir told me that his intent in sending Qoqaz emails was to provide information regarding what the Mujahideen were doing in Chechnya. In general, Mr. Abdul-Quadir said the news was about attacks that took place here and there. Mr. Abdul-Quadir said that initially there were reports that came to him from someone else and he would then forward them. Mr. Abdul-Quadir said that in early 2000 some of the people who ran the site out of London were accused, and the site was shut down.

Mr. Abdul-Quadir said that his role at Al Haramain was as editor of the online publication. Mr. Abdul-Quadir said that involved him reviewing English translations of literature, such as if the organization came up with a fundraiser. Mr. Abdul-Quadir said his primary responsibility was the online newsletter, although others were involved in the design of it and there were a number of different departments in the organization. Mr. Abdul-Quadir said the Al Haramain charity sought donations for all kinds of causes. Mr. Abdul-Quadir recalled there was a big push for money for widows and orphans in Chechnya. Mr. Abdul-Quadir said that the Chechnya campaign was not promoted as having anything to do with the Mujahideen, but was all about helping people suffering the ravages of war.

Mr. Abdul-Quadir said the quality of his Arabic is OK, but mostly he did English language work that involved editing translation and composition. Mr. Abdul-Quadir said that he might have looked at and/or checked translations of specific documents, but would need to look at individual documents to tell. Mr. Abdul-Quadir said that there was an English language Al Haramain website that had a newsletter. There were also other branch Al Haramain websites that were connected. Mr. Abdul-Quadir said he worked on articles that included a biography of the prophet Muhammed and also checking translations. Mr. Abdul-Quadir said that the website was at the same web address most of the time, and his recollection is that the English language site started first and then was followed by the Arabic site. Mr. Abdul-Quadir also said that there was another Al Haramain branch that had its own sites. Mr. Abdul-Quadir recalled that the Arabic and English websites were separate, but with links. Mr. Abdul-Quadir said that he did a lot of management of the English language website and much proofing and responding to emails. Mr. Abdul-Quadir said that Soliman Al Buthe was the supervisor of the English language site. Mr. Abdul-Quadir said that he does not believe that Mr. Al Buthe supervised the Arabic site.

Mr. Abdul-Quadir said, in relation to the reports of work the organization did in Albania, that those would be sent to the main office and he may well have been asked to do translation work on them. Mr. Abdul-Quadir said that he might recognize specific documents if he was shown them. Mr. Abdul-Quadir said that it's also possible that someone else would have done the translations, but he

may have checked the work.

Mr. Abdul-Quadir said that he has no doubt that the Chechnya fundraising was for humanitarian purposes, because the whole organization was involved in that work. Mr. Abdul-Quadir said that the work was about helping people in need.

Mr. Abdul-Quadir said that the accusations made against Al Haramain were very harmful to the organization, because the people there felt it was a significant blow. Mr. Abdul-Quadir said that there was a humanitarian push to go in and send truckloads of aid. Mr. Abdul-Quadir said that he saw many reports from the Al Haramain organization where they were explaining to the English-speaking world what was going on, and many reports regarding specific good work by Al Haramain. Mr. Abdul-Quadir said that he has a newsletter and we could perhaps look at previous newsletters for details.

Mr. Abdul-Quadir said that he came out to visit Al Haramain in Ashland, Oregon twice. Mr. Abdul-Quadir said that he worked quite closely with Soliman Al Buthe, who was his supervisor. Mr. Abdul-Quadir said that he was with Al Haramain until 2003 and then returned to the United States in 2007, although he did not work for Al Haramain after 2003.

Mr. Abdul-Quadir said that he remembers that the internal point of view of the Al Haramain main office in Saudi Arabia was quite outlandish about the problems being faced by the organization. Mr. Abdul-Quadir said that when it was obvious that the organization was going downhill, and he – who was a U.S. citizen – was very worried, the organization felt that the designation by the U.S. Treasury Department must have been about another Al Haramain somewhere else. Mr. Abdul-Quadir said that he was personally concerned, because of how broadly the definition of material support was being applied. Mr. Abdul-Quadir said that there was a lot of denial out there in the Al Haramain organization. Mr. Abdul-Quadir said that he remembers during that period doing a translation of a *New York Times* article for Aqueel Al Aqueel.

Mr. Abdul-Quadir said that he was aware that the Saudis seized all of the Al Haramain records, because he read that in the news reports. Mr. Abdul-Quadir said that believes that there were also legal cases in Saudi Arabia and it was a “big deal.”

Mr. Abdul-Quadir said that he never had any direct contact with the Qoqaz people and he just cut and pasted the information from the website. Mr. Abdul-Quadir said that there was also a time when the Qoqaz people had something objectionable on their site and he then sent them a letter objecting to it. Mr. Abdul-Quadir said that it was his recollection that it was something negative toward the kingdom of Saudi Arabia that they had posted.

Mr. Abdul-Quadir said that his recollection is that there was an bank account that was on the website that related to the United States office. Mr. Abdul-Quadir said that he did not talk to Pete Seda about that and he has no recollection of anything to do with the Egyptian donor.

Our telephone conversation was interrupted because Mr. Abdul-Quadir had to deal with a personal

matter, so I called him back ten minutes later and continued the conversation.

Mr. Abdul-Quadir said that he first met Pete Seda over the Internet, while Mr. Seda was having a telephone conference with Soliman Al Buthe. Mr. Abdul-Quadir recalled that the conference was about what Pete Seda was doing in Ashland and Pete sharing his ideas of what could be done. Mr. Abdul-Quadir said that the organization had a little Dawa tent and that they wanted to do presentations. The Ashland organization also sent books to prisons and dealt with correspondence.

Mr. Abdul-Quadir said that he personally hadn't met Pete Seda until he came out to Ashland to teach. When Mr. Abdul-Quadir did come out to Oregon, he found Pete Seda to be a very friendly person. Mr. Abdul-Quadir said that Pete Seda impressed him right away as a kind of person who would provide anything and would treat you like a long-lost brother. Mr. Abdul-Quadir said that Pete Seda was a very West-Coast person and quite effusive. Mr. Abdul-Quadir mentioned that Mr. Seda always had something going on and was very keen to do the work. Mr. Abdul-Quadir said that he cannot imagine that Pete Seda would do anything to jeopardize what he wanted to do.

Mr. Abdul-Quadir mentioned that another thing about of Mr. Seda was having very big ideas, one of which was the Medina project, which was to create an enclave where Muslims could live out in the West and build a city. Another idea that Mr. Abdul-Quadir recalled was when Pete wanted to go and give aid to the Palestinians. Mr. Abdul-Quadir said that this went so far as Pete going to Israel and trying to get to Palestine, but getting stopped. Mr. Abdul-Quadir said that there was also a film project, which Mr. Seda had put his own money and energy into. Mr. Abdul-Quadir said that the thing that impressed him about Pete Seda was that he put himself on the line to promote Islam and understanding between people.

Mr. Abdul-Quadir said that Pete Seda's thing was humanitarian relief and feeling for the plight of the Chechens. Mr. Abdul-Quadir said that Pete Seda was very sensitive like that and would do anything to help people in need.

As part of that, Mr. Abdul-Quadir recalled that Mr. Seda was a glass-half-full kind of person, who would look on the big side of things. Mr. Abdul-Quadir said that when he heard of Pete Seda's ideas about building an enclave for Muslims, he personally could not see how it could be done. Mr. Abdul-Quadir said that Pete Seda was not a naïve person, but rather a big-ideas man who knew how to talk to people and run his own business. Mr. Abdul-Quadir said that Pete Seda was a very optimistic person and, perhaps one could say, impractical.

Mr. Abdul-Quadir said that he recalled talking to Pete Seda about the requests he (Mr. Seda) made of the Al Haramain organization, and they discussed what Mr. Abdul-Quadir thought about the capabilities of the Al Haramain organization in Saudi Arabia. Mr. Abdul-Quadir said he remembered hearing discussions in Saudi Arabia about them liking the idea of the U.S. office, but Ashland was way out of the way of major urban centers. Mr. Abdul-Quadir said that Al Haramain KSA's capability was limited because they had to trust the person they were dealing with in the U.S., and the feeling in Saudi Arabia was that the Ashland office was accomplishing things. Mr. Abdul-Quadir said the gripe in KSA was that they chose to operate in an out-of-the-way place like Ashland. The

same criticism was also raised regarding the operation in Springfield, Missouri, Mr. Abdul-Quadir recalled.

Mr. Abdul-Quadir said that he recalled that Pete Seda was very sensitive to some of the translations of literature that the Ashland organization received from Al Haramain in Saudi Arabia and there were some that he disagreed with. Mr. Abdul-Quadir said that Pete Seda attempted to persuade Al Haramani KSA to make changes in response to those criticisms. Mr. Abdul-Quadir said that Pete Seda also wanted more support from Al Haramain KSA. Mr. Abdul-Quadir said Al Haramain KSA was very willing to hear Pete Seda's ideas, but they also wanted accountability.

Mr. Abdul-Quadir said that he remembered specifically that Pete Seda was very uncomfortable with the Mustafa Khan and Hillali (phonetic spelling) translation of the Koran, called the Noble Koran. Mr. Abdul-Quadir said that one edition of the Noble Koran had an appendix and a long treatise regarding Jihad. Mr. Abdul-Quadir said that some of those statements were tough and needed some preface, rather than just handing them out. Mr. Abdul-Quadir recalled Pete Seda pointing out to the Al Haramain organization in Saudi Arabia that it was not a good idea to send out Noble Korans with that appendix, because they were problematic.

Mr. Abdul-Quadir said that Pete Seda also worked on a well-received pamphlet, called "Islam Is." Mr. Abdul-Quadir said that Pete Seda worked for a long time on that and he also helped him with it. Mr. Abdul-Quadir said that Mr. Seda put a lot of painstaking detail into it. Mr. Abdul-Quadir said the pamphlet was Pete Seda's idea to get the message out to the average person.

Mr. Abdul-Quadir said that one of the reasons he went out to Ashland – actually the second time he went out to Ashland – was because of a concern to make sure that people were not going to extremes. Mr. Abdul-Quadir said that he is a "regular guy," so he spoke out about making sure that people were not behaving in an extreme manner to the group in Ashland. Mr. Abdul-Quadir said he believes that was in early 2001, or perhaps the summer of 2000. Mr. Abdul-Quadir said it was definitely pre- September 11, 2001. Mr. Abdul-Quadir said that there may be an audio recording of that presentation and he is sure that he has a copy of it, and perhaps it is also on the Internet.

Mr. Abdul-Quadir said that one of Pete Seda's coworkers wrote a memoir of his time in Ashland, and painted a distorted view of things. Mr. Abdul-Quadir said that the memoir by Daveed Gartenstein-Ross was untrue in places, and some things were a matter of perception. Mr. Abdul-Quadir said that he has not looked at the memoir for quite some time, but recalls that some of the things were just plain wrong, but from the way that Daveed Gartenstein-Ross told the story, there is no way that anyone outside the organization would know that. Mr. Abdul-Quadir said that the first example that springs to mind was in relation to a minor thing, when Gartenstein-Ross said that Mr. Abdul-Quadir studied in Berkeley, California, when in fact he studied at the Berklee College of Music.

Mr. Abdul-Quadir said that he does not recall having any conversations with Pete Seda about sending money to the Mujahideen. Mr. Abdul-Quadir said that he recalls that Pete Seda was solidly and adamantly against terrorism and wanted to explain to people the Muslim view of Jihad and

terrorism. Mr. Abdul-Quadir said that Pete Seda strongly denied the legitimacy of acts of terror and the killing of innocents. Mr. Abdul-Quadir said that he personally gets perturbed at having to defend the actions of others that he has nothing to do with.

Mr. Abdul-Quadir mentioned that he thinks that Pete Seda asked for an anti-terrorism Fatwah from the kingdom of Saudi Arabia. Mr. Abdul-Quadir said that he recalls translating an anti-terrorism Fatwah from a Mufti (from one of the scholars that Al Haramain would consult), that was put on the website. Mr. Abdul-Quadir said that he believes that the Fatwah was from Dr. Saleh Salan (phonetic). Mr. Abdul-Quadir said that those Fatwahs were on the Al Haramain website, saying that terrorism was unacceptable. Mr. Abdul-Quadir said that he recalls at the beginning that the Al Haramain organization was hesitant, because they were having a very hard time accepting that it could be Muslims doing such things.

Mr. Abdul-Quadir said that he remembers seeing 9/11 on television and watching those terrible images. At that time, Mr. Abdul-Quadir recalls talking to Abdul Aziz Al Shoumar, who was responsible for making sure that things were OK in the United States, and in saying that if Muslims were responsible for this, it is the stupidest thing ever.

Mr. Abdul-Quadir said that when Al Haramain made the appeal for Chechnya and set up an account for donors, it was for sheltering, feeding and clothing those who had lost homes as a result of the bombing in Grozny.

Mr. Abdul-Quadir said that Al Haramain had been involved in building schools and centers in Chechnya that had been destroyed, and a lot of work had gone into that. Mr. Abdul-Quadir said that he saw that Al Haramain was about humanitarian assistance. Mr. Abdul-Quadir said that he remembered that there were other organizations doing similar work, particularly in Bosnia, that had money unaccounted for, but Al Haramain was an honest and trustworthy organization that was about doing humanitarian aid work. Mr. Abdul-Quadir said if some of the money was used for other purposes, it was not part of what the organization wanted. Mr. Abdul-Quadir said that it was heartbreaking that the organization had to close, and the leader (Aqueel al Aqueel) probably now still does not accept it. Mr. Abdul-Quadir said that his view is that guilt-by-association is wrong; that the organization was a large one, and perhaps they could lose track of what was happening.

Mr. Abdul-Quadir said that he really was considering suing Daveed Gartenstein-Ross because of the perception that he created of Mr. Abdul-Quadir's association with Al Haramain. Mr. Abdul-Quadir said that he personally feels soured because of the labeling of people as radicals, and the lies in Gartenstein-Ross's book were so strong that it affected him personally. Mr. Abdul-Quadir said that some of the information was also published in the *Readers' Digest*, which was very upsetting. Mr. Abdul-Quadir said that he asked himself, "Who am I? Just a person who worked for a group that was accused."

I thanked Mr. Abdul-Quadir for the information and concluded the discussion.

INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: April 29, 2009
Re Witness: George Arnold



Reviewed with and adopted by witness on 07/06/10

As previously arranged, I contacted Mr. Arnold at his residence today. The following is a summary of our conversation.

Mr. Arnold told me that he met our client, whom he calls Pirouz, in approximately 1987. He explained that he and his family had befriended a student named Abraham Resowijayo, who attended the American Language Institute or the English Institute at Southern Oregon University in Ashland. Mr. Arnold was not entirely sure of the name of the school, but told me that it was a program under which foreign language students came to Ashland to learn English in preparation for attending college here in the United States. Mr. Arnold told me that Abraham met Pete through that program, and introduced Pete to the Arnolds.

Mr. Arnold told me that he believes it was some time later, probably 1991 or 1992, when Pete hired him as his accountant for Pete's business, The Arborist. Mr. Arnold believes that he continued as Pete's accountant from approximately 1990 - 1998. Mr. Arnold told me that he believes that it was approximately in the mid-90's when he assisted Pete in incorporating this business.

Mr. Arnold described Pete as a successful businessman. He told me that Pete is very outgoing and knows many people all over this area, and was able to tap into a large client base because of this. Mr. Arnold also told me that Pete is also very knowledgeable in the care and maintenance in trees and had a good reputation, which also helped his business.

As successful as Pete's business was, Mr. Arnold also told me that Pete was very disorganized as a record-keeper, and that he therefore really needed and relied on the services of Mr. Arnold as a CPA. Although Pete's wife, Laleh, did what she could to keep track of the records and help with the bookkeeping, Mr. Arnold told me that Pete did not use a trained bookkeeper. Mr. Arnold opined that the services of a bookkeeper would

have greatly improved Pete's record-keeping and made the accounting much easier.

Mr. Arnold told me that Pete's basic attitude was that he was the businessman, and took care of bringing in the business and generating the income, and Mr. Arnold was the accountant, and it was therefore his job to take care of the accounting and paperwork and make sure that the taxes were all properly filed and paid. Mr. Arnold told me that Pete was never looking to scam or short the government on taxes and expected Mr. Arnold to make sure that everything was done properly.

Mr. Arnold told me that Pete's bookkeeping style was essentially that he would save every receipt and bank statement, and every other business document, and then bring them to Mr. Arnold to sort out and make sense of. Mr. Arnold told me that on more than one occasion Pete did this on April 15, necessitating the filing of an extension with the IRS. "He definitely needed help. He is not a person who could keep track of the paperwork and file his own taxes. He needed an accountant and he recognized that."

Mr. Arnold told me that Pete had numerous employees working for him at The Arborist. He told me that Pete and his wife Laleh, ran the business and did the billing and hustled up more customers while others in the company that Pete had trained climbed and cared for the trees for the customers. Pete would then give to Mr. Arnold all of the receipts and paperwork, which Mr. Arnold described as "raw material," at which point Mr. Arnold would undertake the task of organizing and making sense out of it and preparing the tax return.

Mr. Arnold told me that he was aware, both through conversations with Pete and through discussions with other people in the area, that Pete was always very involved in peace activism and good works in the community of Ashland. Mr. Arnold told me that he and Pete discussed politics a few times, but also said that it was his belief that Pete's main focus was on his religion. Mr. Arnold told me that Pete was very concerned with, and very dedicated to, promoting Islam, and that Pete's interpretation of Islam was peaceful. "He told me that the Koran was subject to interpretation, and that some in the Muslim community chose to interpret parts of the Koran to be supportive of violence in the furtherance of Islam. He did not believe that to be true, and told me that the Koran is not supportive of this view."

Mr. Arnold told me that he was aware that Pete was providing copies of the Koran to prisoners throughout the United States. Mr. Arnold told me that his understanding was that someone else bought and/or provided the Korans to Pete and that Pete simply distributed them as part of his outreach and effort to promote his religion, so there was no business/tax implication for him to be concerned about.

