

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, TIMOTHY W. IRVING, being duly sworn, hereby state as follows:

I. INTRODUCTION

1. I am a Homeland Security Investigations (“HSI”) Special Agent of the United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), currently assigned to the Office of the Special Agent in Charge, Boston, Massachusetts, and have been employed in that capacity since April 2007. I am currently assigned to the National Security Group. I have received training in investigating violations of immigration and customs laws, including specialized training in the areas of identification of fraudulent documents, immigration benefit fraud, human smuggling, terrorist threats, narcotics, export violations, import violations, and money laundering. I have conducted and participated in several criminal investigations involving immigration benefit fraud, potential terrorist threats, and money laundering. I have also conducted administrative investigations involving nonimmigrant and immigrant visa violations. Over the course of the past three years I have administratively arrested over one hundred foreign nationals for violations of various sections of the Immigration and Naturalization Act (INA).

2. Before I became an HSI Special Agent, I was employed as a Customs and Border Protection (“CBP”) Officer with the Office of Field Operations. My responsibilities as a CBP Officer included determining the admissibility of individuals and commodities entering the United States. In connection with that position, I received training in nonimmigrant visa classifications, immigrant visa classifications, fraudulent documents, terrorist threats, export violations, import violations, currency reporting requirements, narcotics detection, and various

federal regulations.

3. The statements contained in this affidavit are based on my own observations, witness interviews, document reviews, and reliable information provided to me by other law enforcement officials. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every fact known to me or other agents concerning the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause. Unless otherwise indicated, all of the written and oral statements I refer to in this affidavit are set forth in substance and in part rather than verbatim.

4. I submit this affidavit in support of a criminal complaint charging AFTAB ALI, a/k/a/ Aftab Ali Khan ("ALI"), DOB: 09/06/1982, with immigration document fraud, in violation of 18 U.S.C. § 1546(a), and making false statements in a matter within the jurisdiction of ICE, in violation of 18 U.S.C. § 1001(a). Specifically, as set forth in greater detail below, there is probable cause to believe that on or about December 11, 2009, ALI presented an immigrant visa application to the United States Bureau of Citizenship and Immigration Services ("USCIS") knowing it to contain the false statement that ALI's employment for the preceding five years was limited to his then-former job in Kuwait, when in fact he knew full well when he made the statement that he had been employed at a Mobil Station in Brookline, Massachusetts, for approximately three months. There is also probable cause to believe that on or about May 13, 2010, ALI falsely told ICE agents that he was not married, not employed, and had filed no papers to adjust his immigration, even though he knew full well when he made those statements that he had gotten married approximately six months earlier; had been employed for approximately nine months; and had filed papers to adjust his immigration status approximately

six months earlier.

II. FACTS AND CIRCUMSTANCES

A. Immigration Document Fraud

5. ALI was born in Pakistan and remains a citizen of that country. In late 2007, ALI was living in Kuwait and working as a truck driver. While in Kuwait he began dating an American Army private named Sharon Jeffcott, and a few months later they were engaged to be married. Jeffcott returned to the United States in August 2008 and filed a petition with USCIS to allow ALI to enter the United States on a K-1 or “fiancé visa” so that he could marry Jeffcott in this country. A K-1 visa is a nonimmigrant visa that permits an alien to enter this country for 90 days for the purpose of marrying his fiancé. The alien must marry the person specified in the visa application; he cannot marry someone else. If the alien marries his fiancé within the 90 days, he may then apply for permanent residency (a so-called green card) and remain in this country while his application is being processed. If he fails to marry his fiancé within 90 days, an alien's authorized period of admission expires, and he must leave this country or face administrative removal. An alien who enters the United States on a K-1 visa may not lawfully work in this country unless he or she files a Form I-765, Application for Employment Authorization, and it is approved. My examination of ALI’s immigration file discloses no evidence that ALI ever applied for, or was granted, authorization to work in the United States.

