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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)

1:06CR00292 AWI

12 Plaintiff,)

VIOLATIONS: 18 U.S.C. § §
371, 951, 641 and 22 U.S.C.
2278 - Conspiracy to Act as

13 v.)

an Unregistered Agent of a
Foreign Government,

14 AMEN AHMED ALI,)
aka Ali Amin Alrowhani,)
15 aka Amin Al Rohany,)
Aka Ameen Alrohany;)

Unlawfully Export Defense
Articles, and Possess Stolen
Government Property; 18

16 IBRAHIM A. OMER; and)
17 MOHAMED AL-RAHIMI,)

U.S.C. § 951(a) - Acting as
an Unregistered Agent of a
Foreign Government; 22

18 Defendants.)

U.S.C. § 2778 - Attempted
Unlawful Export of Defense
Articles; 18 U.S.C. § 793(g)
Conspiracy to Gather,
Possess and Transmit Defense
Information; 18 U.S.C. §
793(b) Gathering Defense
Information

19)
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21)
22 S U P E R S E D I N G I N D I C T M E N T
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1 COUNT ONE: [18 U.S.C. § 371, 951, 641 and 22 U.S.C. § 2778 -
2 Conspiracy to Act as and Agent of a Foreign
3 Government, Unlawfully Export Defense Articles and
4 Possess Stolen Government Property]

5 The Grand Jury charges:

6 AMEN AHMED ALI, aka
7 Ali Amin Alrowhani,
8 Amin Al Rohany,
9 Ameen Alrohany,
10 IBRAHIM A. OMER, and
11 MOHAMED AL-RAHIMI,

12 defendants herein, as follows:

13 I. Introduction.

14 At all times relevant to this Indictment:

15 A. The Defendants.

16 1. Defendant AMEN AHMED ALI was originally a native and
17 citizen of the Republic of Yemen, a sovereign nation located
18 outside the territorial boundaries of the United States. On or
19 about April 23, 1970, defendant ALI became a permanent resident of
20 the United States. On or about September 1, 1976, defendant ALI
21 became a naturalized citizen of the United States. Subsequent to
22 that date, defendant ALI continued to possess identification
23 documents issued by the Republic of Yemen which identified him as a
24 citizen and representative of that country.

25 2. At no time was defendant AMEN AHMED ALI:

26 a. A duly accredited diplomatic or consular officer of a
27 foreign government recognized by the Department of State;

28 b. An officially and publicly acknowledged and sponsored
official or representative of a foreign government; or

c. An officially and publicly acknowledged and sponsored

1 member of the staff of, or employee of, any such officer, official,
2 or representative of a foreign government.

3 3. Defendant IBRAHIM A. OMER was a naturalized citizen of
4 the United States, residing in Bakersfield, California, and, at a
5 later time, the state of Texas.

6 4. Defendant MOHAMED AL-RAHIMI was a naturalized citizen of
7 the United States residing in Bakersfield, California.

8 B. Other Individual.

9 5. The individual referred to as "Government Asset" (GA), was
10 an employee of the United States, working under the direction and
11 control of federal law enforcement officials.

12 II. THE CONSPIRACY.

13 6. Beginning at a time unknown to the Grand Jury, but no
14 later than in or about the year 1987, and continuing to on or about
15 September 7, 2006, in the County of Kern, State and Eastern
16 District of California, and elsewhere, defendants AMEN AHMED ALI,
17 IBRAHIM A. OMER, and MOHAMED AL-RAHIMI, did unlawfully combine,
18 conspire, confederate, and agree with each other, and with others,
19 both known and unknown to the Grand Jury, to commit the following
20 offenses against the United States:

21 a. To knowingly act in the United States as an agent of
22 a foreign government, namely, the Republic of Yemen, without prior
23 notification to the Attorney General of the United States, as
24 required by law, in violation of Title 18, United States Code,
25 Section 951(a);

26 b. To knowingly and willfully export and cause to be
27 exported from the United States to the Republic of Yemen, items

1 designated as defense articles on the United States Munitions List,
2 without first obtaining from the Department of State, Directorate
3 of Defense Trade Controls, a validated license or other written
4 authorization for such export, in violation of Title 22, United
5 States Code, Section 2278(b)(2) and (c); and Title 22, Code of
6 Federal Regulations, Sections 121.1, 123.1, and 127.1(a)(1) and
7 (d).