INVESTIGATION REPORT

CASE: *United States v. Seda*
CR 05-60008 HO

ATTY: Steve Wax
Larry Matasar

INVEST: William Teesdale



WITNESS: Rob Brown

DATE: April 4, 2009

On the above date, by prior arrangement, I met with Rob Brown at the offices of the Federal Public Defender. Mr. Brown was aware of my identity from an earlier introductory discussion with him. I provided Mr. Brown with my business card.

Mr. Brown said that he has known Pete Seda since high school, the class of 1980. Mr. Brown said he converted to Islam in 1982. Mr. Brown said that he remembered Pete Seda giving talks at the high school as a guest speaker. Mostly, Mr. Brown remembers Pete Seda discussing the Iranian hostage crises from the Iranian point of view. Mr. Brown said that he also worked together on reforestation projects with Pete Seda and worked together and lived together with him as fellow outdoorsmen. Mr. Brown said that he has also hunted with Pete Seda, although not recently. Mr. Brown said that Pete Seda became an arborist and urban forester and worked with him on that also.

Mr. Brown said that Pete Seda was always religious and started the Quran Foundation in the 1990s. The idea behind the Quran Foundation was to advance Islam peacefully by handing out free Korans, which was a big selling point for Pete.

Mr. Brown said that when Al Haramain Islamic Foundation joined forces with Pete Seda, they were very against Pete Seda's distribution of Islamic material to U.S. prisoner program. Mr. Brown said that he remembered Saudi's visiting from the head office and they were resistant to the prisoner program because they looked down on prisoners. Mr. Brown said that Daveed Gartenstein-Ross said in his book that Al Haramain Saudi Arabia used the program to recruit prisoners, but the truth was that the Saudis were not interested in Pete sending any literature to the prisoners.

Mr. Brown said that he was not paid any money for his work with the Quran Foundation or Al Haramain in Ashland but he helped out as a volunteer and acted as the English editor. Mr. Brown said that he also worked for Pete Seda at his arborist

business and was paid for that, although he was paid in cash under the table. Mr. Brown said that his work for Al Haramain ranged from five hours a week to perhaps 20 hours a week at the high point. Mr. Brown said that Pete Seda was trying to educate people about Islam and also propagate Islam. Mr. Brown said they would send out mostly Korans and pamphlets which was all self-funded by Pete Seda.

Mr. Brown said that Pete Seda is an outdoors man, an honest and religious man who always presented a very moderate view of Islam and would say that terrorists are the enemies of Islam. Mr. Brown also heard Pete Seda talk about being very anti-Taliban and also anti-mujihadeen. Mr. Brown said that he never heard Pete Seda say anything about funding the mujihadeen.

Mr. Brown said that he knows that Safiyah Balobina is Pete Seda's ex-wife, although Mr. Brown never talked to her and has no idea regarding her views because of the separation in Islam between men and women.

Mr. Brown said that over the years at Al Haramain, he would have watched many videos, although he never saw any regarding Chechnya. Mr. Brown said that he did see a documentary regarding Afghanistan about what had happened there. Mr. Brown said that although he watched videos, no one was watching any video about anything radical as far as he knew. Mr. Brown said that everyone at Al Haramain Ashland was very moderate.

Mr. Brown said that he went on Haj in approximately March 1999 and spent two weeks in Saudi Arabia. During that trip, Mr. Brown said that he did not encounter any radical discussions. He did hear presentations by Al Haramain officials. Mr. Brown recalled one in particular where someone made a presentation about birds and the wings of hope and mercy.

Mr. Brown said that he has reviewed Daveed Gartenstein-Ross's book, "My Year Inside Radical Islam." Mr. Brown said that Gartenstein-Ross has compared him to Eeyore, which Mr. Brown felt was very unfair because he was nice and kind to Mr. Gartenstein-Ross. Mr. Brown said that when he took a leave of absence from Al Haramain, Gartenstein-Ross told him, "I will never forget how you told me to be hard on yourself and easy on others." Mr. Brown said that he remembers that Gartenstein-Ross said that with a tear in his eye and that they parted as friends. Mr. Brown said that he was stunned to read Gartenstein-Ross's attack on Pete Seda in his book and Mr. Brown believes that Gartenstein-Ross "stabbed Pete Seda in the back." Mr. Brown said that Gartenstein-Ross is either misguided or opportunistic and feels that Gartenstein-Ross took the opportunity to become a big guy with the government.

Mr. Brown said that he is personally moderate in his beliefs and that he does not recall anyone saying anything extreme to him during his time at Al Haramain. Mr. Brown said that there are documented lies in Gartenstein-Ross's book and that he painted the group as fanatics. Mr. Brown said that he attended Ashland High School

and has lived in the community there and that he does not think that anyone would say that he was radical or violent. Mr. Brown said that Gartenstein-Ross made statements that he (Brown) liked the Taliban. Mr. Brown said to the contrary that he is completely anti-Taliban and everything that they stand for. Mr. Brown said that he does not think it is Islamic to repress women or to place restrictions on beard length or that kind of thing. Mr. Brown repeated that he is anti-Taliban and as far as he knows, no one at Al Haramain Ashland was a radical.

Mr. Brown said that there was a great deal of community outreach and interfaith dialogue and that the group went to other churches particularly at Thanksgiving. Mr. Brown remembered doing readings from the Koran at those gatherings.

Mr. Brown said all of the fund-raising that he was involved in was for Islamic literature. Mr. Brown said that he was not involved in any other type of fund-raising.

Mr. Brown said that he did do bookkeeping for the Al Haramain organization but never met the accountant. Mr. Brown said that he left Al Haramain in August 1999. Mr. Brown said that he worked on the computer but does not remember what bookkeeping program they used. Mr. Brown said that he used MS Word for the newsletter and that his primary function was a secretarial one. Mr. Brown said that he also was involved in giving juma talks and quttba talks. Mr. Brown said that he would research the material and then often give the sermon. He said it was not very often that Pete Seda was the one giving the presentation. Mr. Brown said that Pete Seda usually took a backseat role. Mr. Brown said it was an honor for him to present sermons and it was just like Pete Seda to push others forward and have others get credit. Mr. Brown said that they also wanted to show that the organization was a U.S. organization and not just a foreign one.

Mr. Brown said that he met Soliman Al Buthe many times and found him to be quiet and dignified. Mr. Brown said that Al Buthe did not talk much to him and never heard anything extreme from him. Mr. Brown said that Mr. Al Buthe was the facilitator for the main office in Saudi Arabia and would check what was going on in Ashland. Mr. Al Buthe was a very athletic man and interested in soccer and playing basketball. Mr. Brown said that he personally did not hear any radical positions being taken by Al Haramain, either in Ashland or even in Mecca when he was on Haj.

Mr. Brown said that when he left Al Haramain in 1999, he did leave on bad terms. Mr. Brown said that he thought Mr. Seda was getting too big for his britches and was not treating him (Brown) right. Mr. Brown said that Pete Seda was becoming dictatorial although they patched it up later. Mr. Brown said that they went through a period of not talking probably for two years. Mr. Brown said that Pete Seda is still his friend. Mr. Brown said that he does not think that Pete Seda deserves what he has gone through and that his opinion is that Mr. Seda is an outstanding citizen and that the United States should be proud of him. Mr. Brown said that Pete Seda is a kind man trying to pursue peace through understanding and the presentation of the peaceable

nature of Islam. I thanked Mr. Brown for his assistance and concluded the interview.

WT/sls

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INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: April 30, 2009
Re Witness: Marla Cates



Reviewed with and adopted by witness on August 24, 2010

As previously arranged, I contacted Ms. Cates at her residence this evening. The following is a summary of our conversation.

Ms. Cates told me that she believes that she met Pete some time in the 1990s. She told me that after my contact with her last week she had given it a lot of thought but could not, at this time, provide a more specific time frame for us. She explained that someone from a typing firm, Florins Flying Fingers, had recommended her services as a consultant in public relations to Pete and Pete had then called her.

Ms. Cates described Pete as "a very passionate and intense guy." She explained that Pete told her about his religion and his belief and practice of it as a peaceful religion, and that he was very concerned that people were seeing Islam as terrorist-based. Ms. Cates explained that Pete wanted ideas from her as to how best promote Islam as a peaceful faith.

Ms. Cates told me that Pete was very interested in putting together an educational video regarding the peaceful nature of Islam. She explained to Pete that she is not a video-person, and said that they then discussed various ideas and ways that the information might be presented to the public in a favorable light.

Ms. Cates told me that she recalls having met with Pete on four or five occasions over a two to three year period. She recalls that one of these meetings occurred at a residence on South Siskiyou Blvd. south of Ashland. She recalls that this meeting was held in an office in the residence and that there were four or five other men present at the meeting. As with her other meetings with Pete, Ms. Cates told me that this meeting with Pete and the other men concerned ways to promote the peacefulness of their faith.


Ms. Cates told me that she recalls "how very concerned he was with the situation

in Chechnya. It really, really bothered him. He told me, 'people are dying there every day,' and he wanted to help them." Ms. Cates told me that Pete asked her to help him figure out how to get government approval for him to lead a convoy of trucks full of food and medicine and clothing and blankets to help the people being harmed by this war. Ms. Cates told me that it was very clear to her that Pete's concern was sincere, and that the people he wanted to help were the refugees.

Ms. Cates told me that she believes Pete to be very intelligent and said that he is, "an idea guy." She told me that he was always coming up with new ideas and projects and discussing those with her. She told me that his concern and worry for the people in Chechnya did not strike her as being simply another project that he wanted to get involved in. She recalls him telling her that he understood the danger that would be involved in taking these supplies that they were talking about to Chechnya, and his telling her that if getting those supplies to the people that needed them meant that he had to give up his life to do it, he would be willing to do that.

INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: July 20, 2010
Re Witness: Sharon Cummings



I contacted Mrs. Cummings at her residence telephonically this morning. The following is a summary of our conversation.

Mrs. Cummings told me that she recalls having met and gotten to know Pete Seda when she and her former husband, Rob Brown, began worshipping with Pete and others in the small group of Muslims in this area some time in the early to mid 1990s. Mrs. Cummings told me that although she and Rob Brown have since divorced and that she is now remarried and living in Wisconsin, she remains in contact with Rob Brown and was aware of this case through him.

Regarding Pete, Mrs. Cummings told me that she would describe his personal, religious, and business views as being on the "conservative" side. She explained that what she means by that was that he was a serious student of his religion, always made time for his daily prayers, and remained focused on his faith. She told me that while Pete is, in her view, conservative, she would not describe him as being a fundamentalist. In contrast, Mrs. Cummings told me that "Raya's husband, Sheik Hassan, was more of a fundamentalist." Mrs. Cummings further described Pete as "a big thinker." She told me that as long as she has known him, he was always "driven to help people. I only ever saw the Pete that lived every day as a peaceful businessman and community leader and business leader. What you see is what you get with him. There isn't any hidden agenda, I don't think."

Mrs. Cummings told me that she has vague memories of having been on the Sisters e-mail list and receiving e-mails from various participants on the list. She explained that it would be difficult for her to comment on and/or recall specific subjects from that time without at least seeing the e-mails, and possibly not even then. She further explained that her main focus during the mid to late 90s and through the early part of the current decade was raising her children. She told me that she and Rob's children were born in 1997, 2000, and 2002.

Mrs. Cummings told me that as a group, the focus of the Sisters was to learn more about Islam. "Some of it was just us getting together, you know, bonding. But we would also get together to plan holiday activities, organizing things like the meals, or like if someone had a baby we would get together and plan for the celebration and try to figure out what the family might need that we could help provide."

Mrs. Cummings told me that she has very vague recollections regarding the Sisters being involved in fund-raising efforts to try to help the Chechnyan refugees. "These were people that were really hurting. Their homes and their entire way of life had been turned upside down by that war, and this was a legitimate effort to try to help them." Mrs. Cummings told me that although she does have a vague memory of the Sisters being involved in this fund-raising effort, she does not believe that she herself really took part in that effort. She explained that she and her husband had absolutely no extra money during that time frame, and that any money they had went towards raising their children. "So I really couldn't help then, but I remember that they were raising money. I think Raya was selling some jewelry or something, and I'm not sure what other people were doing."

Mrs. Cummings told me that she remembers Safiyah as being a very nice and quiet person, "not at all outspoken." Mrs. Cummings described Raya as being "pretty conservative, a fundamentalist like her husband, Sheik Hassan." Mrs. Cummings told me that she is unaware of what fund-raising efforts and other possible support Raya and/or Safiyah may have engaged in on behalf of the Chechnyan people, but also said that of the various Sisters, Raya and Safiyah spent the most time together.

Mrs. Cummings told me that she is a good typist and also has good computer skills and an administrative background. She told me that when she had the time, she would help out at the Masjid in whatever way she could. "When I had time, I helped Pete in sending materials out, just as a volunteer there." She told me that she recalls helping to mail Korans to prisoners as well as doing other small typing and/or office tasks at Al Haramain. Mrs. Cummings told me that she recalls that the Korans that they were sending to the prisoners were the Noble Koran and having been told that those were provided to Pete by the Al Haramain organization in Saudi Arabia. She told me that she did not read the appended text at the back of the Korans, and was unaware of what has been referred to as the call to jihad included in the back of the Noble Korans.

JL

INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: June 30, 2009
Re Witness: Ernest Ettlich



Reviewed with and adopted by witness on 07/06/10

As previously arranged, I contacted Dr. Ettlich at his residence today. The following is a summary of our conversation.

Dr. Ettlich told me that he moved to Ashland and began his career at Southern Oregon University in 1978. He told me that he believes he may well have met Pete Seda, who was a student at the university at that time, during his first or second year at the college. Dr. Ettlich recalls Pete as being "a rebellious young man, like many young men" when he first became aware of Pete on campus, and also someone who Dr. Ettlich has enjoyed observing as he matured "into someone who saw a real value in community and the responsibilities of community."

Dr. Ettlich told me that during the late 1990s and early part of the following decade he taught a class at Southern Oregon University called Religion and the Human Experience. He explained that in this class, the focus was primarily on Judaism, Christianity, Hinduism, Buddhism, and Islam, and that as part of the class he shared instruction with a "community adherent" of each religion. Dr. Ettlich told me that for a couple of terms each year over a three to four year period, Pete was the "community adherent of Islam" who assisted him in teaching his class.

Dr. Ettlich told me that in teaching the class, Pete would speak to each class for approximately an hour to an hour and a half regarding his view and understanding of Islam. Of this, Dr. Ettlich stated "It was a little bit shocking to me because he was so strongly oriented to Islam as being an agent of peace, because he had been so rebellious when he was a young man. Other than among the more scholarly, this is not always the case." Dr. Ettlich explained that as with any religion, there are many followers of Islam as there are many followers of Christianity and Judaism, etc. He further explained that, generally speaking, unless one has taken the time to truly study and understand the tenants

of a particular faith, it is rather easy and human to be caught up in a superficial practice of the faith which generally begins with the premise of "my way is better than your way" and leads to less peace and more aggression.

Dr. Ettlich told me that aside from his work with Pete in teaching these classes, he also had numerous private conversations with Pete, attended some of the local interfaith gatherings at which Pete spoke, and was also present as a guest at several group presentations regarding Islam which were held at Al Haramain wherein Pete spoke and presented his views of Islam as being a peaceful faith. "I did not, and have never seen, any signs that Pete was anything but absolutely sincere, and I just don't believe that I am terribly naive. One can hardly remain naive after 30 years of management in dealing with college faculty. No, Pete's gentleness and peacefulness were always consistent."

INVESTIGATION REPORT

CASE: United States v. Pirouz Sedaghaty
CR 05-60008-HO

ATTORNEY: Steven T. Wax

INVESTIGATOR: Joe Lee



WITNESS: Mary Foster

DATE: December 16, 2008

Reviewed with and adopted by witness on 07/07/10

Investigator Debbie Hill and I contacted Abdi Guled at his residence in Ashland, Oregon. Although I had previously met Mr. Guled and we had a previously-arranged appointment for this contact, I reintroduced myself and introduced Investigator Hill to Mr. Guled, and we each provided him with a business card. Mr. Guled was very welcoming and invited us into his residence.

After directing us to chairs in his living room, Mr. Guled pulled another chair over in front of us, commenting with a smile, "This is where I will sit for my interrogation." I assured Mr. Guled that we were not here with any intention of interrogating him, but simply wished to gain his cooperation in answering some questions important in seeking the truth in this case. Mr. Guled assured us that he understood.

We then discussed with Mr. Guled the general sense of fear in the local Muslim community engendered by the fact that government agents have contacted, interviewed, and/or scrutinized virtually every member of the local Muslim community since September 11, 2001. Mr. Guled told us that he, like everyone else in the Muslim community, remains somewhat frightened to be in any way involved in this case and anxious for this all to be over. "I just told them the truth. Now I will tell you the truth. I just hope that soon the truth will be decided, and if anyone did anything wrong they can just say what that is and we can all go on with our lives."

A woman then joined us in the living room, having come from another room in the residence. Mr. Guled introduced this woman as, "My wife, Mary." I stood up to introduce myself and Investigator Hill, and Mary introduced herself to me as Mary Foster. The following is a summary of the rest of our conversation with Ms. Foster.

Ms. Foster told us that, prior to the purchase of the Al -Haramain property, at some point Pete Seda invited the group of believers she and Mr. Guled meet and pray with to meet at his residence when he lived on East Main, down the road from she and Abdi's current residence. Ms. Foster also

told us that at some point after this, Pete moved to a residence off of Culver Road, and again the group was invited to and did conduct their prayer meetings there.

As did her husband, Ms. Foster described Pete Seda as a peaceful man and denied that she ever heard him or heard of him embracing violence or Jihad or in any way championing those causes. Said Ms. Foster, "Pete has an arrogance about him, and he always has these big ideas. He has an ego, you know, he's just so full of himself. And while I can see him allowing himself to get caught up in something that he doesn't fully understand, he would never, ever involve himself in violence or terrorism in any way. I would stake my life on that. Wouldn't you agree, Abdi?" Mr. Guled agreed with this statement.

Ms. Foster told us that she believes it was in approximately 1998 or 1999 that Soliman Al-Buthe came into the picture. Ms. Foster explained that with their group always in need of a place to meet, Pete Seda was actively seeking real estate and exploring possibilities on the internet to meet that need. Ms. Foster assumes that this is how the connection between Soliman and Pete was made.