6. Sharon Jeffcott has provided the following information to investigators. Although she filed a petition to allow ALI to obtain a K-1 visa in September 2008, it took until June 2009 – nearly a year -- for the visa to be granted. During that time Jeffcott had second thoughts about the marriage, and in approximately March 2009 she broke off the engagement. According to

Jeffcott, ALI refused to accept that the relationship was over, even after Jeffcott told him that she was dating someone new. Jeffcott told ALI in no uncertain terms that she was not going to marry him and that he should not come to America. Nevertheless, on or about August 18, 2009, ALI entered the United States on the K-1 visa, traveled to Jeffcott's home town, and begged Jeffcott to reconsider. She refused and told him to go home. A few days later ALI traveled to Massachusetts and began living in an apartment at 39 Waverley Avenue in Watertown, Massachusetts, with a relative and several people who originated from the same area of Pakistan as he did. Jeffcott never saw him again.

7. Jeffcott has informed investigators that in the months after ALI moved to Watertown, he called her repeatedly, but she seldom answered his calls. Then, in October 2009 – just weeks before ALI's K-1 visa was scheduled to expire -- ALI called Jeffcott and asked her again to marry him just so he could get his "papers." ALI told Jeffcott that she could remain in Colorado with her boyfriend, and that he would send her \$5,000 so that she could get a small apartment and put ALI's and her name on the lease. Jeffcott refused. That was the last time they spoke.

8. In September 2009, a few weeks after ALI moved to Watertown, he was introduced to a Cambridge resident named Lila Sylla. Sylla was unemployed with three children and living on \$200 per week. Approximately eight weeks later – just weeks after ALI begged Jeffcott to marry him for immigration purposes – ALI and Sylla were married at Cambridge City Hall. The wedding took place on November 17, 2009 – the same day on which ALI's authorized period of admission into the United States expired.

9. Sylla's closest friend, to whom I refer in this Affidavit by her initials, YWM, for

the sake of her privacy, has provided the following information to investigators. YWM was living with Sylla and her three children during the course of Sylla's entire relationship with ALI – from the date Sylla first met ALI in September 2009 through the date of ALI's arrest in May 2010. YWM related that Sylla and ALI never lived together either before or after the marriage. Indeed, YWM said that she was never introduced to ALI and does not believe he ever set foot in Sylla's apartment. YWM said she only learned of the wedding date because Sylla mentioned one morning that she was marrying ALI later that day. According to YWM, Sylla indicated that the marriage was purely a business arrangement and that Sylla had agreed to marry ALI for immigration purposes in exchange for financial support.

10. Sylla's mother, Carol Sylla, provided the following information to investigators about her daughter's marriage to ALI. She stated that Sylla did not invite her to the wedding and never even told her about the marriage, although the two are close and speak often. Carol Sylla did not learn about her daughter's marriage to ALI until a newspaper reporter asked her about it in May 2010.

11. Lila Sylla provided the following information to investigators about her marriage to ALI. She admitted that she and ALI never lived together either before or after the marriage, even though at all times they resided approximately five miles apart. She denied that her marriage to ALI was purely a business arrangement, but she admitted that she married him when she did for immigration purposes and that they had no intention at that time of making a life together. (On May 13, 2010, Sylla voluntarily withdrew her Form I-130 petition establishing her marriage to ALI.)

12. The manager of two Mobil Service Stations located in Brookline, Massachusetts,

provided the following information to investigators. The manager said that in August 2009, he hired ALI to work at one of the Mobil stations approximately 25 hours per week. The manager said that in November 2009, ALI was transferred to the other Mobil station, where he worked approximately eight hours per day, six days a week. The manager said that ALI told him that ALI had married Lila Sylla purely for immigration purposes and had agreed to give her money in stages, over time. According to the manager, ALI also said that a friend of ALI's was advising ALI and Sylla on how to make the marriage look legitimate to immigration authorities. According to the manager, ALI said that he and Sylla had no feelings for one another, did not plan to make a life together, and instead planned to divorce as soon as ALI got his green card.