8 c. To receive and retain property of the United States,
9 knowing it to have been stolen, with the intent to convert it to
10 their own use and gain, in violation of Title 18, United States
11 Code, Section 641.

12 III. MANNER AND MEANS.

13 7. The defendants conducted and effectuated the conspiracy
14 through the following manner and means:

15 a. Defendant AHMEN AHMED ALI would receive instructions
16 from and conduct activities at the direction and control of the
17 Armed Forces Department of the Republic of Yemen, Department of
18 Military Transport.

19 b. Defendant AMEN AHMED ALI would become a member of,
20 and would serve, at times, as President of the Delano, California,
21 chapter of the National Association of Yemeni Immigrants (NAYI), an
22 organization organized by, and operated under the supervision of,
23 the government of the Republic of Yemen.

24 c. Defendant AMEN AHMED ALI would be introduced to the
25 GA who represented that he was a member of the United States Army
26 having access to military property which he was willing to obtain
27 by theft and sell to defendant ALI.

1 d. Defendant AMEN AHMED ALI would seek to obtain stolen
2 military equipment through his contact with GA.

3 e. Defendant ALI would inform GA that he would be
4 interested in acquiring defense information of the United States.

5 f. Defendant AMEN AHMED ALI would attempt to make
6 arrangements to deliver stolen United States military equipment to
7 himself or his associates outside of the United States.

8 g. Defendant AMEN AHMED ALI would instruct the GA to
9 send items of stolen military equipment to the Republic of Yemen,
10 where it was to be sold.

11 h. Defendant AMEN AHMED ALI would organize a chapter of
12 NAYI in Bakersfield, California.

13 i. A representative of the government of Yemen would
14 direct that an election be held to select the president of the
15 Bakersfield Chapter of NAYI.

16 j. Defendant AMEN AHMED ALI would use his position in
17 NAYI as a vehicle to represent and perform official duties on
18 behalf of and at the direction of the Republic of Yemen.

19 k. Defendant AMEN AHMED ALI would use his position in
20 NAYI, defendant ALI would issue official documents on behalf of the
21 Republic of Yemen.

22 l. Defendant AMEN AHMED ALI would maintain contact with
23 representatives of the Republic of Yemen in order to receive and
24 carry out instructions issued by officials of the Republic of
25 Yemen.

26 m. Defendant AMEN AHMED ALI would use his position in
27 NAYI as a vehicle to report on matters occurring in the United
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1 States at the direction of the government of the Republic of Yemen.

2 n. Defendant IBRAHIM A. OMER would contract for a
3 container that was used to ship military equipment to the Republic
4 of Yemen.

5 o. Defendant MOHAMED AL-RAHIMI would travel to the
6 Republic of Yemen to meet with recipients of stolen military
7 equipment and to arrange for the sale and disposition of the stolen
8 property.

9 p. Defendant AMEN AHMED ALI would seek and acquire
10 classified national defense information of the United States with
11 the intent to transmit such information to the Republic of Yemen.

12 III. OVERT ACTS.

13 8. In furtherance of the conspiracy, and to effectuate the
14 objects thereof, the defendants, and others, committed the
15 following overt acts in the Eastern District of California, and
16 elsewhere.

17 a. On or about April 12, 1987, defendant AMEN AHMED ALI
18 received instructions from the Armed Forces Department of the
19 Republic of Yemen, Department of Military Transport.

20 b. On or about October 15, 2000, defendant AMEN AHMED
21 ALI, acting in his official capacity as a representative of NAYI,
22 issued a document directing the dissolution of a marriage between
23 two individuals residing in the United States.

24 c. On or about December 25, 2002, defendant AMEN AHMED
25 ALI, acting in his official capacity as a representative of NAYI,
26 issued a document ordering the arrest of an individual upon the
27 individual's return to the Republic of Yemen.