Ms. Foster told us that Pete was the primary caretaker of the Al-Haramain property and worked very hard to improve and maintain it. Ms. Foster added at this point, "And to his credit and fortunately for everyone else, I guess, Pete kept the books and all the financial dealings with al-Haramain and taking care of the property to himself. So no one else is now in trouble."

Ms. Foster told us that Al-Haramain developed into a place where local schools would have field trips and conduct special events. Pete purchased a camel and made it a pet for the enjoyment of the children and the general public. Some of the special events conducted were called "Arabian Nights" which Ms. Foster described as a cultural exchange to give people a chance to experience mid-Eastern culture. She said, "I even took my parents there; middle-class Republicans completely out of their realm. It was great."

Ms. Foster told us that at Al-Haramain there was no specific leader for the group that met and prayed. Ms. Foster also explained that at times there were visitors sent by the Al-Haramain organization who would come somewhat like missionaries to teach and to pray with the group. Ms. Foster explained that most of these visitors were more versed in the Koran and perhaps better suited to teaching them than the regular members in their core group. Ms. Foster commented that some of these visiting teachers followed "a much more strict, fundamentalist view of Islam than we do."

Ms. Foster told us that the core group consisted of approximately 25 +/- people. She described these people as being from all different backgrounds: college students, professionals, and various people from throughout the community. She also explained that at times they were joined by people who were simply traveling through the area and had possibly heard of Al-Haramain and stopped to see what it was all about.

Ms. Foster, who is now retired from her job with Jackson County ESD, told us that she was contacted by FBI Agent Dave Carroll and a female agent from the IRS at her classroom in 2004. She explained that she was told by Agent Carroll that they came to her after having read an e-mail that

had been sent to her by a woman from Yreka, California.

Ms. Foster told us that in the e-mail referred to by Agent Carroll, the woman writing to her had been talking about Chechnya and rallying support for the rebels there. Ms. Foster told us that she asked Agent Carroll and the IRS agent if they had bothered to read her response to this woman in which she told the woman that she was against all forms of war, and was uninterested in being involved in the activities the woman was writing about, and uninterested in further correspondence with the woman on these subjects.

Ms. Foster told us that she found the conversation with Agent Carroll and the IRS agent "intimidating". "I mean, the FBI is bad enough, but it's really scary to have the IRS coming after you. There was all this secrecy. He said things like, 'if you knew the things that I know,' which of course I didn't. And at one point he told me that he could take me to a website on the internet and show me a beheading. And I said, 'Why would I want to see that?' It was all just really intimidating."

Ms. Foster told us that she and Mr. Guled both experienced difficulty in traveling after 9/11. She explained that Mr. Guled had been held at an airport for 5 hours when he was on his way to Canada to play basketball at one point. Ms. Foster told us that while returning from a family wedding in Mexico, all of their belongings were searched to the extent that the authorities were even reading all of her personal diaries that she had with her.

In indicating her belief that agreeing to speak with the agents truthfully was in their best interest, Ms. Foster credits Dave Carroll with having ultimately assisted them in straightening out their travel difficulties by removing their names from any watch lists. "He did that much for us."

Ms. Foster told us that she and Mr. Guled and most, if not all, members who regularly prayed at Al-Haramain became aware at some point after 9/11 that there was a surveillance camera in the bushes by the road that recorded all of the vehicles and visitors to Al-Haramain. Ms. Foster told us that she believes it was Pete Seda's young son who first found the camera while he was playing at the bottom of the hill. Ms. Foster told us that she believes that the boy was approximately 8 - 10 years old at the time. Ms. Foster commented, "If you subpoena those surveillance tapes you'll see that everyone from the Mayor of Ashland to school officials and school groups and just everyone from the community was visiting Al-Haramain. It was a good place."

Ms. Foster was unable to provide us with a sense of exactly how long the surveillance camera might have been in place. She, like Mr. Guled, never noticed any other signs of active surveillance such as government cars or people watching Al-Haramain from a distance.


Ms. Foster told us that Pete commented on occasion that he believed he was being followed at various times. She recalled that he specifically thought that someone was following him at his mother's funeral. Ms. Foster told us that when his camel sickened and died, Pete believed that someone had poisoned it. Ms. Foster told us that it was not very long after this incident that Pete left the country.

Ms. Foster told us that she believed that when Pete left the country he was leaving on a vacation. Like Mr. Guled, her expectation was that he would be gone for three or four months and would then return. They both expressed a certain sense of betrayal in the fact that Pete did not return when he said he would.

Ms. Foster told us that after Pete left the country, no one went back to Al-Haramain for prayers. "We have a place in Phoenix now."

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INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator 
Date: December 16, 2008
Re Witness: Abdiaziz "Abdi" Guled

Reviewed with and adopted by witness on 07/07/10

Investigator Debbie Hill and I contacted Abdi Guled at his residence in Ashland, Oregon. Although I had previously met Mr. Guled and we had a previously-arranged appointment for this contact, I reintroduced myself and introduced Investigator Hill to Mr. Guled, and we each provided him with a business card. Mr. Guled was very welcoming and invited us into his residence.

After directing us to chairs in his living room, Mr. Guled pulled another chair over in front of us, commenting with a smile, "This is where I will sit for my interrogation." I assured Mr. Guled that we were not here with any intention of interrogating him, but simply wished to gain his cooperation in answering some questions important in seeking the truth in this case. Mr. Guled assured us that he understood.

We then discussed the general sense of fear in the local Muslim community engendered by the fact that government agents have contacted, interviewed, and/or scrutinized virtually every member of the local Muslim community since September 11, 2001. Mr. Guled told us that he, like everyone else in the Muslim community, remains somewhat frightened to be in any way involved in this case and anxious for this all to be over. "I just told them the truth. Now I will tell you the truth. I just hope that soon the truth will be decided, and if anyone did anything wrong they can just say what that is and we can all go on with our lives."

A woman then joined us in the living room, having come from another room in the residence. Mr. Guled introduced this woman as, "My wife, Mary." I stood up to introduce myself and Investigator Hill, and Mary introduced herself to me as Mary Foster. The following is a summary of the rest of our conversation with Mr. Guled.

Mr. Guled told us that he came to this country in 1987 to attend college at Southern Oregon University, where he also played on the basketball team. He told us that he and a small group of Muslim students and locals began getting together for Friday prayers on a somewhat regular basis and that initially, the college allowed them to do this at Stevenson Student Union. As the group got bigger and needed more space in which to meet, Mr. Guled told us that the college provided them with a trailer on campus in which they could meet and conduct Friday prayer service.

Mr. Guled told us that this was not really an organized group and that there was no specific leader, just like-minded people getting together to worship and fellowship. He explained that there was no one involved in the group that was in charge, and that the way that it worked was more along the lines of one week a person, himself for instance, would say, "Let's talk and study about good deeds this week", and then that's what they would do.

Mr. Guled told us that he met Pete Seda in approximately 1989 or 1990. Mr. Guled explained that Pete began coming to their meetings and prayers and was very well respected and received within their group as well as within the community of Ashland.

Mr. Guled told us that as their group grew in size, it became more and more difficult to find a place where they could meet for their Friday prayers. Not being able to afford much in the way of rent, the meetings moved around from house to house for some period of time. Mr. Guled stated, "Then the war happened and things trickled down and it became even more difficult to find places to meet."

Mr. Guled told us that at some point Pete Seda invited the group to meet at his residence when he lived on East Main down the road from their current residence. Mr. Guled also told us that at some point after this, Pete moved to a residence off of Culver Road, (Wagner Creek?), and possibly on Valley View and again the group was invited to and did conduct their prayer meetings there.

Mr. Guled described Pete Seda as a peaceful man and denied that he ever heard or heard of Pete embracing violence or Jihad or in any way championing those causes. As was Ms. Foster, Mr. Guled was firm in expression of his belief that Pete is "a guy with a good heart, he's a good man."

Mr. Guled recalled that it was in approximately 1998 or 1999 that Soliman Al-Buthe came into the picture. After meeting Soliman and getting the financing Mr. Guled believes came from the Al-Haramain charity, the property locally known as Al-Haramain on the south end of Ashland was purchased and their group's prayer meetings were moved to that property.

Mr. Guled told us that when the Al-Haramain property was first purchased, Pete was still living in the residence off of Valley View. He told us that at some point, Pete sold the residence he was living in and moved from that residence and into the downstairs portion of the residence at Al-Haramain. The upstairs was used for prayers and meetings. Mr. Guled told us that Pete was the primary caretaker of the Al-Haramain property and worked very hard to improve and maintain it.

Mr. Guled told us that at Al-Haramain, as before, there was no specific leader for the group that met there for prayers and fellowship. He explained that the Al Haramain organization would from time to time send teachers to lead them. Unlike Ms. Foster, Mr. Guled took the position that while these teachers may have held more strict fundamentalist Islamic views, "I

can't really say. I didn't know them. They were here for a short time and I cannot say that I know them so I cannot say what is in their heart."

Mr. Guled told us that the core group that regularly gathered for Friday prayers consisted of approximately 25 +/- people. He explained that the members changed over the years, as people moved away, etc., but that the numbers are approximately the same.

I asked Mr. Guled to describe for me the contact and questions by the FBI. Mr. Guled said, "Listen. They are the government, and you are the government. They had questions and I answered them truthfully. And you have questions and I am answering them truthfully. I don't want to get into what they asked me or what you ask me. If you ask questions I will answer them truthfully." I did not press Mr. Guled on this point.

Mr. Guled told us that his contact with Agent Carroll and the FBI came in 2005. Mr. Guled told us that he agreed to speak with the agents because he did not want any trouble and everyone in the Muslim community was painted with a terrorist brush. They were trying to clear their name. Mr. Guled said, "You don't know where you're being hit. You don't know where the questions are coming from, and what they think they know. You just try to answer the questions truthfully and hope for the best in that situation, and that's what I did."

Mr. Guled told us that he and Mary and most, if not all members who regularly prayed at Al-Haramain became aware at some point after 9/11 that there was a surveillance camera in the bushes by the road that recorded all of the vehicles and visitors to Al-Haramain. When asked if he had ever asked a friend from the Ashland Police Department to come look at the surveillance camera, Mr. Guled replied "That never happened." He also told us that he does not know if anyone from the Ashland Police Department or any other agency ever came to look at the camera. "You should be able to find those things out by going to the police department or other agencies. You should ask them."

Mr. Guled could not provide us with a sense of exactly how long the camera might have been in place. He never noticed any other signs of active surveillance such as government cars or people watching Al-Haramain from a distance.

Mr. Guled indicated to us that after Pete left the country, no one went back to Al-Haramain for prayers. "We had to find other places." He explained that for approximately the last year or year and one-half they have been meeting in a place in Phoenix for their Friday prayers.

I explained to Mr. Guled that Investigator Hill and I are not the main investigators on this case and that we therefore are unable to answer his questions as to when this case will be over "so everyone's life can go back to normal." I told Mr. Guled that Jim Strupp and William Teesdale are the main investigators and that they may, after receiving my reports, have further questions for Mr. Guled and/or his wife. Mr. Guled was understanding and said that it would be fine for Mr. Strupp and Mr. Teesdale to contact him if necessary.

INVESTIGATION REPORT

CASE: *United States v. Seda*
CR 05-60008 HO

ATTY: Steve Wax
Larry Matasar

INVEST: William Teesdale



WITNESS: David Hafer

DATE: April 4, 2009

On the above date, by prior arrangement, I met with David Hafer at the offices of the Federal Public Defender's office. Mr. Hafer was previously aware of our representation of Mr. Seda. I provided Mr. Hafer with my business card.

Mr. Hafer said that he is a United States citizen from Lakewood, California. Mr. Hafer told me that he currently is involved in painting residential houses as his occupation and has no criminal record.

Mr. Hafer told me that he met Pete Seda in about 1997 after he had previously met Rob Brown. Mr. Hafer, at about that time, had been working painting but because of weather issues, he had been working for a vacuum cleaning company called Tri Star Systems. While he was working for the vacuum cleaning company, he met Rob Brown and his wife, who was wearing the hijab. Mr. Hafer said that he had lots of questions of Rob Brown about his faith and Mr. Brown lent him a personal Koran that Mr. Brown had received as a gift. Mr. Hafer said that he felt that was very generous for Mr. Brown to do that. He also found that Rob Brown was an avid horseman as was Mr. Hafer.

Mr. Hafer told me that he had moved up to Oregon from California and in doing so had hiked up the Pacific Coast Trail. When Mr. Hafer reached Immigrant Lake, Mr. Hafer called his sister who had mailed supplies on ahead. Mr. Hafer said that it turned out that some of the supplies, including tent, sleeping bag and other things, had been stolen, which Mr. Hafer took as a sign that he was suppose to stay.

As a result, he met Rob Brown and later David Rodgers. Mr. Hafer said that Rodgers and Brown invited him to attend the masjid (house of prayer) on Siskiyou Blvd. Mr. Hafer said that that was the time at which they had just purchased the house but the prayers were still taking place at Mr. Seda's house, which was on Crowson Road. Mr. Hafer said that he believes he met Rob Brown in approximately September 1997.

Mr. Hafer said there was lots of work to be done and in late 1997, early 1998, he was involved in doing painting and decorating and acted as the caretaker for the masjid. Mr. Hafer said that he lived at the masjid and that it was a volunteer position. Mr. Hafer said that he always acted as a volunteer in exchange for having a place to stay and food to eat.

Mr. Hafer said that there were two separate things going on, one of which involved the Quran Foundation, which was a non-profit foundation run by Mr. Seda and there was also the Al Haramain building where Mr. Hafer acted as caretaker. Mr. Hafer recalled that within about four months, he met Soliman Al Buthe, who had come over from Saudi Arabia. Mr. Hafer said that Al Haramain and the Quran Foundation corroborated, with Al Haramain providing Islamic literature and the Quran Foundation mailing out the literature to those who requested it.

Mr. Hafer said that each piece of Islamic literature had a number and the organization kept a data base to make sure they did not duplicate sending out the same things. Mr. Hafer said the majority of people requesting literature were probably 60-65% U.S. prisoners and the others, the remaining 25-30%, were letters from all over the world. Mr. Hafer said that everything was sent out book rate. Mr. Hafer said that he calculated he was spending 200 hours a month sending out literature. Mr. Hafer said that some things that were sent out by the Koran Foundation were sent back by the prison system because they felt some things were inappropriate. Mr. Hafer told me that someone from California, he believes a chaplain in the prison system, came out to Al Haramain and reviewed everything and said that it was okay. Mr. Hafer said that to his knowledge, there were no complaints or problems until he read Mr. Gartenstein-Ross's book to do with footnotes in some of the Korans regarding jihad. Mr. Hafer said that he thinks that the criticism related to the pocket sized Nobel Koran.

Mr. Hafer said that the literature was coming from the Ashland prayer house, where there was a garage full of books that the organization received from the Kingdom of Saudi Arabia. Mr. Hafer recalled going to Chicago and taking lots of literature with him. The conference was an Islamic conference that Mr. Hafer remembers was very mainstream. Mr. Hafer said that all of the Islamic literature that he sent out, he had read prior to sending. Mr. Hafer said he was curious and thirsty for knowledge about Islam. Mr. Hafer said he was also frustrated that it was always the Nation of Islam or radicalism in the news regarding Muslims. Mr. Hafer said that there was nothing that he encountered during his work for Al Haramain that he would consider extreme positions and no one advocated any violence. Mr. Hafer also noted that in relation to the Chechnya issue, the U.S. government backed the mujahadeen fighting the Soviets.

Mr. Hafer told me that his concept of Islam is that it was and is a religion of peace. Mr. Hafer said that "jihad" means struggle and his interpretation of that struggle is that 1) if someone is exploited or wrong, Mr. Hafer's duty is to hate that person with his heart; 2) that it is his duty to speak out against that wrong and the truth should win over falsehood; and 3) to change the wrong if possible, although not by arms struggle

or resistance. Mr. Hafer repeated that the literature that they sent out was non-violent and the majority was self-help literature; for example, the "Good Muslim."

Mr. Hafer said that the people he worked with at Al Haramain were always welcoming an open dialogue about Islam. Mr. Hafer recalled having discussions with Pete Seda, Dawood Rogers, and Abdul Aziz about the Koran or Sunna and they would review the Hadith. Mr. Hafer said there was never a point where he had to accept someone's word or opinion if he disagreed with it.

Mr. Hafer told me that his parents were missionaries for the Church of Nazarene and were of the fire and brimstone type. Mr. Hafer said his parents used the bible completely out of context. Mr. Hafer said that in contrast, when he learned about Islam, the whole text was in context and all questions were answered. Mr. Hafer said at no time was anyone discussing the Koran pro-violent. Mr. Hafer said that Pete Seda was always adamant that violent people were not Muslims.

Mr. Hafer said when he first became involved with Al Haramain, Abdi Aziz was the imam, but Mr. Aziz would not fully take charge. Mr. Hafer said there were a number of people who would present the Friday sermon (qhuttba). Mr. Hafer said that Pete Seda, Dawood Rogers, and David Gartenstein-Ross did also. Mr. Hafer said that they would recite Suras and talk about what was happening in Algeria, Yemen, or Palestine. Mr. Hafer said that he left Al Haramain after David Gartenstein-Ross had been there approximately six months. Mr. Hafer said that he went on Haj (pilgrimage) to Mecca, Kingdom of Saudi Arabia, in 1998 or perhaps 1999.

Mr. Hafer said that he was aware at the time that the United States State Department recognized Chechnya as an autonomous zone. Mr. Hafer remembered having discussions about the casualties on the Chechen side and there being a whole mix of information about what was going on. Mr. Hafer said that his recollection is that that was prior to the problems in Kosovo. Mr. Hafer said that he does not have any recollection of looking at the qoqaz website. Mr. Hafer said that one of his favorites was Idris Palmer's website. Mr. Hafer also said he had no recollection of the Sheeshan group.

Mr. Hafer said that they would see people from all over the world, including Afghanistan, Somali, Ethiopia, and Pete Seda never said anything about supporting the mujahadeen. Mr. Hafer recalled that they did discuss scholars' opinions from Egypt and the Kingdom of Saudi Arabia. Mr. Hafer recalled that the majority of the learned scholars did not consider Kosovans, Chechnyans, or Albanians as mujahadeen because, in their opinion, the Chechen cause was not a true mujahadeen cause because they were fighting for statehood, not for Islamic freedom.