13. ALI's authorized period of admission to the United States expired on November 17, 2009, despite his marriage to Sylla, because he did not marry the woman (Sharon Jeffcott) specified in the K-1 visa within 90 days of entering. At that point, the only way for ALI to use his marriage to Sylla to obtain permanent resident status was to leave the country and return on an immigrant visa pursuant to a USCIS Form I-130, or "Petition for Alien Relative," filed by Sylla. I have been informed by Melissa Hernandez, a Notary Public who runs a business helping individuals fill out and file immigration paperwork, that she helped Sylla and ALI complete a Form I-130 and its attachments. Hernandez said that her help consisted of asking Sylla and ALI for the required information, typing the answers into the proper places on the forms, and then submitting the forms to USCIS.

14. According to Hernandez, ALI met with her on November 17, 2009, the same day he was married, and completed and signed a USCIS Form G-325, entitled "Biographic Information," which is one of the required attachments to a Form I-130. The form requires the

applicant to list, among other things, “Applicant’s employment last five years. (If none, so state.) List present employment first.” ALI wrote the name of his employer in Kuwait and gave the dates “Nov 2004 to Aug 2009.” ALI did not mention his job at the Mobil Station in Brookline, where he had been working (without authorization) for approximately three months. The Form I-130 “Petition for Alien Relative,” along with the Form G-325 containing ALI’s false statement about his work history, was filed with USCIS on December 11, 2009.

15. I am familiar with Title 18, Section 1546(a), paragraph four, which provides in pertinent part:

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact [shall be imprisoned not more than 10 years and/or fined].

The second part of this paragraph makes it a crime for a person to present any document required by the immigration laws or regulations, including an application such as a Form I-130 and its attachments, knowing that it contains a false statement with respect to a material fact. ALI’s false statement that his employment for the preceding five years did not include employment within the United States was a material fact because a truthful answer could have, among other things, resulted in greater scrutiny of other claims in his application (such as the validity of his marriage) or even outright rejection of the application.

B. False Statements

16. On May 1, 2010, a Pakistani-American named Faisal Shahzad parked an SUV

loaded with explosives in Times Square and attempted to detonate it. Shahzad was arrested on May 3, 2010, and later pleaded guilty in the United States District Court for the Southern District of New York to a ten-count indictment charging him with various crimes related to the attempted bombing, including attempted use of a weapon of mass destruction. He has been sentenced to life imprisonment.

17. Telephone toll records reveal that on February 24, 2010, and February 25, 2010, Shahzad's cell phone was in contact with both ALI's cell phone and the land line at the Mobil station where ALI worked. In addition, a GPS device that Shahzad carried with him shows that on February 25, 2010, from 3:45 p.m. to 4:08 p.m., the GPS device was located within approximately 389 feet of ALI's apartment in Watertown.

18. ALI's manager at the gas station where ALI worked has informed investigators that ALI borrowed \$5,000 in cash from him on or about February 22, 2009. According to the manager, ALI told him that he was going to send the money to his brother Akhtar, who, at that time, owned or worked at a money transmitting business in Pakistan. ALI also told the manager that Akhtar had arranged for someone from Connecticut to pick up the money. On February 24 or 25, 2010, ALI told the manager that he would be meeting the man from Connecticut at his (ALI's) apartment at 4:00 p.m. The following day, when ALI came to work, he told the manager that he had met the person from Connecticut outside his apartment in a car. He said the person from Connecticut had identified himself using a code on a cell phone and ALI had then given him the money. ALI also told the manager that he had spoken to Akhtar and Akhtar had confirmed that everything was settled.