1 d. In or about January, 2003, defendant IBRAHIM A. OMER
2 contacted a representative of American Export Lines regarding the
3 shipment of a cargo container to the Republic of Yemen.

4 e. In or about January, 2003, defendant AMEN AHMED ALI
5 delivered a vehicle title regarding a 1994 Toyota to a
6 representative of American Export Lines.

7 f. On or about October 1, 2005, defendant AMEN AHMED ALI
8 filled out a Federal Express waybill intended to be used to ship
9 stolen government property from the United States to the Republic
10 of Yemen and gave \$500 in United States currency to the GA to
11 cover the cost of shipping.

12 g. On or about November 20, 2005, pursuant to
13 instructions provided by defendant AMEN AHMED ALI, the following
14 property was received in the Republic of Yemen, to wit: one pair of
15 night vision goggles, four satellite telephones and two military
16 laptop computers.

17 h. On or about November 22, 2005, defendant MOHAMED AL-
18 RAHIMI departed the United States from San Francisco International
19 Airport en route to the Republic of Yemen.

20 i. On or about December 14, 2005, defendants AMEN AHMED
21 ALI and MOHAMED AL-RAHIMI had a telephone conversation, with AMEN
22 AHMED ALI in the United States and MOHAMED AL-RAHIMI in the
23 Republic of Yemen, in which they discussed, in code, the
24 disposition of the United States government property which had been
25 shipped to Yemen.

26 j. On or about February 5, 2006, pursuant to
27 instructions provided by defendant AMEN AHMED ALI, the following
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1 property was received in the Republic of Yemen, to wit: one
2 ballistic vest, one pair of night vision goggles, one satellite
3 telephone and two military laptop computers.

4 k. On or about February 25, 2006, AMEN AHMED ALI sent a
5 document by facsimile transmission to an individual in the Republic
6 of Yemen which set forth prices to be paid for stolen United States
7 military equipment.

8 l. On or about and between June 27 and July 11, 2006,
9 defendant AMEN AHMED ALI, in his official capacity as a
10 representative of NAYI, was directed by representatives of the
11 Republic of Yemen to investigate and resolve a dispute between two
12 individuals in Kern County. Pursuant to such directions, defendant
13 AMEN AHMED ALI reported his findings and actions.

14 All in violation of Title 18, United States Code, Sections
15 371, 951(a), 641 and Title 22, United States Code, Section 2778.

16 COUNT TWO: [18 U.S.C. § 951 - Acting as an Agent of a
17 Foreign Government.]

18 The Grand Jury further charges:

19 AHMEN AHMED ALI, aka
20 Ali Amin Alrowhani,
21 Amin Al Rohany,
Ameen Alrohany,

22 defendant herein as follows:

23 1. The allegations set forth in Paragraphs 1 through 3 of
24 Count One of this indictment are hereby incorporated by reference
25 as though fully set forth.

26 2. Between in or about April 12, 1987, and September 6, 2006,
27 in the County of Kern, State and Eastern District of California,

1 and elsewhere, defendant AHMEN AHMED ALI did knowingly, and without
2 prior notification to the Attorney General of the United States, as
3 required by law, act as the agent of a foreign government, this is,
4 the Republic of Yemen, in violation of Title 18, United States
5 Code, Section 951(a).

6 COUNT THREE: [22 U.S.C. § 2278(b)(2) - Attempted Unlawful Export
7 of Defense Articles]

8 The Grand Jury further charges:

9 AMEN AHMED ALI, aka
10 Ali Amin Alrohani,
11 Amin Al Rohany,
12 Ameen Alrohany, and
13 IBRAHIM A. OMER,

14 defendants herein, as follows:

15 I. INTRODUCTION.

16 At all times relevant to this indictment:

17 1. The export and re-export of certain items of military
18 value, known as defense articles, was governed by the Arms Export
19 Control Act, Title 22, United States Code, Section 2778, and the
20 International Traffic in Arms Regulations ("hereafter ITAR"), Title
21 22, Code of Federal Regulations, Section 120 et seq. These items
22 were set forth in and constituted the United States Munitions list,
23 codified in the ITAR at Title 22, Code of Federal Regulations,
24 Section 121.1. Pursuant to this statute and these regulations:

25 a. Except as otherwise specifically provided in the
26 ITAR, no defense article designated by the President of the United
27 States under the statute and regulations cited above could be
28 exported without an official license, known as an export license,
issued in accordance with the statute and regulations cited above.