Mr. Hafer said that he had no recall of Safiyah Radmilla Balobina. Mr. Hafer said that Pete Seda was married but that he never met Pete's wife and never spoke to his wife, although Mr. Hafer thought he might have possibly spoken to her on the

telephone. Mr. Hafer said that at the prayer house, the women had the bottom floor and the men had the top floor.

Mr. Hafer told me that he thought David Gartenstein-Ross was very full of himself, yet his knowledge was quite limited. Mr. Hafer found Gartenstein-Ross long on rhetoric but short on substance and his Islamic knowledge very basic. Mr. Hafer told me that he has read Gartenstein-Ross's book "My Year Inside Radical Islam." Mr. Hafer said that Gartenstein-Ross was there approximately 8 months and not a year and that Mr. Hafer disagrees with just about everything Gartenstein-Ross wrote in the book. Mr. Hafer said that the book was both opportunistic and disrespectful. Mr. Hafer mentioned Gartenstein-Ross referring to Sheik Adlee with a reference to "what's shaking sheiky." Mr. Hafer said that, in his opinion, Sheik Adlee was a very knowledgeable and great man and should have been shown due respect.

Mr. Hafer said that he personally saw no radicalism while he was at Al Haramain. Mr. Hafer remembered books coming in in two or three shipments through USF Reddaway. Mr. Hafer remembers Gartenstein-Ross taking over that work with the books and that he (Hafer) resented Gartenstein-Ross interjecting himself when Gartenstein-Ross would only do an 80% job. Mr. Hafer said that Gartenstein-Ross lost half of Hafer's database and Gartenstein-Ross said a lot of derogatory things that were not true. Mr. Hafer said that he cared for Gartenstein-Ross's girlfriend even less and eventually Gartenstein-Ross married her. Mr. Hafer said that the girlfriend went around with a nasty scowl on her face. Mr. Hafer said that he was never paid a salary when he worked at Al Haramain and that he was there about 2-3 years, perhaps nearly 3, and then came back for another 3 or 4 months after David Gartenstein-Ross left.

Mr. Hafer said that he always got along with Pete Seda and that he warned Mr. Seda about Gartenstein-Ross. Mr. Hafer thinks that Mr. Seda was a bit star-struck over Gartenstein-Ross because he had a degree. Mr. Hafer said that Gartenstein-Ross made it up, that the Al Haramain people were radical. Mr. Hafer does recall talking with Gartenstein-Ross about Afghanistan and discussing the fact that the leadership of the Taliban were originally mujahadeen. Mr. Hafer recalls Gartenstein-Ross arguing and saying that none of the Taliban leadership were mujahadeen and likened it to the difference between the IRA and Sinn Fein, the separate political wing.

Mr. Hafer said that he did recall watching one video that was 12 or 13 minutes long regarding Chechnya, but that the video was "cheesy." Mr. Hafer said the video showed the leader in Chechnya and a bunch of people two-stepping with some narrative. The video touted how the Chechens had defeated the Soviets. Mr. Hafer said he did not know where the video came from and that he recalled perhaps six people, including Pete Seda, David Rodgers, and Rob Brown watching the video, which was shown by Mr. Seda. Mr. Hafer said that the gist of the conversation was about how ridiculous the people two-stepping looked, and that they were wearing these big, fuzzy hats. Mr. Hafer said he recalled that the video was after the first war in Chechnya and discussed how they won. Mr. Hafer again said that the U.S. State Dept. recognized

Chechnya. Mr. Hafer also mentioned that the cheesy documentary about Chechnya also showed a victory parade. Mr. Hafer said the video was not a mujahadeen video.

Mr. Hafer also recalled watching Christian Amanpour and her CNN reports regarding Algeria. Mr. Hafer said that there was an observed election and after that a military coup supported by the French. Mr. Hafer said that they would watch many mainstream news groups about things going on that affected Muslim populations around the world, but there was no rah rah rah about jihad. Mr. Hafer said that it was discussion and information gathering about what was happening in the world.

Mr. Hafer said that the Al Haramain people also went to mosques, churches, and synagogues and took Mandoub, the camel, in order to do multi-cultural events. Mr. Hafer said that their goal was "peace through understanding" and that they would go to all kinds of other events, including Greek Orthodox and Jewish activities. Mr. Hafer said that before the Al Haramain organization came along, the Koran Foundation was a shoe string organization, so when Soliman Al Buthe came with all of the funds, it was a godsend.

Mr. Hafer said that Pete Seda and Soliman Al Buthe got on well. Mr. Hafer found Al Buthe soft spoken, but very direct and was a good person. Mr. Hafer recalls Mr. Al Buthe saying that his goal was "dua" which was talking to people.

Mr. Hafer said that the only conflict he ever witnessed was witnessed after the Saudi money came in and was over a book that discussed the difference between Shia and Islam. Mr. Hafer said that the Salafi viewpoint is that Shism is a perversion of the true faith. Mr. Hafer mentioned that the majority of Saudis are Sunni and many of them are Salaafists. Mr. Hafer mentioned that when he went on haj, he was encouraged by Soliman Al Buthe to talk to Shia Muslims that he encountered.

Mr. Hafer said that in Ashland, the number of Muslims praying together was generally 20-25 and 4-6 of them would be Sufi or Shia. Mr. Hafer said the majority were Sunni, but there was no animosity between Sunni and Shia and that Mr. Seda's brother, Bijan, is a Shia Muslim.

Mr. Hafer said that he was always told by Mr. Seda and Soliman Al Buthe to correct people very gently. Mr. Hafer said that Pete Seda was 100% adamantly non-violent and said many times to Mr. Hafer that people who commit acts of terrorism are not true Muslims.

Mr. Hafer also recalled coming across Sheik Hassan, another Sheik who was married to an Iranian woman. Sheik Hassan gave a couple of talks on Hidra (migration) at the prayer house. Mr. Hafer remembered Sheik Hassan encouraging U.S. citizens to immerse themselves in Muslim culture and then come back so they could get a truer sense of Islam.

Mr. Hafer recalled meeting Abdul Quadir Abdul Khaliq, whom he met during Haj. Abdul Quadir's wife was a Moroccan. Mr. Hafer remembered being struck by what a family man Abdul Quadir was and that he was very attentive to his wife. Mr. Hafer remembered Abdul Quadir coming to Ashland and staying there for 2 months and gave a number of talks. Mr. Hafer recorded all of the talks presented by Abdul Quadir. The talks would cover everything from diet to environment and also discussed the meaning of jihad according to the Koran. Mr. Hafer said that he recalls Joseph Seda asking Abdul Quadir that if one renounces Islam, what the penalty was. Mr. Hafer recalled that Jonah was asking because he resented the fact that his mother had renounced Islam and that Jonah said she should have her head chopped off. Mr. Hafer recalled that Abdul Quadir said that that issue was between her and her God. Mr. Hafer said that later Gartenstein-Ross wrote about this discussion and misrepresented what Abdul Quadir said during the speech.

Mr. Hafer said that Gartenstein-Ross also wrote a thesis praising the nation of Islam and that Hafer read the paper and found it lacking, that it was opinionated and lacking in substance. Mr. Hafer said that Gartenstein-Ross also misquoted him about this particular argument in his book. In relation to Chechnya, Mr. Hafer recalled that there were discussions at Al Haramain about what was happening in Chechnya, but no fund-raising by Al Haramain in Ashland or Mr. Seda for Chechnya. Mr. Hafer did recall a collection for relief in Kosovo because the Serbians were bombing Kosovans. Mr. Hafer said that he recalled money coming in for Chechens from an Egyptian doctor that Mr. Hafer believes was a Zakat donation. Mr. Hafer said that he was not directly involved in this and his recollection of this is very hazy. Mr. Hafer said that he recalls that Soliman Al Buthe forgot the check so that money was wired to Ashland and that is what Soliman later took for Chechen relief. Mr. Hafer reiterated that he does not remember the facts of this particularly well.

I thanked Mr. Hafer for his time and we concluded our discussion.

WT/sls

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INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: August 12, 2009
Re Witness: Carol Hwoschinsky



Reviewed with and adopted by witness on 07/07/10

I contacted Mrs. Hwoschinsky at her home in Ashland this morning. After identifying myself and the reason for my contact, Mrs. Hwoschinsky agreed to be interviewed. The following is a summary of our conversation.

Mrs. Hwoschinsky told me that she believes that she has known Pete Seda for at least the last 10 years. She describes herself as a friend and confidante of Pete's and has heard him speak publicly as well as having had private conversations with him over the years.

Mrs. Hwoschinsky told me that she has heard Pete speak publicly on occasions at the college in Ashland, at Rabbi David Zaslow's synagogue in Ashland, at interfaith meetings, and on one or two occasions at Arabian Nights educational gatherings held at Al Haramain. Mrs. Hwoschinsky told me that in all of these public settings where Pete spoke, as well as in all of her private conversations with him, Pete's message has always been consistent that the Muslim faith is a peaceful faith, and that peace through communication and understanding is always Pete's objective. Mrs. Hwoschinsky told me that she has never heard Pete say anything that could in any way be interpreted as supportive of terrorists or terrorist tactics or any kind of war. In fact she has heard Pete speak out in condemnation of terrorism, and explain that those who interpret Jihad as being a command or justification for Muslims to make war on others is a misinterpretation of the Koran.

Mrs. Hwoschinsky described her visits to Al Haramain on the evenings of the Arabian nights events as educational evenings and attempts at community outreach by Pete and other local Muslims to familiarize the public with their Muslim faith and their peaceful practices. Mrs. Hwoschinsky told me that she recalls that at least one of these events Pete introduced her to a Sheik who was visiting at Al Haramain from Saudi Arabia.

Mrs. Hwoschinsky told me that she believes that Pete Seda is a very good man who sincerely cares about other people and wants very much to help those in need. Mrs. Hwoschinsky describes Pete as being very naive in some of his world views. She recalled that he always had big plans and desires when thinking of ways to help those in need. One of those plans that she became aware of was when he was raising to fund a trip to the West Bank to provide clothing and food and medicines to refugees there. Mrs. Hwoschinsky told me that because she has been to the Middle East on numerous occasions, and is familiar with the politics and processes, "I kept advising him that he needed written permission from the Israelis, and that he should have that before he ever left the United States." Mrs. Hwoschinsky told me that Pete never did get written permission, and left here with enough money to purchase goods and hire Israeli drivers to convoy the goods into the West Bank.

Mrs. Hwoschinsky told me that after he returned to the United States after this trip, Pete told her that he had been stopped at the border in Jordan by Israeli soldiers who stripped and humiliated him and left him in the sun for several hours without water. Mrs. Hwoschinsky told me that even after this treatment, Pete expressed nothing but love for his captors in her conversations with him.

INVESTIGATION REPORT

CASE: United States v. Pirouz Sedaghaty
CR 05-60008-HO

ATTORNEY: Steve Wax and Larry Matasar

INVESTIGATOR: William Teesdale

WITNESS: Dr. Amr Jamal



DATE: August 18, 2010

On the above date, by prior arrangement, Steve Wax and I met with Dr. Amr Jamal at the Federal Public Defender's office. I provided Mr. Jamal with a summary of our representation of Mr. Seda and my business card.

Dr. Jamal agreed to speak with us about his recollection of the Al Haramain organization. Dr. Jamal said that he is a Saudi citizen, currently studying medical informatics at Oregon Health Sciences University (OHSU). Dr. Jamal told us that his regular position is as assistant professor of family medicine and is a specialist in medical informatics at King Saud University College of Medicine, Department of Family and Community Medicine in Riyadh, Kingdom of Saudi Arabia. Dr. Jamal said that he will finish his course of study in approximately four months, and then return to his regular job.

Dr. Jamal said that he attended medical school in Saudi Arabia in 1997 and during his third year in medical school he volunteered to work with the Al Haramain organization on their medical committee. Dr. Jamal said that he volunteered with Al Haramain for about three or four years and helped them specifically with a medical scientific symposium that was an annual event on the subject of reconciling medical treatment with principles of Islam and working on issues, such as helping patients being able to pray.

Dr. Jamal said that he went to work for the Al Haramain organization after doing work with another Saudi charity, called the World Assembly of Muslim Youth (WAMY). Dr. Jamal said that he found that the Al Haramain organization was a more efficient organization than WAMY in spending charitable money for good causes. Dr. Jamal said that he went to work for Al Haramain because he had a desire to do community service work and was not paid for his time. Dr. Jamal said that many of the people who worked at Al Haramain were unpaid volunteers, such as himself. Dr. Jamal said that he would not have worked at Al Haramain if he knew that any of their work involved the funding of militant activity. Dr. Jamal said that he also does not believe that the government of Saudi Arabia would allow an organization like Al Haramain to fund militant activity.

Dr. Jamal said that he knows that there was a specific Al Haramain committee working on Chechnya and heard that there was a campaign for humanitarian relief. Dr. Jamal said that he was not involved in that particular committee.

Dr. Jamal said that the scientific committee he worked on organized four conferences on Islam and medicine. Dr. Jamal recalled that he did not participate in the first conference, was involved in the second and third conferences, and the last conference was cancelled just a few days prior to it occurring, because the Al Haramain organization was shut down by the Saudi government.

Dr. Jamal said that the medical committee was involved in humanitarian relief work, both inside the Kingdom of Saudi Arabia and outside Saudi Arabia. Dr. Jamal recalled that when he started working at Al Haramain, the operation was in a small villa in Riyadh and they were doing distribution of scientific lectures and internal humanitarian relief work inside Saudi Arabia. Dr. Jamal said that there was a period when the Kingdom of Saudi Arabia stopped Islamic charities doing internal humanitarian relief work, although that started again at a later stage.

Dr. Jamal said that the medical committee would request donations from medicine factories in the Kingdom of Saudi Arabia and then send those medicines to help people in other countries, such as Bangladesh, where there was a specific campaign. Dr. Jamal said that the medicines were provided free-of-charge by Al Haramain as charitable activity. Dr. Jamal said that he has a friend in Maryland, who is also a doctor, who was directly involved in some of those campaigns. Dr. Jamal said that the head of the Al Haramain medical committee was Dr. Tarik Medivi (phonetic) and the previous head was Dr. Mohammed Rothman (phonetic).

Dr. Jamal said that although Al Haramain began in a small villa, they later moved to a large building in Riyadh. Dr. Jamal said that he thought that when he started, there were perhaps a hundred volunteers working with Al Haramain. Dr. Jamal said that he did not know Soliman al-Buthe, Aqueel al Aqueel (though he had heard of him), Mansour al Kadi or Sami al Sanad. Dr. Jamal said that there were a number of Al Haramain committees working on different issues, for instance committees working on humanitarian campaigns in Kashmir, Bosnia and Chechnya. Dr. Jamal said that he would never have volunteered for Al Haramain if they had been involved in funding fighting.

Dr. Jamal said that the Al Haramain organization provided orphanages and it sponsored orphans all over the world. Dr. Jamal said that his own mother gave money to him to provide to the Al Haramain organization to sponsor orphanages, and he would receive receipts from the organization for those donations. Dr. Jamal said that the Al Haramain organization would also send reports twice a year about the orphans and orphanages, and he recalled that many of the orphans were in Chechnya. Dr. Jamal said that he will look for reports specifically about the work in Chechnya.

Dr. Jamal looked at defense exhibits 704 and 705 and identified them as exactly the same kinds of receipts that he received from the Al Haramain organization when he donated funds from his mother. Dr. Jamal said that he would look to see whether he could find any of the receipts that he had in his possession, and forward them to me. Dr. Jamal said that the majority of the originals of receipts he has in his possession are in his home office in Saudi Arabia and he may not be able to get them in

time. Dr. Jamal said that he would see what he could do and there may also be certificates of appreciation he received from the Al Haramain organization, as well as reports regarding Al Haramain's work with orphans.

Dr. Jamal said that the stamps and numbers on the receipts look the same as the ones on the receipts he obtained from the Al Haramain organization.

Dr. Jamal said that he recalled that during this period of time that there was a governmental agency in Saudi Arabia to organize humanitarian relief work that was headed by the interior minister of Saudi Arabia, Prince Naif. Dr. Jamal said that he personally made donations to that organization and he may have receipts relating to that. Dr. Jamal said that the governmental organization sent aid, including food, tents and other material, to Chechnya.

Dr. Jamal reviewed a copy of his curriculum vitae, available on his website, and identified it as the English-language version of his resumé. Dr. Jamal mentioned that the English-language version of his C.V. no longer has Al Haramain listed on it because of his concern about how that would impact his coming to study in the U.S. He has kept the reference to Al Haramain on his Arabic C.V. Dr. Jamal said that he decided to attend OHSU because he searched for the best medical university in the specific field to study and found that OHSU was the best.

Dr. Jamal mentioned that he also has a background degree in Islamic law and after attending medical school specialized in family medicine.

Dr. Jamal reviewed a number of defense exhibits.

Defense exhibit 707 (a). Dr. Jamal said that he did not recognize this document. Dr. Jamal reviewed defense exhibit 714 (a) and said it is a telegram regarding the formation of a committee to oversee charitable work in Kosovo, including representatives from Islamic charities, including Al Haramain. Dr. Jamal said that he does not recall seeing this document before, but believes that the text of the announcement was in the newspapers at the time. Dr. Jamal said that he can look in Saudi news archives to see whether that is the case.

Dr. Jamal looked at defense exhibit 716 (a), the organizational charter of the SJRC for the aid of the people of Kosovo. Dr. Jamal said that he has not seen this before, but believes that it is genuine.

Dr. Jamal examined defense exhibits 717 (a), 718 (a), 719 (a). Dr. Jamal said that he has not seen any of those documents before.

Dr. Jamal reviewed defense exhibit 720 (a) and mentioned that he personally gave money to the SJRC to help in Kosovo and Chechnya. Dr. Jamal recalled that the money was collected at a mosque where he was the prayer leader at the time. Dr. Jamal said that the donation was for humanitarian relief.