19. I have reviewed a saved text message that was retrieved from ALI's cell phone

after ALI's arrest. (Several witnesses who often spoke with ALI on his cell phone have identified the cell phone's number as ALI's.) The text message reads:

Faisal phone
+ 12032090643
amount 4900\$
I121774569B (1 USD)
From: Haneif Islamabd
12:21 pm 2/24/10

The number "12032090643" is Shahzad's phone number. The number "I121774569B" is the serial number of a one dollar bill that was found in ALI's apartment. The dollar bill was inside an envelope bearing the handwritten notation: "Faisal phone / 12032090643 / Haneif Islamabad." Both Sharon Jeffcott and ALI's manager have viewed a photo of the envelope and believe the handwriting is ALI's.

20. Based on my training and experience, I am familiar with the informal value transfer system known as "hawala" or "hundi." A hawala or hundi is a system for transferring money, usually internationally, in a way that avoids regulatory oversight and permits both the sender and receiver of the money to remain anonymous. I believe the text message recovered from ALI's cell phone and the dollar bill with the matching serial number form two parts of a typical "receipt" given in connection with a hawala money transfer between strangers. Specifically, I believe it is likely that a third party – probably the "Haneif" from "Islamabad" who sent the text message – arranged the transfer between ALI and Shahzad. I believe it is likely that "Haneif" contacted Shahzad before his scheduled meeting with ALI and asked for the serial number of a dollar bill in Shahzad's possession. I believe it is likely that "Haneif" then texted the serial number to ALI as a way for ALI to identify Shahzad as the intended recipient of

the money. Finally, I believe it is likely that ALI collected the dollar bill from Shahzad and saved it, along with the text message, as proof that ALI had given the money to the right person. ALI's statement to his manager that Akhtar told him everything was settled makes it likely that "Haneif" completed the hawala transaction by giving \$4,900 to Akhtar in Pakistan in exchange for ALI's giving the same amount to Shahzad in the United States.

21. New York law enforcement agents obtained a warrant to search ALI's apartment for evidence that ALI was engaged in an unlicensed money transmitting business. I and another ICE agent were among the agents who participated in the search. We did so in part because we had researched ALI's immigration status and had learned that he had entered the United States approximately nine months earlier on a K-1 visa but appeared not to have married the woman specified in the visa. Although failure to do so is not a crime, it raised the possibility that ALI had overstayed his visa and therefore was subject to administrative removal.

22. HSI Special Agent McGonigle and I entered ALI's apartment on May 13, 2010, pursuant to the search warrant, and spoke to ALI in the living room. We were the first agents to speak with him. We asked ALI a series of standard questions to determine whether he was subject to removal. To the best of my knowledge, truthful answers to any of the questions would not have subjected ALI to criminal prosecution. We asked ALI for his name, country of citizenship, and visa status. ALI admitted that he was a Pakistani citizen, that he had entered the United States on a K-1 visa, and that he had not married his fiancé within the requisite 90 days. We then asked ALI if he was currently married. He said "no," even though, as I later learned, he had married Lila Sylla nearly seven months earlier. We also asked him if he had adjusted or attempted to adjust his K-1 status to any other immigration status. He again said "no," even

though, as I later learned, Sylla had filed a Form I-130 to obtain an immigrant visa and green card for him in November 2009. Finally, we asked ALI if he was employed. ALI said that he “help[ed] out” at a Mobil gas station but was “not really working” there. In fact, as I later learned, ALI had been working as a paid employee at two different Mobil stations in Brookline for the preceding nine months.

23. I am familiar with 18 U.S.C. § 1001(a)(2), which it makes it a crime for a person to make a materially false or fraudulent statement or representation in any matter within the jurisdiction of the United States. ALI’s answers to the questions asked of him in his living room were material to the issue of whether he was subject to removal, inasmuch as a truthful answer to any of the three questions ALI answered falsely would potentially have subjected ALI to removal. Truthful answers would also potentially have affected ALI’s chances of being readmitted following removal on other grounds.


TIMOTHY W. IRVING
Special Agent
Immigration Customs Enforcement

Sworn to me and subscribed in my presence this day of .


United States Magistrate Judge