1 b. Section 123.1 of the ITAR required that any United
2 States person who intended to export a defense article from the
3 United States was required to obtain approval from the United
4 States Department of State, Directorate of Defense Trade Controls
5 (hereafter "DDTC"), prior to export. Approval could be obtained
6 from DDTC by applying for an export license and including
7 information regarding the end-user, freight forwarder, consignee
8 and other parties involved in the export and receipt of the defense
9 articles.

10 c. It was unlawful for any person willfully to cause, or
11 aid, abet, induce, procure or permit the commission of any act
12 prohibited by, or the omission of any act required by the Arms
13 Export Control Act and the international Traffic in Arms
14 Regulations.

15 d. The items listed in Paragraph 2 of this Count were
16 products used for military and defense purposes by branches of the
17 United States military. These items were defense articles covered
18 by the United States Munitions List and could not be exported from
19 the United States without the exporter first obtaining an export
20 license and authorization from the Department of State.

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1 II. CHARGE.

2 2. Between on or about January 17, 2003 and on or about
3 February 14, 2003, in the Counties of Kern and Los Angeles, State,
4 Eastern and Central Districts of California, and elsewhere, the
5 defendants:

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7 AMEN AHMED ALI, aka
8 Ali Amin Alrohani,
9 Amin Al Rohany,
Ameen Alrohany, and
IBRAHIM A. OMER,

10 did knowingly and willfully attempt to export from the United
11 States to the Republic of Yemen, defense articles, that is, six
12 Level III bullet proof vests, two military fragmentation vests, one
13 Class I protective suit, three Class I chemical protective pants
14 and three Class I chemical protective jackets, which were
15 designated as defense articles on the United States Munitions List,
16 without having first obtained from the Department of State,
17 Directorate of Defense Trade Controls, a validated license or other
18 written authorization for such export, in violation of Title 22,
19 United States Code, Sections 2778(b)(2) and (c), and Title 22, Code
20 of Federal Regulations, Sections 121.1, 123.1, and 127.1(a)(1) and
21 (d).

22 COUNT FOUR: [18 U.S.C. § 793(g) - Conspiracy to Gather, Possess and
23 Transmit Defense Information]

24 The Grand Jury further charges:

25 AMEN AHMED ALI, aka
26 Ali Amin Alrowhani,
Amin Al Rohany,
Ameen Alrohany,

27 defendant, herein, as follows:

1 I. INTRODUCTION.

2 At all times relevant to this indictment:

3 1. Paragraphs 1 through 4 of Count One of this indictment are
4 hereby incorporated by reference as though fully set forth.

5 2. Executive Order 12958, as amended by Executive Order
6 13292, mandates that information requiring protection for reasons
7 of national security be classified at one of three levels: "Top
8 Secret", "Secret," or "Confidential." The designation "TOP SECRET"
9 applies to information, the unauthorized disclosure of which could
10 be expected to cause exceptionally grave damage to the national
11 security. The designation "SECRET" applies to information, the
12 unauthorized disclosure of which, reasonably could be expected to
13 cause serious damage to national security. The designation
14 "CONFIDENTIAL" applies to information, the unauthorized disclosure
15 of which, reasonably could be expected to cause damage to national
16 security. Access to classified information at any level may be
17 further restricted through compartmentalization in Sensitive
18 Compartmented Information (SCI) categories. Dissemination of
19 classified information at any level may also be restricted through
20 caveats such as: NOFORN (Not Releasable to Foreign Nationals) or
21 WNINTEL (Warning Notice: Intelligence Sources and Methods
22 Involved). Classified information, of any designation, may only be
23 shared with persons determined by an appropriate United States
24 government official to be eligible for access to classified
25 information, who have signed an approved non-disclosure agreement
26 and who possess a "need to know." If a person is not eligible to
27 receive classified information, classified information may not be

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1 disclosed to that person.