Dr. Jamal reviewed defense exhibit 721 (a), a report from the SJRC Chechnya committee. Dr. Jamal

mentioned that the Saudi people trusted those who worked at Al Haramain, and in fact it was one of the most trusted Saudi charities, particularly because many of the people who worked there were volunteers and clearly not trying to benefit themselves. Dr. Jamal recalled that in 1999 he met the head of the endowment foundation, Saleh al Hussein (who had been the minister of finance of Saudi Arabia during King Faisal's time) and they discussed organizing educational radio programming in Chechnya. Dr. Jamal said that Saleh al Hussein is currently the head of affairs of the two holy mosques. Dr. Jamal said that the Islamic Endowment Foundation in 1999 was one of the charities working with the SJRC, just as Al Haramain was working with the SJRC.

Dr. Jamal reviewed defense exhibit 722 (a). Dr. Jamal said that he did not recognize the document, but it relates to the subcommittee within Al Haramain working on Chechnya issues, and mentions the name of Prince Turki Bin Fahed Bin Jalawi al Saud as chairman of the Chechnya subcommittee within Al Haramain. Dr. Jamal said that he does not personally know the people mentioned in the document.

Dr. Jamal reviewed defense exhibit 723 (a), a report of what was being done in Chechnya by the SJRC. Dr. Jamal mentioned that the SJRC was authorized by the government of Saudi Arabia to collect money in mosques, which they did until they were forced not to by the U.S. government.

Dr. Jamal reviewed defense exhibits 724, 725, 726, 727, 728 and 729 and said that he did not personally recognize those documents.

I served Dr. Jamal with a trial subpoena requiring his attendance at the Pete Seda trial.

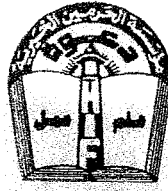
Dr. Jamal contacted me on August 19, 2010 by email and provided me with an image of two Al Haramain receipts that he located on his personal computer. Dr. Jamal said that the receipts were for donations he made to assist the people of Palestine. One was for some 4000 Saudi rials and the other a donation of 15 grams of gold. A copy of the file received from Dr. Jamal is attached to this report. Dr. Jamal also sent me a link to a video report about the activities of the medical committee in Arabic. The video was shown in the third scientific conference for the committee for which Dr. Jamal was part of the organizing team.

The link to the video is located at:
<http://dl.dropbox.com/u/7474560/1ST.NEW0.MPG>

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AL-HARAMAIN ISLAMIC
FOUNDATION

Riyadh Office



مؤسسة الحرمين الخيرية

المكتب الرئيس

الشئون المالية - الرياض

الحساب الدائن	الجهة/البند
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سند قبض

No. 418933

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نقدًا / بشيك رقم:

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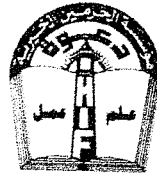
المستلم

المحاسب

الملكة العربية السعودية - ص ب ٦٩٦٠٦ الرياض ١١٥٥٧ - هاتف: ٤٦٥٢٢١٠ / ٤٦٣٤٤١٤ - فاكس: ٤٦٢٣٣٠٦ - الدمام هاتف: ٨٤٢٠٢٢٠
فاكس: ٨٤٦٢٠٠٧ - جدة هاتف: ٢٧٧١٦٠٧ / ٢٧٧١٨٤٣ - فاكس: ٢٩٣٢٦٥٣ - مكة هاتف: ٥٥٨٠٦٨٥ - فاكس: ٥٥٠٣٨٠٢ - الطائف هاتف: ٧٤٤٣٨٠٠ - فاكس: ٧٤٤٣٩٠٠

الأصل للمتبرع - صورة للمحاسبة - صورة للجنة - صورة للحفظ

AL - HARAMAIN ISLAMIC



مؤسسة الحرمين الخيرية

المكتب الرئيس

الشئون المالية - الرياض

التاريخ ١٤ / ٩ / ١٤٢٢ هـ

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سند قبض ذهب و عملات اجنبية

وصلنا من الأخ:

عملات اجنبية قدرها

ذهب وقدره

وذلك عن:

المحاسب

المستلم



الملكة العربية السعودية - ص ب ٦٩٦٠٦ الرياض ١١٥٥٧ - هاتف: ٤٦٥٢٢١٠ / ٤٦٣٤٤١٤ - فاكس: ٤٦٢٣٣٠٦ - الدمام هاتف: ٨٤٢٠٢٢٠
فاكس: ٨٤٦٢٠٠٧ - جدة هاتف: ٢٧٧١٦٠٧ / ٢٧٧١٨٤٣ - فاكس: ٢٩٣٢٦٥٣ - مكة هاتف: ٥٥٨٠٦٨٥ - فاكس: ٥٥٠٣٨٠٢ - الطائف هاتف: ٧٤٤٣٨٠٠ - فاكس: ٧٤٤٣٩٠٠

الأصل للمتبرع - صورة للمحاسبة - صورة للجنة - صورة للحفظ

INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: July 7, 2009
Re Witness: Mary Ann Jones



Reviewed with and adopted by witness on 07/07/10

I contacted Mrs. Jones at her residence outside of Ashland, Oregon. After introducing myself, providing her with my identification and a business card, and explaining the nature of my contact, Mrs. Jones agreed to speak with me. The following is a summary of our conversation.

Mrs. Jones told me that she believes that she and her late husband met Pete Seda some time early in the 1990s, and certainly by 1992. She could not recall specifically how that meeting took place, but believes that it was in connection with either her husband's outspoken and published views regarding Israel's treatment of the Palestinian people, or in some meeting or other of local people concerned with social justice.

Mrs. Jones described Pete as "always respectful and appreciative of others, everyone, both genders and irrespective of their world view. And he was also very interested in wanting people in the United States to better understand Islam. He understands that for different groups of people to be able to get along, a better understanding of each other is really the only foundation for that. But he always struck me as a very, very respectful person, and respectful of everyone. He's respectful of women and with people with far different views and ideas of his. And he's also very caring about anyone treated unjustly."

In further describing Mr. Seda, Mrs. Jones said, "He is a very moral person, and so I assume that he is guided by a moral belief system. I don't really know much about Islam, but I do know how important his faith is to him, and how closely he tries to follow it and how good a person he is. So from that I assume that Islam is a very moral belief system. He's just a very peaceful man and always strives for harmony. He's also very appreciative of what others do to promote peace. He really pays attention to what other people do, not just locally, and very appreciative at anyone's efforts in the promotion of peace."

Mrs. Jones told me that most of she and her husband's contact with Pete over the years have been in social settings and human rights meetings. She told me that early on in their relationship, Pete wanted to and so did a lot of pro bono work as an arborist on their property "to show his appreciation for Bob's passionate and public defense of the Palestinian people and his efforts to educate the public as to the abuses that they suffer daily."

Mrs. Jones told me that she and her late husband were twice invited by Pete and attended a feast to celebrate the end of Ramadan which was held at Al Haramain. She told me that when they arrived at Al Haramain she was led to one part of the residence "where the women and smaller children were, and Bob joined the men and older boys in another part of the house." She described this separation of the women and small children from the men and older boys as "unanticipated, but not terribly surprising." Mrs. Jones told me that in part because the atmosphere she experienced at these two celebrations were "very cordial," she assumes that this separation was and is as much a cultural custom as it is religious practice. "No one was pushing their religious beliefs or trying to convert any of the non-Muslims present to Islam, we were all just sitting around and visiting and eating. The young children were playing games and the rest of us were just chatting with each other and enjoying the food."

Mrs. Jones told me that she never heard in any setting Pete talking about supporting war or freedom fighters or violence in any form. "That's just not who he is. He believes that there's always a peaceful way to settle things." Mrs. Jones told me that she does recall that she heard at some point that Pete had gathered funds and/or materials and attempted to deliver them to refugees in Palestine. Mrs. Jones told me that she believes that what she heard was that Pete was unsuccessful in this effort and was stopped by the Israelis at the border and prevented from delivering the supplies.

INVESTIGATION REPORT TO FILE

Case: *U.S. v. Seda*
CR 05-60008-HO
Attorney: Steven T. Wax
From: Joe Lee, Investigator
Date: April 29, 2010
Re Witness: Ben Searcy



Reviewed with and adopted by witness on 08/19/10

In response to one of the cards that I left at his residence, Mr. Searcy called me and arranged to meet today at the Starbucks at the south end of Ashland. The following is a summary of our conversation.

Mr. Searcy told me that he is 28 years old. He is currently employed at Blue Genie Interactive, a web design business owned by Ferhad Erdogan. This business is located at 500 A Street in Ashland, Oregon, with the phone number of (541) 201-3888.

Mr. Searcy told me that when he first met Pete, Pete's son Joseph was four-years old. Mr. Searcy believes that he was approximately seven years old at that time. Mr. Searcy describes Pete as "somewhat abrasive" in a self-reliant, alpha-male sense of the word. Of Pete, Mr. Searcy also said, "What you see is what you get. Promoting peace through dialogue is his thing. In fact, he and David Rogers came up with a motto way back then and their motto was 'peace through understanding.' That's what Pete is all about. He's really kind of a hippie. I think that's why he moved to Ashland, and that's really what that whole Medina Project was all about. He wanted to develop a totally self-reliant Muslim community or commune, like a lot of other hippies."

Mr. Searcy noted that in the FBI 302 dated October 7, 2004, the way that Dave Carroll worded the paragraph discussing the Medina Project could lead someone to believe that Pete intended the Medina Project to be some sort of training camp for Muslims preparing for Jihad. Mr. Searcy is very clear that this was not the intent at all, and that when he discussed with Dave Carroll that "everyone would be trained to defend themselves," that is exactly what he meant. "If you're going to live out in the middle of the wilderness, and be totally self-sufficient and self-reliant, then everyone needs to know how to use guns for hunting and for self-defense if necessary."

I reviewed the aforementioned FBI 302 with Mr. Searcy. Mr. Searcy told me that this 302 concerns "the original contact" between Mr. Searcy and Dave Carroll and Colleen Anderson. Mr. Searcy told me that he has been interviewed by Dave Carroll on three or four occasions, and that, as far as he can recall, Colleen Anderson was only a participant in the initial interview.

I asked Mr. Searcy questions about various portions of the information provided in the 302 dated October 7, 2004. Regarding information provided in paragraph 3 on page 2 of that report, Mr. Searcy explained that where Dave Carroll has indicated that he described Pete Sedaghaty as the emir of the Muslims in southern Oregon, what he believes he told Dave Carroll is that, whereas Sheik Hassan Zabadi and others sent to Ashland by Al Haramain Saudi were religious leaders by virtue of their religious scholarship, Pete was the community leader of the Muslim community in southern Oregon. Regarding the last sentence in that same third paragraph on page 2, Mr. Searcy explained that the "clashing" between Pete and the various imams were all essentially alpha male disputes between Pete and these people. Mr. Searcy told me that characteristically, Iranian males "like Pete and Jonah" (and himself to some extent) all tend to be alpha males who want to lead and somewhat convinced/over-confident in the correctness of their various positions and/or opinions.

Mr. Searcy explained Sheik Hassan Zabadi is a very strict fundamentalist Muslim who is very "by the book." "He's like 'this is what it says, so this is what you must do.' Pete is more like 'this is what it says, so this is **probably** what it means.'"

Mr. Searcy further described Sheik Hassan as someone with "an encyclopedic knowledge of the Koran" who has no interest in debating what the various passages in the Koran say and/or mean. Contrasting Hassan with Pete, Mr. Searcy told me that although Pete's religious convictions are very strong, and he was always ready to share those beliefs with anyone who would listen to him, he was also always willing to listen and try to understand what other people had to say about their own belief system. This was not the case with Hassan, who Mr. Searcy said would be more inclined to tell people 'this is what the Koran commands, and if you do not believe this or follow this you are wrong and not worth talking to or worrying about.' "Pete is more about, come on, let's talk and try to understand each other, and Hassan is more about this is my view and I'm right and you're wrong."

Mr. Searcy told me that like Pete, most of the local members of the Muslim community were basically hippies who love Allah and believe in the importance of community and trying to get along with everyone. He told me that there were, from time to time, people associated with the local Muslim community who fell more into the strict fundamentalist camp of Sheik Hassan and other religious leaders who appeared from time to time, but the strict fundamentalists were always in the minority.

Mr. Searcy told me that it is his understanding that the local group began with Pete, Rob Brown, John Dunn, and David Rogers, all of whom Mr. Searcy would describe as being essentially hippies. Mr. Searcy told me that all of the conflicts that arose between Pete and the various imams and strict fundamentalists like Phillip Rand were essentially control issues over what Pete's vision of what the local Muslim community should be versus the fundamentalist view that anything not of Islam is to be avoided. "Like I said before, culturally, Iranian men tend to want to lead, and Pete, being the community leader of the local Muslims, tended to not get along with those who came in and tried to direct the group to bend to their fundamentalist views."

Regarding the last paragraph on page 3 of the 302 dated October 7, 2004, Mr. Searcy told me that he does recall Pete and the local Muslim community being very concerned about what was going on in Bosnia and Chechnya, and collecting money and various items to be sent to help the refugees. Mr. Searcy told me that although he was young at the time, he recalls donating some of his "clothes and stuff" to the effort. He also recalls that Pete and the other elders in the local Muslim community were very concerned about which charities and/or groups to use in getting their donations to the refugees because of the knowledge that some of the alleged charitable groups were actually fronts for and/or supportive of terrorism. "Nobody here wanted to do anything to support terrorism and killing innocent people. It was like, this is unjust, and if we can help we need to help. Not like, this is unjust, let's go kill everybody that's doing bad things to these Muslims." Mr. Searcy expressed the opinion that one can identify with and understand the reaction to unjust treatment which has made fighters out of the people in Chechnya and support their rights to defend themselves against abusive aggression without being supportive of "terrorism".

Mr. Searcy told me that he is not sure that Pete and Jonah Sedaghaty went to Sprague River, Oregon "a lot" as is indicated on page 4 in paragraph 3. He does recall Pete and Jonah going to Sprague River and how much fun they would talk about having over there. Mr. Searcy told me that Pete and David Rogers and John Dunn were all very big on the outdoors and being in and learning about nature. He also recalls that, like many southern Oregonians, these guys enjoyed shooting firearms, as does he himself.

Mr. Searcy told me that he does recall Abdul Qaadir being a part of the local community for a few months, but he does not recall exactly when that was. He also could not recall whether or not Abdul Qaadir was here during the time that Al Haramain held the summer camp for children which is referenced in paragraph 4, page 4, of the 302.

Mr. Searcy told me that the difference between the Holy Koran and the Noble Koran is the same as the difference between the King James version of the bible and more modern translations of the King James version. He further explained that "Where the King James version says 'thou shalt not do this or that,' a more modern version might say, 'don't do that.'" And he explained that the same is true between the Holy Koran and the Noble Koran.

Regarding the call to jihad included in the Noble Korans that were supplied to the local Muslim community by Al Haramain Saudi, Mr. Searcy explained that the media-driven misunderstanding of what jihad means to a Muslim make it difficult to talk rationally about jihad in America. Mr. Searcy further explained that while Pete and most of the local Muslim community recognized and were hurt by the injustice experienced by the Chechens at the hands of the Russians and wanted very much to do what they could to help those people and support them in their struggle against those injustices, that is not the same as them being willing to either support terrorist acts or travel to and join in the armed conflict.

Mr. Searcy stated his view that what is presented by American news media often has very little relation to full disclosure of actual events and that it is quite common for people who aren't

satisfied with this to seek information elsewhere. Mr. Searcy told me that it is very common for Muslims to access online sources and videos for more accurate and full disclosures of what is actually occurring or has happened to their brethren and offers this as a possible explanation for some of the videos he has been told were seized by the government to be used against Pete in this case.

INVESTIGATION REPORT

CASE: United States v. Pirouz Sedaghaty
CR 05-60008-HO

ATTORNEY: Steven Wax, Larry Matasar

INVESTIGATOR: Joe Lee



WITNESS: Anita Sedaghaty

DATE: July 07, 2010

Mrs. Sedaghaty met with attorney Steve Wax and I today at our office in Medford. The following is a summary of our conversation.

Mrs. Sedaghaty told us that she recalls going on the Haj with the group including the Cabrals, Rob Brown, David Hafer, and Pete and his family. She does not recall Pete asking for any money from the group or anyone in the group at the end of the trip, nor does she recall any discussions regarding Chechnya or helping Chechens at that time.

Mrs. Sedaghaty told us that she does recall Raya Shokatfard emailing the Sisters listserve regarding raising money to send to Chechnya.. She told us that Raya, like her husband Sheik Hassan, was more extreme in her views than were most of the other sisters and members of the local Muslim community, and that she found some of what Raya emailed to be offensive to her and she therefore asked Raya to not include her on any future emails concerning violence and war. She did not ask Raya to remove her from the listserv. Mrs. Sedaghaty also recalls that Safiyeh was "very upset about what Russia was doing in Chechnya."

Mrs. Sedaghaty told us that she recalls that Pete's relations with Al Haramain Saudi were sometimes strained because, like Sheik Hassan and Raya, "some of them were a little extreme with their rules" and Pete didn't always agree with them and their views. She was aware that Al Haramain Saudi provided Pete with the Noble Qurans and she recalls having worked a couple of hours one time packaging some of them for mailing.

INVESTIGATION REPORT

CASE: *United States v. Sedaghaty, et al.*
CR 05-60008 HO

ATTY: Steve Wax, Larry Matasar

INVEST: William Teesdale



WITNESS: Raya Shokatfard

DATE: September 26, 2009

On September 26, 2009, by prior arrangement, I met with Raya Shokatfard at her apartment in Cairo, Egypt. The interview was conducted in the presence of and with the permission of Ms. Shokatfard's American attorney, Tom Nelson. At the outset of the interview Mr. Nelson provided Ms. Shokatfard with a brief summary of the case and I presented her with my business card. Ms. Shokatfard agreed to speak with me.

Ms. Shokatfard told me that she was born in Iran in 1947 and moved to the United States in 1969. Ms. Shokatfard said that she lived in Southern or Northern California for over 20 years. During that time Ms. Shokatfard said that she worked in the real estate business, managing her own properties. In 1980 Ms. Shokatfard said that she married a United States citizen and later had two children, Benjamin in 1982 and Roshan in 1984.

Ms. Shokatfard said that in about 1992 her family moved to live in Castella, a town in northern California, about an hour south of Ashland, Oregon. During that time the Shokatfard family was living in the mountains and Ms. Shokatfard said that she started to practice Islam. Ms. Shokatfard remembered that she heard about a small community of Muslims in Ashland and got Pete Seda's phone number and called him. Ms. Shokatfard said that she decided to take her mother and the children and pay him a visit, which would have been in 1992. Ms. Shokatfard remembered that Mr. Seda, who was single at the time, lived in a small house in Ashland. Ms. Shokatfard recalled that Mr. Seda, who was calm and quiet, was very enthusiastic about his work as an arborist. Ms. Shokatfard said that at the beginning she did not know much about Mr. Seda but he did hold Friday prayers at this house every week and there was a group of local Muslims who gathered there. Ms. Shokatfard said that Mr. Seda mentioned that he had formed the Quran Foundation but she cannot recall now what the precise function of the Foundation was. Ms. Shokatfard said that as she got to know Mr. Seda it became clear that he was very interested in bringing an Islamic community together and he was always interested in providing all people, from whatever faith, information about Islam.

Ms. Shokatfard said that she traveled the 90 miles from Castella to Ashland

about once a month in order to visit Pete Seda and the Muslim community in Ashland. Ms. Shokatfard recalled that the Muslim community grew over time with students who attended S. Oregon University. The group would have monthly gatherings and would study together.

Ms. Shokatfard said that the group moved from the little house to a bigger house and Mr. Seda married. Ms. Shokatfard could not recall the addresses of either of these houses. Ms. Shokatfard said that Mr. Seda was getting more organized about the meetings and he was the most active member of the Muslim community in Ashland.

Ms. Shokatfard remembered when Pete Seda became involved with the Al Haramain organization. Ms. Shokatfard said that Mr. Seda was involved in the distribution of Islamic books but he never had enough Islamic literature to send out to people.

Ms. Shokatfard told me that she remembered being at the little house in Ashland with Mr. Seda when he received the first phone call requesting literature from a prisoner interested in Islam. Ms. Shokatfard said that Mr. Seda was so shocked receiving the call that he handed the phone straight to her. Ms. Shokatfard said that the person was an African in prison who wanted a copy of the Koran and that she wrote his name and address on a piece of paper and gave it to Mr. Seda. Ms. Shokatfard said that happened before Mr. Seda became involved with Al Haramain. Ms. Shokatfard said that the requests for literature began to come more and more often and Mr. Seda felt himself unable to turn any of them down. Ms. Shokatfard said that Mr. Seda would spend his own money collecting the literature and sending it out. Ms. Shokatfard said that this work was a financial and physical drain that became too much for Mr. Seda and it was taking up so much time that Mr. Seda could not get his arborist work done and it was a burden on his family. Ms. Shokatfard said: "But he has such a good heart he could not turn someone away, not just for Islam; his kindness was beyond religious belief, he would help anyone who needed help." Ms. Shokatfard said that she remembered talking to Mr. Seda about the requests for Islamic literature from prisoners and Mr. Seda would ask her why they were calling him and how even did they get his number. Ms. Shokatfard said that Mr. Seda was not all that pleased about the prisoner requests but he pushed himself to keep doing it. Ms. Shokatfard said that Mr. Seda always had a preference for talking to people face to face and he loved going to schools and universities in the local community but he did the prisoner thing because he had no choice.

Ms. Shokatfard said that Mr. Seda was very moderate in his Islamic views. Ms. Shokatfard said that at the beginning none of the group knew very much and Mr. Seda was very lenient. As a result there were some things that the group did incorrectly, such as the men and women being together to start with. Ms. Shokatfard said that over time things became a bit stricter but the push for that did not come from Mr. Seda. Ms. Shokatfard said that she remembered fighting with Mr. Seda because her views were stricter than his. For example Ms. Shokatfard said that Mr. Seda had not problem with

men and women mixing and whenever anything came up Mr. Seda always took the moderate way.

Ms. Shokatfard said that another example was that Mr. Seda always wanted to be involved in the local community. Ms Shokatfard recalled Mr. Seda saying to her that he was an American and that he wanted to be part of the community and that there should be no wall between Muslims and non- Muslims. Mr. Seda would invite non-Muslims to participate in meetings.

Ms. Shokatfard said that Mr. Seda was strongly against radicalism long before 9/11. Then when 9/11 happened Ms. Shokatfard remembered that she was in Ashland and heard Mr. Seda talking to another man (possibly Dawood Rogers) and Mr. Seda was "on fire" against 9/11. Ms. Shokatfard said that Mr. Seda was so angry that if it turned out Muslims had done it then they had ruined the name of Islam. When Ms. Shokatfard spoke to him about this she remembered that he was so upset about how wrong it was that he was cussing in front of her about those who were responsible for this, which was very unlike him.

Ms. Shokatfard told me about her recollection of a women's fundraiser to help people in Chechnya and in particular women and children who were suffering there. Ms. Shokatfard said that the local women in the Muslim community got together and raised money to try and help. Ms. Shokatfard said that the Muslim women sold jewelry, pots and pans and this and that to try and help. Ms. Shokatfard said that she also sold a cow that she had been raising for 2 years in order to help raise money and was able to raise \$680 by selling it to Mr. Seda. Ms. Shokatfard said that the Muslim women were able to raise about \$1,300 to help Chechens, which she was eventually able to send to an organization.

I asked Ms. Shokatfard to review page 2011, which I showed to her in electronic form on my laptop computer. I explained to Ms. Shokatfard that a number of pages that I might show her derived from discovery provided by the U.S. Government and that such pages were bound by a specific protective order and that I could show them to her but not provide her with a copy. Ms. Shokatfard reviewed the document and said that she did not recall the specific amount in the email but she said that in the beginning the Muslim sisters intended that the money they collected would go to the mujahadeen. Ms. Shokatfard said at that time there was no terrorist issue and the Russians had invaded and attacked Chechens because they were Muslim. Ms. Shokatfard said that the Russians were raping Chechen women and people were being slaughtered and her view was that anyone with dignity would want to help them. Ms. Shokatfard said that she also considered all of the Chechen people as mujahadeen and had no problem with them fighting against the Russians. Ms. Shokatfard said that her view was that the Chechens had the right to defend their country against the invaders.

Ms. Shokatfard said that she had no recall of the Omega foundation mentioned in the email.

Ms. Shokatfard told me that when Mr. Seda learned of the plan to send money to the mujahadeen he was adamantly against it. Ms. Shokatfard said that the collection of funds was done by the Muslim women and this was done completely separately from the men in the community.

Ms. Shokatfard said that her recollection is that she (Shokatfard) was the one who kept the money that had been collected, although it is possible that Laleh Zahedi had it for a time. Ms. Shokatfard said that she does not recall giving the money to Laleh or getting it back from her and repeated that she believes that she (Shokatfard) held the money throughout the fundraising. Ms. Shokatfard said that she is sure that Mr. Seda never had the money.

Ms. Shokatfard reviewed the email at page 000534, an email dated April 4, 2000 from Pete Seda responding negatively to Ms. Shokatfard's request to send money to the Mujahadeen. Ms. Shokatfard said that she does not recall this specific email but the content was completely consistent with Mr. Seda's view and the email address on response from Mr. Seda is definitely hers. Ms. Shokatfard said that she did not communicate with Mr. Seda in person about the fundraiser because of the separation of men and women in the Muslim community (which by this time the group was adhering to). Ms. Shokatfard explained that she knew about Mr. Seda's view because she was told by Laleh Zahedi that Mr. Seda did not support the fundraiser. Ms. Shokatfard said that she heard that more than once from Laleh and she believes more than twice. Ms. Shokatfard said that through Laleh there was a clear communication from Mr. Seda that Al Haramain would not accept money for the Chechen mujahadeen. Ms. Shokatfard said that her recollection of this is clear because she remembered being upset that Mr. Seda would not help with the donation effort.

Ms. Shokatfard said that Mary Foster, Bobby Cabral, Anita Sedaghaty, Safiyah Radmilla Balobina and Sharon Cummings were involved in the Sisters fundraiser, along with other Muslim women in the community that she could not remember.

Ms. Shokatfard said that during the first meeting the sisters were able to raise about \$160 and then during another meeting they sold clothes to raise money. Ms. Shokatfard said that she does not believe that Laleh Zahedi contributed to the fundraiser.

I showed Ms. Shokatfard page 049083, a two-page email from her dated 10/24/00. Ms. Shokatfard reviewed the email and said that she had been shown the email previously by the FBI and that she recognized it as her email indicating that the fund had been sent. Ms. Shokatfard said that \$1763 was the final amount of money that was sent but she cannot recall which organization that the money was sent to. Ms. Shokatfard said that the email would have been sent to the sisters involved in the fundraising effort and that Mr. Seda was not included in the email because he was not a part of it. Ms. Shokatfard said that the fundraising effort was for Chechens and it did not matter if it went to civilians or for mujahadeen.

Ms. Shokatfard said that she was aware that Safiyah (Safiayah Radmilla Balobina) did some translations of articles that they read on the Quoqaz website. Ms. Shokatfard said that during that period of time she was coming to Ashland quite regularly, perhaps two or three times a week. During those visits Ms. Shokatfard said that she would read with Safiyah about people being raped and killed in Chechnya by Russians. During that time Ms. Shokatfard said that Safiyah was doing translations of some of the Quoqaz articles into Russian for a website. Ms. Shokatfard said that she did not know who had asked her to do that work. Ms. Shokatfard said that she thought that Safiyah did that 3 or 4 translations and no more. Ms. Shokatfard said that during one visit to Ashland Safiyah told her that she could not do the translation work anymore because Mr. Seda had told her she could not do it. Ms. Shokatfard said that she is not certain but she thinks that Mr. Seda took the computer away from Safiyah so she could no longer do the translation work.

Ms. Shokatfard said that she told the FBI when she was interviewed that she sent the money by cashiers check or by Postal Money Order (PMO). Ms. Shokatfard told the agents that they would be able to get the information from her bank. Ms. Shokatfard said that she met the FBI agents in California and voluntarily provided agents her laptop to copy. Ms. Shokatfard said that she was questioned three times by FBI agents. On one occasion special agent Dave Carroll came with a female agent from Sacramento ask Ms. Shokatfard about why she was planning to go to Egypt. The second interview was with Special Agent David Carroll and Colleen Anderson to ask Ms. Shokatfard about the emails regarding Chechnya. The third meeting was to pick up the laptop computer. Ms. Shokatfard said that she has heard nothing since then.

Ms. Shokatfard said that her understanding was that the agreement with the Al Haramain organization was that they would send Mr. Seda Islamic books that he could distribute and that they would also provide funds to buy a center for Muslims.

I thanked Ms. Shokatfard for meeting with me and served her with a trial subpoena and provided her a letter regarding her obligations.

WT/sls

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INVESTIGATION REPORT

CASE: *United States v. Pirouz Sedaghaty, et al.*
CR 05-60008 HO

ATTY: Steve Wax, Larry Matasar

INVEST: William Teesdale

WITNESS: Magdi Zaky



DATE: August 14, 2008

Reviewed with and adopted by witness on 07/07/10

On the above date, I received a return telephone call from Mr. Zaky, who was returning a telephone message I had left for him on the previous day. I introduced myself to Mr. Zaky as an investigator with the Federal Public Defender's Office and explained the nature of our representation of Mr. Seda.

Mr. Zaky told me that he works as a heating and air conditioning engineer in Medford. Mr. Zaky explained that he is a U.S. citizen who was born in Egypt and is a Muslim. Mr. Zaky told me that he lived in California for about 8 years and left for Oregon in 1992. Mr. Zaky said that he heard from a fellow Egyptian about a place for him to pray in Ashland in about 1995. From that time, Mr. Zaky said that he started attending Friday prayers at the mosque in Ashland that was being run by Mr. Seda. Mr. Zaky told me that he got to know Mr. Seda through attending those Friday prayers on a regular basis from approximately 1995 until the prayer house closed. Mr. Zaky said that he would normally come for the Friday prayers and leave more or less as soon as they had finished, which would be about 45 minutes in total. Mr. Zaky explained that he attended the Mosque quite regularly, although would miss from time to time if he had to be on the road with his job. Mr. Zaky said that he tried to attend as frequently as he could.

Mr. Zaky told me that the process of Friday prayers was to perform ablution and washing after arrival and then pray to Mecca. After that would be the address or huda. After that the people would generally leave. Mr. Zaky said that he may have seen Mr. Seda give the sermon once or twice, but normally there were other people who gave the address. Mr. Zaky remembered an African American and also a different person, a Muslim from one of the western states. Mr. Zaky said that the person giving the sermon changed around from time to time.

Mr. Zaky told me that he never remembered anyone who gave any sermon at

the prayer house ever saying anything about fighting, supporting terrorism or anything else extreme. Mr. Zaky said that he does remember there being a discussion after Ramadan (when Muslims are required to give to charity) about needing to help refugees who had to leave their homes because of fighting. Mr. Zaky said that his impression of the Ashland prayer house was that it was a place of worship where moderate views were expressed. Mr. Zaky said that he does not think that the prayer house was at all extreme and that if it had been, he would not have agreed to be involved in it. Mr. Zaky said that his impression is that the prayer house was a good place to go for him to follow his faith.

Mr. Zaky told me that he did not know Mr. Seda very well socially. Of course, Mr. Zaky did see Mr. Seda at the Mosque and did say hello to him but it was a casual thing.

Mr. Zaky told me that he does not know anything about Mr. Seda's case except what he has read about in the papers. Mr. Zaky explained that he has read that Mr. Seda was in the Middle East and came back to fight his case.

Mr. Zaky recalls that Mr. Seda had a very good relationship with a local rabbi in Ashland. Mr. Zaky said that he remembers that Mr. Seda was involved in religious outreach between people of different faiths. Mr. Zaky said that Mr. Seda had a tent in Ashland and a camel and would invite other religious groups to attend. Mr. Zaky said he did not go to any of those gatherings himself but did see the tent and said that Mr. Seda presented the tent at the fair and called it the "Arabian Nights." Mr. Zaky said that Mr. Seda was well known in the Ashland community and very involved in community events. Mr. Zaky said he has not been contacted officially before about Mr. Seda. Mr. Zaky said that he is willing to come to trial and testify but hopes this will not be very disruptive.

WT/sls

O:\Client\Wax\Sedaghaty, Pirouz, 2007-1124\investigation\reports\Reviewed Reports\zaky magdi.ir.wpd

EXHIBIT 8

Defense Exhibit List Index ¹
11-17-2010

Trial Ex. #	Exhibit Description
0601	Constitution of Al Haramain Islamic Foundation (Saudi Arabia)
0602	Monthly report and statement of purpose (PF)
0602(A)	Monthly Report and Statement of Purpose Declaration of Cooperation Statement between Qu'ran Foundation and Al Haramain Foundation March 6, 1998
0602(B)	Signed Statement of Purpose Declaration of Cooperation Statement between Qu'ran Foundation and Al Haramain Foundation
0602(C)	Statement of Purpose and Declaration of Cooperation between Qu'ran Foundation and Al Haramain Islamic Foundation with printed signatures Solimon Al Buthe, Abu Unus, Dawood Rodgers, and Robert L. Brown
0603 *	Letter March 31, 1998, Qu'ran Foundation to Al Haramain Foundation
0604-0605	Reserved
0606	Email January 1, 2000, 2:37 p.m. P to Al Buthe
0607	Photograph Pete Seda and Solomon Al Buthe under tree
0608	Photograph Pete Seda, Rob Brown, John Dunn and David Rodgers

¹ The "*" indicates that a copy of the exhibit will be provided on a CD following the submission of the Sentencing Memorandum in Mr. Sedaghaty's case. In general, the exhibits included on the CD are ones that were not admitted at trial.