2 3. Defendant AMEN AHMED ALI did not possess a United States
3 government security clearance at any time relevant to this
4 indictment and at no time was he authorized to receive or possess
5 classified information belonging to the United States.

6 II. THE CONSPIRACY.

7 4. Beginning at a time unknown to the Grand Jury, but no
8 later than on or about June 25, 2005, and continuing to on or about
9 September 7, 2006, in the County of Kern, State and Eastern
10 District of California, and elsewhere, defendant AMEN AHMED ALI did
11 unlawfully, knowingly and willfully conspire, confederate, and
12 agree with others, known and unknown to the Grand Jury, to commit
13 the following offense against the United States, that is:

14 a. Having unauthorized possession of, access to, and
15 control over a document and writing relating to the national
16 defense, to willfully communicate, deliver and transmit, or cause
17 to be communicated, delivered and transmitted, or attempt to
18 communicate, deliver and transmit, or cause to be communicated,
19 delivered and transmitted, that same document and writing to any
20 person not entitled to receive it, in violation of Title 18, United
21 States Code, Section 793(e); and

22 b. For the purpose of obtaining information relating to
23 the national defense with the intent and reason to believe that the
24 information is to be used to the injury of the United States and to
25 the advantage of the Republic of Yemen, to take, obtain or attempt
26 to take and obtain photographs, documents, writings, and notes
27 connected with the national defense, in violation of Title 18,

1 United States Code, Section 793(b).

2 III. OVERT ACTS.

3 5. To carry out the conspiracy, and to effect the objects
4 thereof, the following overt acts were committed by the defendant,
5 and others, in the Eastern District of California, and elsewhere:

6 a. On or about October 1, 2005, defendant AMEN AHMED ALI
7 met with the GA and took possession of two defense documents of the
8 United States marked "SECRET" and a compact disk with ten
9 additional defense documents.

10 b. On or about February 13, 2006, defendant AMEN AHMED
11 ALI met with the GA and took possession of three defense documents
12 of the United States marked "SECRET."

13 c. On or about February 18, 2006, defendant AMEN AHMED
14 ALI placed a telephone call to an individual in the Republic of
15 Yemen in which he discussed sending the documents received on
16 February 13, 2006, to him for translation.

17 d. On or about February 18, 2006, defendant AMEN AHMED
18 ALI transmitted one of the documents received on February 13, 2006,
19 by facsimile transmission, to an individual in the Republic of
20 Yemen.

21 e. On or about February 20, 2006, AMEN AHMED ALI placed
22 a telephone call to an individual in the Republic of Yemen and
23 discussed sending the documents received on February 13, 2006, to
24 that country by courier.

25 f. On or about September 7, 2006, AMEN AHMED ALI met
26 with the GA and received defense documents marked "TOP SECRET" and
27 "SECRET," for the purpose of transmitting those documents to the
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1 Republic of Yemen.

2 All in violation of Title 18, United States Code, Sections
3 371, 793(b), (e), and (g).

4 COUNT FIVE: [18 U.S.C. § 793(b) - Gathering Defense Information]

5 The Grand Jury further charges: THAT

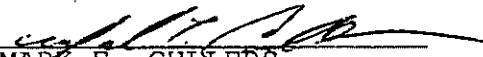
6 AMEN AHMED ALI, aka,
7 Ali Amin Alrowhani,
8 Amin Al Rohany,
Ameen Alrohany, and
IBRAHIM A. OMER,

9 defendant herein, on or about September 7, 2006, in the County of
10 Kern, State and Eastern District of California, for the purpose of
11 obtaining information relating to the national defense, with the
12 intent and reason to believe that the information was to be used to
13 the injury of the United States and to the advantage of the
14 Republic of Yemen, took, obtained and attempted to take and obtain
15 photographs, documents, writings and notes connected with the
16 national defense, all in violation of Title 18, United States Code,
17 Section 793(b).

18 A TRUE BILL.

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FOREPERSON

21
22 MCGREGOR W. SCOTT
23 United States Attorney

24 By 
25 MARK E. CULLERS
26 Assistant U.S. Attorney
27 Chief, Fresno Office