- 0609 Photograph including Rob Brown, David Rodgers, and Pete Seda
- 0610 Photograph of 3800 S Highway 99 with camel
- 0611 Photograph of cultural tent at 3800 South Highway 99
- 0612 Photograph Al Haramain building
- 0613 Photograph of David Rodgers with King Abdullah
- 0614 Email June 26, 2000 AQ to b@qf.org on his trip - and extremism
- 0614(A) Attachment to June 26 2000 email June 25, 2000 Al Buthe to AQ
- 0615-0627 Reserved
- 0628 * December 2, 1999, article from NY TIMES "McCain Urges Ending Aid To Russia In Wake Of Chechen Policy"
- 0629 * ABC News.com page, December 9, 1999, "Yeltsin Lashes Out"
- 0630 * THE INDEPENDENT web page December 11, 1999, "In A Powerless, Frozen City Of No Food, The Blind Hear The Bombs And Know There Is No Escape; Sarah Richards Toured Chechnya's Capital As Russian Forces Closed In, And Was Among The Last To Leave."
- 0631 * TIME webpage December 13, 1999, "Campaign 2000: Foreign Policy: Where McCain Hits Bush The Hardest"
- 0632 * Doctors Without Borders webpage December 15, 1999, "Chechnya: The Tracking of Civilians"
- 0633 * CNN.com webpage December 16, 1999, "Albright Delivering 'strong message' to Russia"

- 0634 Email December 29, 1999 at 5:20 a.m., Raya Shokatfard to lz@qf.org, with CNN.com webpage December 18, 1999, "Russian Bombardment Intensifies As Troops Close On Grozny"
- 0635 * Webpage The Gazette, February 6, 2000, "Escape From Chechnya"
- 0636 * Reserved
- 0637 Email February 17, 2000 at 1:02 a.m., Q to AQ with CNN webpage February 16, 2000, "NATO, Russian Relax Tense Relations"
- 0638* Reserved
- 0639 * Article Ria Novosti February 28, 2000, "Saudi Arabia to Provide Humanitarian Aid For Refugees"
- 0640 * Human Rights Watch Report February 29, 2000, "War Crimes In Chechnya And The Response Of The West"
- 0641 * Email February 21, 2000 at 11:34 p.m. The Arborist to b at qf.org with CNN.com February 21, 2000 Russia Chechnya webpage
- 0642 * CNN.com Website Pages March 22-31, 2000
- 0643 * UN Commission on Human Rights Resolution of April 25, 2000
- 0643(A) * United Nations Foundation U.N. wire April 26, 2000, "U.N. Seeks Inquiry Into Violations In Chechnya"
- 0644 * MSF-USA special report, November 22, 2000, Chechnya, The Politics Of Terror
- 0645 * United Nations High Commissioner for Human Rights Resolution 2001/24
- 0646 * U.S. Senate Committee on Foreign Relations, Joseph R. Biden, February 12, 2004

0647 *	State Department Russia Country Report 1999
0648 *	State Department Russia Country Report 2000
0649 *	State Department Russia Country Report 2001
0650 *	NY Times 10/30/99 "Fears Rise for Chechen Refugees as Winter Nears"
0651*	Reserved
0652 *	Congressional Research Service Report for Congress: Chechnya Conflict: Recent developments (May 3, 2000)
0653 *	News article U.S.: Chechen Officials Hold Talks at State Department (February 2, 2000)
0654 *	Time.com News Article, Why Russia May Keep Chechen Capital in Ruins (February 7, 2000)
0656-0663	Reserved
0664*	Email September 18, 2001 from Florin to Pete Seda plus attachment
0664(A) *	September 21, 2001, 9:25 a.m. P to Council of American Islamic Relations plus attachment
0665 *	Email September 21, 2001, 9:33 a.m. P to CIC@cicnow.com
0666 - 0667	Reserved
0668	Bank of America Check and traveler's check purchase
0669	Email January 11, 2000, 14:38:08 S. El Fiki to Haramain
0670	Email January 18, 2000, Haramain to S. El Fiki
0671	Email February 21, 2000, 9:12 a.m. head office to S. El Fiki
0672	February 21, 2000, Letter Aqeel to S. El Fiki

0673	February 14, 2000, Fax S. El Fiki to Nasir Eid National Bank of Kuwait
0673(A)	English translation of February 14, 2000, Fax S. El Fiki to Nasir Eid National Bank of Kuwait
0673(B)	Declaration of Translation of February 14, 2000, Fax S. El Fiki to Nasir Eid National Bank of Kuwait
0674	Email February 24, 2000 P to Al Buthe RE money transferred
0675	Reserved
0676 *	Email March 27, 2000, 8:36 a.m. Al Haramain to S. El Fiki
0677 *	Letter April 13, 2000, Mahmoud T. El Fiki from National Bank of Kuwait
0678 *	Redacted Federal Bureau of Investigation 302 interview report of Mahmoud Talaat El Fiki, investigation on January 31, 2005
0679 *	Kuwait Bank record for El Fiki
0680 *	Email May 11, 1999 Barhoush to Haramain et al Subject: Urgent Albanian Translation
0680(A)	Email Abdul Qaadir to Haramain May 11, 1999 Report of Committee on Albania
0681	Email December 11, 1999, Abdul Qaadir to Qur'an and Sunnah Net Group; Jeddah-Net@muslimsonline.com
0682	Email December 28, 1999, 4:26 p.m. from Info to Info@irw.org
0683	Email December 30, 1999, 8:50 p.m. P to Al Buthe
0683(A)	Attachment to email Statement in Spanish and English from Ayuda Internacional Al Desplazado

0683(B) Email from Al Buthe to P December 31, 1999 Human Help for Chechnya

0683(C) Email January 1, 2000 1:46 P to Al Buthe RE Horrible Condition

0683(D) Email from Al Buthe to P, January 2, 2000 at 4:58 AM

0684 * Email from Head Office to Bilal Ibrahim with cc to Pete, January 3, 2000 at 3:10 AM

0685 Email from Abdul-Qaadir to q@qf.org, January 4, 2000 at 1:00 AM

0685(A) * Email attachment January 4, 2000 at 1:00 AM

0686 Email January 6, 2000, 1:35 a.m. Al Buthe to P

0686(A) Email January 6, 2000, 1:37 a.m. Al Buthe to P

0686(B) Email January 7, 2000, 3:48 p.m. Info to Info@irw.org

0686(C) Email January 12, 2000, 5:43 p.m. Info to Info@irw.org

0687 Email Daveed Gartenstein-Ross to P January 17, 2000

0687(A) Email P to Daveed Gartenstein-Ross January 17, 2000

0687(B) Email Chain P to B February 21, 2000, including Daveed Gartenstein-Ross to P 1/17/2000 RE Horrible Condition and P to Al Buthe 1/1/2000 RE Horrible Condition

0687(C) Email P to Daveed Gartenstein-Ross January 18, 2000 plus attachment

0687(D) Email P to Daveed Gartenstein-Ross January 18, 2000

0688 * Email Ashland to Al Buthe January 18, 2000

0688(A) Email January 22, 2000, 11:23 p.m. Ashland to Al Buthe

0689 Letter January 24, 2000, Pete Seda to Responsible Secretariat of Federation Committee for International Technical Humanitarian Cooperation

0689(A) Email January 27, 2000, 10:08 a.m. Info to Info@irw.org

0690 Email AQ to Sheeshan February 3, 2000

0691 Email P to Daveed Gartenstein-Ross February 4, 2000

0691(A) Email P to Daveed Gartenstein-Ross February 8, 2000

0692 Email Q to AQ February 12, 2000

0692(A) Email from Q to Sunnah, February 12, 2000, with path to Time.com, Photo Essay RE: Grozny

0692(B) Photographs Time.com photo essay, Russian Soldiers Rest in Downtown Grozny

0692(C) Blinded and Bound, Chechen Civilians

0692(D) Chechen Men in Pit

0692(E) Chechen Boy in Cellar

0692(F) Chechen Woman with Son

0692(G) Fallen City

0693 Email P to Al Buthe February 15, 2000

0693(A) Email The Arborist to Al Buthe February 17, 2000

0693(B) Email P to B February 19, 2000

0693(C) Email P to Al Haramain February 20, 2000

0694 Email February 20, 2000 The Arborist to b@qf.org

0694(A) Email P to MCA February 21, 2000 11:40

0694(B) Email February 21, 2000, 11:34 p.m. from The Arborist to B@qf.org

0694(C) Email February 21, 2000, 10:54 a.m. The Arborist to B@qf.org

0694(D) Email February 21, 2000 5:48 p.m. The Arborist to B

0694(E) * Web page Medecins Sans Frontieres

0694(F) * Web page United Nations

0695 Email Chain P to B February 21, 2000 including P to Daveed Gartenstein-Ross 2/19/2000 and Daveed Gartenstein-Ross to P 2/8/2000 RE: Chechnya

0696 Email AQ to Sheeshaan February 23, 2000

0697 Email February 29, 2000, 12:16 p.m. P to B@qf.org

0697(A) Email Q to PJFlorin February 29, 2000

0697(B) Email P to B March 1, 2000

0698 * Memorandum March 1, 2000, Catherine Granel from Bilal Abdul-Kareem, "Aid to the People of Chechnya"

0698(A) Email Q to Granel March 1, 2000 with Memo to Bilal

0698(B) * Web Page Doctors of the World Staff 2000

0698(C) Email March 1, 2000, 10:55 a.m. Q to P@qf.org

0698(D) Email March 1, 2000, 11:29 a.m. P to PJFlorin@jeffnet.org

0698(E) * Letter March 1, 2000 Bilal to Catherine Granel RE: Aid to the people of Chechnya

0698(F) * Email March 1, 2000 P to Q RE: Letter to Doctors

0698(G) * Letter Attachment to March 1, 2000 email Subject: Aid to the People of Chechnya

0698(H)	Email Q to The Arborist March 3, 2000
0699	Email P to Al Buthe March 3, 2000
0699(A)	Email March 4, 2000 p to q@qf.org
0699(B)	Attachment to Email March 4, 2000
0700	Email March 5, 2000 P to b@qf.org FW: I need your help!
700(A)	Web printout, World Food Program, Azerbaijan, printed February 29, 2000
700(B)	Web printout, World Food Program Delivers - The Balkans, printed February 29, 2000
700(C)	Web printout, World Food Program Bread Story - Kosovo, printed February 29, 2000
700(D)	Web printout, World Food Program Logistics Photo Gallery, picture of airplane dropping food, printed March 1, 2000
700(E)	Web printout, World Food Program Logistics Photo Gallery, picture of helicopter, printed March 1, 2000
700(F)	Web printout, World Food Program Logistics Photo Gallery, picture of truck convoy, printed March 1, 2000
700(G)	Web printout, World Food Program Logistics Photo Gallery, picture of loaded truck, printed March 1, 2000
0701 *	Email March 15, 2000 from Info to Harith RE Eid Mubarak
0701(A) *	April 2, 2001, 9:58 a.m. CIC@cicnow.com
0702 - 0703	Reserved
0704(A) *	Al Haramain Islamic Foundation receipt No. 262740
0704(B) *	English translation of Al Haramain Islamic Foundation receipt No. 262740
0705(A) *	Al Haramain receipt no. 263867

- 0705(B) * English translation of Al Haramain receipt no. 263867
- 0706(A) * Al Haramain log page of receipts no. 262740 & 263867
- 0706(B) * English translation of Al Haramain log page of receipts no. 262740 & 263867
- 0707(A) * Affidavit of Al Haramain Islamic Foundation, executed May 3, 2004
- 0707(B) * Certificate of translation of Affidavit of Al Haramain Islamic Foundation, executed May 3, 2004
- 0707(C) * English translation of Certificate of translation of Affidavit of Al Haramain Islamic Foundation, executed May 3, 2004
- 0708 - 0712 Reserved
- 0713 * Al Suwailem Declaration
- 0714(A) * Diwan Presidency of Counsel of Ministers
- 0714(B) * English translation of Diwan Presidency of Counsel of Ministers
- 0715(A) * Diwan memo to His Royal Highness Minister of Interior re: Chechen Relief and SJRC
- 0715(B) * English translation of Diwan memo to His Royal Highness Minister of Interior re: Chechen Relief and SJRC
- 0716(A) * Kingdom of Saudi Arabia, Saudi Joint Relief Committee (SJRC) for the Aid of the People of Kosovo
- 0716(B) * English translation of Kingdom of Saudi Arabia, Saudi Joint Relief Committee (SJRC) for the Aid of the People of Kosovo
- 0717(A) * Memo to His Excellency Minister of Finance and National Economy

- 0717(B) * English translation of Memo to His Excellency Minister of Finance and National Economy
- 0718(A) * Order of King Fahad Bin Abdulaziz Al-Saud
- 0718(B) * English translation of Order of King Fahad Bin Abdulaziz Al-Saud
- 0719(A) * Al Haramain Humanitarian Foundation memorandum November 4, 1999
- 0719(B) * English translation of Al Haramain Humanitarian Foundation memorandum November 4, 1999
- 0720(A) * Telegram to the Minister of the Interior, re: Saudi Joint Committee November 10, 1999
- 0720(B) * English translation of Telegram to the Minister of the Interior, re: Saudi Joint Committee November 10, 1999
- 0721(A) * Minutes of meeting of the Chechnya Committee/Saudi Joint Relief Committee January 1, 2000
- 0721(B) * English translation of Minutes of meeting of the Chechnya Committee/Saudi Joint Relief Committee January 1, 2000
- 0722(A) * Memo from Al Haramain Charity Foundation January 4, 2000
- 0722(B) * English translation of memo from Al Haramain Charity Foundation January 4, 2000
- 0723(A) * Report of Saudi Joint Relief Committee for Kosovo and Chechnya (Chechnya Committee) February 15, 2000
- 0723(B) * English translation of Report of Saudi Joint Relief Committee for Kosovo and Chechnya (Chechnya Committee) February 15, 2000
- 0724(A) * Brief report what Chechnya Committee has achieved abroad

- 0724(B) * English translation of brief report what Chechnya Committee has achieved abroad
- 0725(A) * Declaration of Vladimir Matusevitch August 23, 2004
- 0725(B) * Accord between Russian Ministry and Saudi Joint Relief Committee for Kosovo and Chechnya in Russian and Arabic
- 0725(C) * English translation from Arabic of Memo of Accord between Russian Ministry and Saudi Joint Relief Committee for Kosovo and Chechnya
- 0725(D) * English translation from Russian of Russian and Arabic language version of Accord between Russian Ministry and Saudi Joint Relief Committee for Kosovo and Chechnya
- 0725(E) * Russian language version of Certificate 9927 of the State Registration Chamber
- 0725(F) * English translation of Certificate 9927 of the State Registration Chamber
- 0726(A) * Telegram regarding Al Haramain, Chechnya and Saudi Joint Relief Committee June 2, 2003
- 0726(B) * English translation of Telegram regarding Al Haramain, Chechnya and Saudi Joint Relief Committee June 2, 2003
- 0727(A) * Telegram to Al Rajhi Banking and Investment Corporation March 14, 2004
- 0727(B) * English translation of Telegram to Al Rajhi Banking and Investment Corporation March 14, 2004
- 0728(A) * Confirmation from Minister of Justice regarding Al Haramain Islamic Foundation March 21, 2004
- 0728(B) * English translation of Confirmation from Minister of Justice regarding Al Haramain Islamic Foundation March 21, 2004
- 0729(A) * Statement from Al Haramain Charity Foundation May 3, 2004

0729(B) *	English translation of Statement from Al Haramain Charity Foundation May 3, 2004
0730 *	Unclassified Summary Regarding Monies Destines for Needy Chechen Families
0731	Al Haramain Website list of Al Haramain bank accounts
0732 - 0747	Reserved
0748	Handwritten document captioned "Wire Transfer" top line \$2767
0749(A)	Email December 30, 1999 8:20 a.m. Tom to Pete Seda
0749(B)	Proposal attachment to email: Letter Tom Wilcox to Pete Seda December 30, 1999
0750	Engagement letter from Tom Wilcox to Pete Seda
0751	Handwritten list, top line 2/24/2000 Mahmoud T. El Fiki
0752	Check #9733 June 23, 2000
0753	Check #9733 6/23/2000
754.42318	2000 Form 990
754.42335	2000 State CT-12 Return
754.42477	2001 Form 990
754.42494	2001 State CT-12 Return
754.42532	Letter from Internal Revenue Service to Al Haramain dated September 2, 2002
754.42533	Letter from Internal Revenue Service to Al Haramain dated February 20, 2002
754.42540	Letter from OR DOJ to Al Haramain dated October 30, 2001

754.42659	Letter from OR DOJ to Al Haramain dated June 19, 2001
754.42703	Letter from OR Dept of Revenue to Al Haramain dated August 8, 2000
754.42810	Letter from Internal Revenue Service to Al Haramain dated May 31, 2002
754.42895	Letter from OR DOJ to Al Haramain dated February 22, 2001
754.42896	1999 Form 990
754.43005	1998 Corporate Return Form 1120
754.43014	Oregon Corporation excise tax return 1998
754.43075	Letter from Internal Revenue Service to Al Haramain dated December 7, 2000
754.43104	Letter from Internal Revenue Service to Al Haramain dated October 13, 2000
754.43111	Letter from Tom Wilcox to OR DOJ dated September 22, 2000
754.43112	Letter from OR DOJ to Al Haramain dated September 7, 2000
754.43127	Letter from Tom Wilcox to Internal Revenue Service dated September 25, 2000
754.43129	Letter from Internal Revenue Service to Al Haramain dated September 6, 2000
754.43156	Letter from Tom Wilcox to Internal Revenue Service dated August 17, 2000
754.43158	Letter from Internal Revenue Service to Al Haramain dated March 24, 2000
754.43193	1023 Application

754.43219	Letter from OR DOJ to Al Haramain dated January 14, 2004
754.43220	Letter from Internal Revenue Service to Al Haramain dated February 9, 2004
754.43238	Letter from Internal Revenue Service to Al Haramain dated March 16, 2000
754.43252	Letter from OR DOJ to Al Haramain dated July 26, 2000
754.43257	Letter from OR DOJ to Al Haramain dated April 11, 2000
754.43337	Letter from Internal Revenue Service to Al Haramain dated December 22, 2003
754.43340	Letter from OR DOJ to Al Haramain dated November 21, 2003
754.43341	Letter from OR DOJ to Al Haramain dated October 16, 2003
754.43356	Letter from OR DOJ to Al Haramain dated June 4, 2003
754.43360	Letter from OR DOJ to Al Haramain dated April 4, 2001
754.43411	Letter from OR DOJ to Al Haramain dated October 30, 2000
754.43433	Letter from Tom Wilcox to Internal Revenue Service dated January 3, 2002
754.43434	Letter from Internal Revenue Service to Al Haramain dated December 31, 2001
754.43437	Letter from Tom Wilcox to Internal Revenue Service dated October 2, 2001
754.43438	Letter from Internal Revenue Service to Al Haramain dated September 24, 2001
754.43447	Letter from OR DOJ to Al Haramain dated August 24, 2001

754.43459	1999 State CT-12 Return
754.43462	Letter from Tom Wilcox to OR DOJ dated January 8, 2001
754.43487	Letter from Internal Revenue Service to Al Haramain dated February 4, 2000
754.43512	Letter from Internal Revenue Service to Al Haramain dated June 1, 2000
754.43660	Letter from Internal Revenue Service to Al Haramain dated April 18, 2001
755.1	Email from P to Tom Wilcox, May 14, 2001
755.2	Attachment to 755.1 - QuickBooks File
755.3	Floppy Disk from Tom Wilcox, Labeled "Al Haramain 6/14/2001"
755.4	QuickBooks file located on 755.3
755.5	Email January 7, 2002 from Tom Wilcox to P
755.6	Attachment to 755.5 - QuickBooks File
755.7	Jeff Cone, Audit Trail, January 1999 through December 2003
755.8	Jeff Cone, Financial Statement Transactions: QuickBooks Audit Report Emulation
755.9	Email March 13, 2001 from Tom Wilcox to Pete Sedda
755.10	Attachment to 755.9 - QuickBooks File
755.11	Email June 12, 2001 from P to Shoumar, Abdulaziz S (rrd)
755.12	Attachment to 755.11 - QuickBooks File
755.13	September 19 - 24 Wilcox Data Entry Report

0756	Email January 2, 2000, 1:13 p.m. P to Ms. Katkhouda
0757-0758	Reserved
0759	Email February 26, 2000, 12:45 a.m. from Al Buthe to P@qf.org
0760	Email March 6, 2000 Al Shoumar to q@qf.org
0760(A)	Attachment to Email March 6, 2000 Al Shoumar to q@qf.org
0761	Email from Q to P March 7, 2000, Six months budget with attachment
0762	Email from P to Shoumar January 3, 2001 RE springfield@Al Haramain.org
0763-0800	Reserved
0801 *	Email April 1, 2000, 3:07 p.m. P to Raya Shokatford
0802	Letter Proposal April 11, 2000, Pete Seda
0803(A)	Email April 12, 2000, 11:57 a.m. PJFlorin@jeffnet.org to Pete Seda
0803(B)	Draft greetings letter.doc attached to email
0803(C)	Draft public relations letter re Islam attached to email
0803(D)	Draft Greeting Letter (PF)
0803(E)	Draft greeting letter (short version) PF
0803(F)	Letter April 11, 2000 Public relation plan (PF)
0804(A) *	Email April 18, 2000, 3:05 p.m. PJFlorin @jeffnet,org to Pete Seda
0804(B) *	Draft Jewish Community letter attached

0804(C) * Draft anti-terrorism letter to Sheik Aqeel attached to April 11, 2000, email

0804(D) * Letter to April 18, 2000 to Rabbi Zaslow (PF)

0804(E) * Letter April 18, 2000 to Rabbi Sirinski (PF)

0805(A) * Email April 19, 2000 12:46 a.m. Ashland to Al Buthe

0805(B) Attachment to email, Letter April 19, 2000, Pete Seda to Aqeel al Aqeel

0806 Letter April 19, 2000, Pete Seda to Aqeel al Aqeel

0807 * Email July 5, 2000, 11:52 a.m. PJFlorin@jeffnet.org to Pete Seda plus attachment

0807(A) * Draft letter to Shiukh (PF)

0808 * ASHLAND DAILY TIDINGS September 15, 2001

0809 * Letter September 18, 2001, Al Haramain Foundation, signed by Pete Seda, to Office of Emergency Relief, City of New York

0809(A) * Letter September 18, 2001 to NYC (PF)

0810 * Letter September 18, 2001, Pete Seda to State Department

0810(A) * Draft September 2001 Justice for All (PF)

0810(B) * Draft September 2001 Justice for All (PF)

0811 * Letter September 18, 2001, Pete Seda to Office of Emergency Relief

0812 * Letter September 20, 2001, Pete Seda to My Dear Brothers and Sisters, Call for Islamic Outreach

0812(A) * Call For Islamic Outreach (PF)

0813 Letter to State Department 9/18/2001 (PF)

0813(A) * Letter September 20, 2001, Secretary of Health and Human Services, Tommy Thompson, from Pete Seda

0814 * Mail Tribune article, September 20, 2001

0815 * Letter to the Editor by Pete Seda

0815(A) * Press Release "From The Muslim Heart" (PF)

0816 * Email September 21, 2001, 9:15 p.m. Marisa Petersen to Qur'an Foundation

0817 * Email September 23, 2001, 10:59 a.m. A to letters@tucsoncitizen.com

0818 * Email September 23, 2001, 6:45 p.m. A to Oelrichs@rockymountainnews.com

0819 * Email September 23, 2001, 7:31 p.m. A to letters@washpost.com

0820(A) * Email September 26, 2001, 11:04 a.m. Florin to Pete Seda

0820(B) * Letter September 26, 2001, Pete Seda to Senator Wyden

0820(C) * Letter Form: Educational Outreach Services (PF)

0821 * Letter October 2, 2001, Congressman Greg Walden to Pete Seda

0822 * Letter October 2, 2001, Pete Seda to Dear Spiritual Leader

0823 * Letter October 5, 2001, Federal Bureau of Investigation Thomas J. Pickard to Pete Seda

0824 * Email October 7, 2001, 2:28 p.m. The Arborist to Traci Dow

0825 * Email October 7, 2001, 3:05 p.m. A to DBerger and attachment

0826 * Email October 14, 2001, 1:16 p.m. Scarlet Ledesma to Pete@TheArborist.com

0827 * Reserved

0828 * Letter October 24, 2001, Department of the Army, Office of Chief of Chaplins, to Pete Seda

0829 * Letter November 19, 2001, Federal Bureau of Investigation to Pete Seda

0830 * Email November 27, 2001 2:57 pm, from Peace Hhouse to recipient list

0831 * Email November 28, 2001 7:58 am, Victoria Lane to P

0832 * Announcement of community benefit concert Saturday, December 1, 2001

0833 * Press release March 2002

0833(A) * Press Release - Six Month Anniversary of 9/11 (PF)

0834 * Email Pete Seda To Pat Florin, March 12, 2002 Al Haramain Press Release (PF)

0835 * Letter March 15, 2002, Pete Seda to Senator Joseph Biden

0835(A) * Letter To Biden, March 14, 2002 (PF)

0836(A) * Email October 14, 2002, from Florin to Pete Seda

0836(B) * Attachment to Email October 14, 2002, from Florin to Pete Seda

0836(C) * Letter To Scholars Of The Ummah (PF)

0837 * Reserved

0838 * Letter November 4, 2002, Pete Seda to Brothers in Al Haramain Islamic Foundation

0839 * Letter 10th of Sha'ban 1423 Pete Seda to Scholars of the Ummah

0840 * Memo January 28, 2003, Secretary of State Powell from Pete Seda

0840(A) * Letter January 28, 2003 from Pete Seda to Charles Matthews seeking Fatwah on Bin Laden

0840(B) * Letter To Colin Powell, January 27, 2003 (PF)

0840(C) * Letter January 28, 2003 Pete Seda to David Carroll RE Islamic legal case against Osama Bin Laden

0841 - 0852 Reserved

0853 * Letter February 14, 2002, United States Department of Justice, Criminal Division, to Pete Seda

0854 * Letter July 2, 2002, Pete Seda to Dave Carroll

0855 * Consent 10/3/01 for David Carroll to access Al Haramain Bank Account

0856 * Photograph Pete Seda with United States UAE Ambassador Michele J. Sison

0857 - 0865 Reserved

0866 * Letter April 22, 2002, Pete Seda to Israeli Embassy

0866(A) * Email Pat Florin To Pete Seda, Re: Letter re Palestinian Aid (PF), plus attachment

0867 * Letter April 22, 2002, Pete Seda to Licensing Division, Office of Foreign Assets Control

0868(A) * Email April 22, 2002, P to Florin 4:43 pm

0868(B) * Attached letter to Israeli Embassy April 22, 2002

0869 * Email April 23, 2002 8:19 am, Brett Schor to P

0870 * Letter May 2, 2002, Ambassador Kurtzer to Pete Seda

0871 * Emails May 13, 2002, P.S to Benny Dagin

0872 * Letter May 14, 2002, Pete Seda to Lorraine Lanlor, Office of Foreign Assets Control

0873 * Letter May 14, 2002, Pete Seda to Compliance Division Office of Foreign Assets Control

0873(A) * Letter To Office of Foreign Assets Control, Re: Humanitarian Aid For Palestinians (PF)

0874(A) * Email May 28, 2002, 1:25 pm P.S to Florin

0874(B) * Letter May 28, 2002, Pete Seda to Earl Wall; attachment to May 28, 2002 letter

0874(C) * Letter To Earl Wall, CARE, May 28, 2002 (PF)

0875 * Letter June 19, 2002, Office of Foreign Assets Control to Martin McMahon, Esquire

0875(A) * Email Pat Florin to P.S, June 20, 2002, Benny Dagan (PF)

0876 * Letter July 1, 2002, Pete Seda to Richard Newcomb, Office of Foreign Assets Control

0877(A) * Email July 2, 2002, 2:10 pm David Berger to Pete Seda

0877(B) * Letter July 2, 2002, Pete Seda to Police Chief Scott Fleuter

0877(C) * Letter July 2, 2002, to Lieutenant Patten

0878 * Letter July 16, 2002, Pete Seda to Israeli Colonel Isaac Gurvich

0879 * Letter July 17, 2002, Pete Seda to Ambassador Kurtzer

0880 * Letter July 17, 2002, Pete Seda to United States Embassy, Economics Section, Ava Rogers

0881 * Letter July 17, 2002, Pete Seda to Deborah Schwartz, United States Embassy, Israel

0882 * Fax July 22, 2002, Ava Rogers, U.S. Embassy to Pete Seda

0882(A) * Email Pete Seda to Pat Florin, July 22, 2003 With Ava Rogers.jpg (PF)

0882(B) * Attachment to Ex 882(A), "7 22 02 Ava Rogers.jpg" (PF)

0883(A) * Email July 22, 2002, Florin to P.S 11:24 am

0883(B) * Letter July 22, 2002, Pete Seda to Ava Rogers, U.S. Embassy

0883(C) * Letter July 22, 2002 Pete Seda to Ava Rogers United States Embassy Re: Humanitarian Aid in the West Bank and Gaza (PF)

0884 * Letter July 23, 2002, Pete Seda to Ian Barukh, Israeli Foreign Ministry

0885 * Letter July 26, 2002, Rabbi Zaslow

0886(A) * Email July 30, 2002, P.S. to David Berger 2:28 p.m.

0886(B) * Letter Israeli government July 28, 2002

0887 * Fax July 31, 2002, Leah Tsemel to Pete Seda

0888 * Letter Pete Seda to Ms. Orley, Israel Defense Forces

0889 * Email August 27, 2002, Florin to P.S, with email from P.S to Florin

0890 * Stained Peace of My Heart Aug 2002 (PF)

0891 - 0905 Reserved

0906 * Email February 21, 2000, 8:50 p.m.wsra99@aol.com to P@qf.org

0907 * Email March 29, 2000, 11:32 a.m. P to wsra99@aol.com

0907(A) * Email March 30, 2000 P to Al Buthe FW: Agreement

0907(B) * Email March 30, 2000 P to Al Buthe FW: Agreement with attachment

0908(A) * Email October 26, 2001, 4:48 p.m. Sandra Kay to Pete Seda

0908(B) * Attached letter, October 26, 2001, to Steve Monroe at Office of Foreign Assets Control

0909(A) * Letter November 1, 2001, Pete Seda to Emily Clay at Office of Foreign Assets Control

0909(B) * Letter November 2, 2001, Office of Foreign Assets Control to Pete Seda

0909(C) * Letter November 1, 2001 Pete Seda to Emily Clay Office of Foreign Assets Control Application for license to distribute food to Afghani refugees (PF)

0910 Email October 9, 2000 P to Al Buthe RE; Tajikistan

0911 Email October 23, 2001 P to Al Buthe RE make it work out – with attachments

0912 - 0924 Reserved

0925 Photograph Pete Seda with truck

0926 * Article REGISTER GUARD, "Fate of Big Leaf Maples in Whiteaker Up In The Air"

0927 * Email January 20, 2000, 7:41 p.m. Brad and Rooney Riggs to P

0928 * Email February 11, 2000, 6:56 p.m. Jim Hartman to Pete Seda

0929 * Ashland Watershed Partnership meeting notes March 28, 2000

0930 *	Email November 17, 2000, 3:08 p.m.: Swales to @mind.net
0931 *	Email April 11, 2001, 11:56 a.m. Rose Hill to P@qf.org
0932 *	Email June 24, 2001, 2:13 p.m. The Arborist to Colonel Swales
0933(A) *	Email October 17, 2001, Representative Greg Walden to Pete Seda
0933(B) *	Email December 6, 2001, Representative Greg Walden to Pete Seda
0934 *	Photograph Pete Seda Cleaning Ashland
0935 *	Photograph Pete Seda On Ladder
0936 *	Photograph Pete Seda Cleaning with fire people
0937 *	Photograph The Arborist Crew
0938 *	Photograph Pete Seda with Governor Kitzhaber
0939 *	Photograph Pete Seda Cleaning Downtown Ashland
0940 *	City of Ashland, Site Design and Use Standards
0941	Reserved
0942 *	Letter To Mayor Cathy Shaw, January 31, 2000 (PF)
0943	Reserved
0944 *	Hamrick Road Letter, April 20, 2000 (PF)
0945	Reserved
0946 *	8/8/00 Letter to William Keller (PF)
0947-0955	Reserved
0956 *	Photograph Pete Seda with children

0957(A) * Email March 28, 2000, 3:25 p.m. Q to P@qf.org

0957(B) * March 28, 2000 letter Pete Seda to Pastor

0958 * Email May 23, 2000, 3:20 p.m. B to P

0959 * Email October 22, 2000, 8:57 p.m. Kelly Bennett to Pete Seda Sedaghaty

0960 * Email January 24, 2001, 12:13 a.m. P to Shalomrav@aol.com

0961 * Email February 23, 2001, 1:56 p.m. Stan Way to P@qf.org

0962 * Email May 11, 2001, 10:12 a.m. James Y. Horton to P@qf.org

0963 * Email May 21, 2001, 2:22 p.m. Pam Long to P@qf.org

0964 * Email May 22, 2001, 11:31 a.m. Peace House to Pete Seda et. al.

0965 * Email July 02, 2001, 12:53 a.m. Pete Seda to BLJ_maj@yahoo.com

0966 Photograph Class at Al Haramain

0967 Photograph class at tent

0968 * Photograph multi-cultural fair

0969 * Photograph Religion Class at tent

0970 * Photograph presentation at church

0971 * Email Jane Claussen to P at QF.org, January 2, 2002

0972(A) * Email January 21, 2002, 1:50 pm, P to Florin

0972(B) * Attachment letter for Peace House

0973 *	Bi-line article: Islamic Show Intrigues RCC, February 2002
0974 *	Email February 1, 2002, Drake, Tommy to P at QF.org, 10:47 am
0975 *	Email February 5, 2002, Closter, Larry to Q.
0976 *	Photograph Pete Seda In Church
0977 *	Photograph of Pete Seda lecturing to students
0978 *	Photograph Pete Seda in Rabbi Zaslow's Temple
0979-0986	Reserved
0987 *	Email April 11, 2000, 8:13 a.m. B to P@qf.org
0988 *	Email March 13, 2002, Stan Way to P
0989(A) *	Email April 19, 2002, P to Florin
0989(B) *	Attached letter to Senators and Reps
0990 *	Booklet Islam Is by Pete Seda
0991	Islamic T-Shirt (available for viewing)
0992 - 1001	Reserved
1002	Pete Seda Video Statistics
1002(A) *	Pete Seda Video compilation CD (this was provided on September 28, 2010)
1002(B)	Chechnya video compilation CD
1003	Summary of prisoner letters (to be created)
1004	Letter and Check \$300 November 15, 1999
1005	Check \$50 November 20, 1999

1006	Check \$100.00 November 20, 1999
1007	Check \$100.00 December 1, 1999
1008	Money order \$300 December 6, 1999
1009	Check \$400.00 December 20, 1999
1010	Check \$200.00 January 1, 2000
1011	Check and Envelope \$600.00 January 5, 2000
1012	Check \$150.00 January 19, 2000
1013	Check \$68.00 January 22, 2000
1014	Checks \$50,000.00, \$4,000.00, \$196.75 January 21, 2000
1015	Check and Deposit ticket February 23, 2000
1016	Check dated December 24, 1999, \$2,000.00
1017 - 1023	Reserved
1024 *	Photograph of Shrubbery
1025(A) *	Photograph of wire
1025(B) *	Photograph of wire
1026 *	Photograph of former President George W. Bush with Saudi Crown Prince Abdullah
1027 *	Copies of Receipt No. 418933 and Receipt No. 15881 written in Arabic
1028 *	Video report concerning activities of Al Haramain Medical Committee from 1999 (2 minute summary)
1029 *	Patricia Florin document list

- 1030 Chase Bank deposit ticket dated March 25, 2000
- 1031 * Chechnya donations
- 1032 - 1033 Reserved
- 1034 Photograph of interior of trailer searched
- 1035 - 1046 Reserved
- 1047 Photograph of interior of trailer searched, specifically depicting a box of "Pete's . . . tapes."
- 1049 -1053 Reserved
- 1054 * Letter from Donald Stine, Chaplain, to Qu'ran Foundation, December 7, 1999
- 1055 * Letter from Chaplain Denis K. Burrell to Alharamain Islamic Foundation, February 24, 2000
- 1056 * Letter from Donald Stine, Chaplain, to Qu'ran Foundation, March 23, 2000
- 1057 * Letter from Andrew Leatherman, Chaplain, to Al Haramain Foundation, July 19, 2000
- 1058 * Email from Sgt. Vito D. Deure, U.S. Army Chaplain, to haramain@alharamain.org July 27, 2000
- 1059 * Letter from Robert Thomas, Chaplain, to Al Haramain Islamic Foundation, August 1, 2000
- 1060 * Letter from James E. Penn, Chaplain, to Quran Foundation, August 15, 2000
- 1061 * Letter from Rev. Steve Gadaire, Chaplain, to Al Haramain Foundation USA, August 16, 2000

- 1062 * Letter from Mitch Anderson, Chaplain, to Al Haramain Foundation, February 21, 2001
- 1063 * Letter from Joe T. Portugal, Chaplain, to Al Haramain Foundation, April 9, 2002
- 1064 * Demonstrative Exhibit of QuickBooks Activity
- 1065 Springfield Building Schedule per Jeff Cone
- 1201 Email from WesternSom to a@qf.org, February 9, 1999 at 9:13 p.m.
- 1201(A) Urgent Appeal Kosova, April 2, 1999, faxed to Al Haramain on April 2, 1999
- 1201(B) Time Sheet of Mr. Gartenstein-Ross for April 1999
- 1201(E) "Give Five Minutes For Kosova," Kosova Task Force, USA, Justice for All
- 1201(F) Check written to Kosova Task Force, USA, dated April 2, 1999
- 1205 * Email from Q to Soliman, April 12, 1999
- 1207(A) * Letter to Soliman from Daveed Gartenstein-Ross, April 28, 1999.
- 1210 Email Exchange between Mr. Gartenstein-Ross and Soliman Al Buthe, May 4th and 5th, 1999
- 1215 * Request for Assistance from the Uma Women Society, dated December 23, 1999
- 1216 Email exchange between Mr. Gartenstein-Ross and Soliman Al Buthe, March 5, 2000
- 1238 Excerpt of Wilcox Working Papers Presented During Testimony

1238(A)	Check \$21,000 #9624
1238(B)	Check \$131,300 #9456
1238(C)	Check \$10,000 #9002
1238(D)	Check \$318,291.74 #9733
1238(E)	Reconciliation Report