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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MAHER MOFEID HAWASH,)
 aka "Mike Hawash")
 Defendant.)
)
 _____)

Criminal Case No. 02-399-07-JO
PLEA AGREEMENT

COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its attorneys, Michael Mosman, United States Attorney, and Charles F. Gorder, Jr., Pamala R. Holsinger, and David L. Atkinson, Assistant United States Attorneys, and the defendant, MAHER MOFEID HAWASH, by and through his attorney, Stephen A. Houze, and hereby enter into the following plea agreement:

1. Defendant HAWASH will enter a plea of guilty to Count 3 of the superseding indictment. The maximum penalty for Count 3 is ten years in prison, a fine of \$250,000.00, a mandatory penalty assessment of \$100.00, and a three-year term of supervised release.

2. In payment of the \$100.00 mandatory penalty assessment, the defendant HAWASH will present the Court with a cashier's check in the amount of \$100.00 (One-Hundred Dollars) made payable to the "Clerk, United States District Court," at or before the time of the entry of his guilty plea.

3. The parties stipulate that the elements of the offense charged in Count 3 are that a) two or more persons agreed to try to accomplish a common and unlawful plan, namely, to willfully supply, directly or indirectly, services to the territory of Afghanistan controlled by the Taliban or to the Taliban; (2) defendant, knowing the unlawful purpose of the plan, willfully joined in it; and (3) one of the conspirators was a United States person as defined in 31 C.F.R. § 545.315.

4. The parties agree that the following factual basis for the plea of guilty to Count 3 of the superseding indictment is accurate and supports each and every element of the offense to which the defendant is pleading guilty. These are not necessarily all of the facts known to the Government or to the defendant HAWASH:

A. On July 4, 1999, President Clinton issued Executive Order 13129, which prohibited United States persons from, among other things, making any contribution of services to or for the benefit of the Taliban, and from supplying, directly or indirectly, any services to the Taliban or to the territory of Afghanistan controlled by the Taliban. That prohibition was continued in subsequent years and was in effect at all times relevant to the Superseding Indictment. At all times relevant to the Superseding Indictment, defendant HAWASH was a United States citizen and therefore he was a United States person as defined in 31 C.F.R. § 545.315.

B. Following the attacks on the World Trade Center and Pentagon on September 11, 2001, by Al-Qaida, President Bush issued an ultimatum to the Taliban to turn over Osama bin Laden and those of his associates who were located in the territory of Afghanistan controlled by the Taliban. Defendant MAHER MOFEID HAWASH was asked by defendants Ahmed Bilal and Habis Al Saoub, aka Abu Tarek, to join a group of individuals who planned to travel from Portland, Oregon, to Afghanistan to assist the Taliban in fighting against the armed forces of the United States of America. Defendant HAWASH agreed to do so. Shortly thereafter, the United States and other allied forces began combat operations in Afghanistan against the Taliban. Defendant HAWASH and the others in the group were prepared to take up arms and die as martyrs if necessary to defend the Taliban government in Afghanistan. Defendant HAWASH knew what he agreed to do was a violation of the law.

C. Defendant HAWASH then attended a meeting at the apartment of defendants Battle and Lewis where he and other members of the group discussed their plans and preparations for the trip. Because Pakistan was not issuing visas to foreigners at the time, the group decided that the members of the conspiracy would travel to Kashgar in Western China where they would then be able to cross into Pakistan and make their way to Afghanistan.

D. On October 20, 2001, defendant HAWASH took defendants Ford, A. Bilal, and M. Bilal to the Portland airport. Defendant HAWASH provided the Bilals with an envelope of cash that another individual had given to him to give to the Bilals. After defendant HAWASH finished getting his affairs in order and buying clothing and equipment for use in Afghanistan, he left the United States on October 24, 2001, and flew to Hong Kong where he was met at the airport by defendants Ford and Battle.

E. After obtaining a visa in Hong Kong for the People's Republic of China, defendant HAWASH, accompanied by defendants Battle, Ford, Ahmed and Muhammad Bilal, and Habis Al-Saoub entered mainland China, flew to Urumqi in Western China, and took a train from Urumqi to Kashgar. The group then spent several days in Kashgar unsuccessfully trying to gain entry into Pakistan through several different methods. They then decided to go to Beijing to obtain an entry visa from the Pakistani Embassy and the group traveled by train to Beijing. In Beijing, defendants HAWASH and Al-Saoub went to the Pakistani Embassy to obtain visas for Pakistan but were turned down. After it became clear that the group would not be able to obtain entry into Pakistan, defendant HAWASH returned to the United States. Before he did so, he provided cash to all of the other members of the group except Battle. After his return, defendant HAWASH arranged to send an additional \$2000 to defendant Al-Saoub who was still in China.

5. Rights Waived by Pleading Guilty. Defendant represents to the Court that he is satisfied with the representation provided by his attorney. Defendant understands that, by pleading guilty, he knowingly and voluntarily waives the following rights:

- a. The right to plead not guilty, and to persist in a plea of not guilty;
- b. The right to a speedy and public trial before a jury of Defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if

Defendant could not afford an attorney, the right to have the Court appoint one for Defendant;

- d. The right to be presumed innocent until guilt has been established at trial, beyond a reasonable doubt;

- e. The right to confront and cross-examine witnesses against Defendant;

- f. The right to compel or subpoena witnesses to appear on Defendant's behalf;

- g. The right to testify or to remain silent at trial, which such silence could not be used against Defendant; and

- h. The right to appeal a finding of guilt or any pretrial rulings.

6. Dismissal of Remaining Counts and Future Prosecutions.

- a. In return for defendant HAWASH entering the plea of guilty pursuant to this Agreement, upon the District Court's acceptance of defendant HAWASH's plea of guilty and upon defendant MAHER MOFEID HAWASH's compliance with the other terms and conditions of this Agreement, the UNITED STATES OF AMERICA will move to dismiss the remaining counts against defendant HAWASH of the superseding indictment at the time of sentencing.

Defendant agrees and acknowledges that the charges to be dismissed are based on fact and do not provide Defendant with a basis for any future claims as a "prevailing party" under the "Hyde Amendment," Pub.L. No. 105-119 (1997).

b. In exchange for the defendant's plea of guilty and cooperation as set forth in this Plea Agreement, the defendant will not be prosecuted by the United States for any other criminal offenses committed anywhere in any way involving or related to levying war against the United States or providing material support or resources to a foreign terrorist organization, and/or engaging in transactions with a specially designated terrorist and/or terrorist organization, committed up to the date of his arrest and about which the defendant has provided complete and truthful information. Such a promise of non-prosecution does not foreclose any prosecution for an act of murder, attempted murder, or act of physical violence against the person of another. Further, absent a breach of this Agreement by defendant as set forth in paragraph 13, no testimony, statements or tangible objects provided by the defendant in compliance with this agreement (or any information directly or indirectly derived therefrom) will be used against the defendant in any criminal case, except a prosecution for perjury, making false statements, or obstruction of justice.

7. Guideline Calculations and Recommendations. The plea of guilty is entered pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). The parties stipulate to the following calculation of the applicable sentencing guideline range for this offense, using the November 2001 edition of the Sentencing Guidelines: The defendant has a Criminal History Category of I. The applicable guideline is U.S.S.G. § 2M5.2 which establishes a base Offense Level of 26. The government will recommend a three (3) level reduction for acceptance of responsibility. The government reserves the right to change this recommendation if defendant, between plea and sentencing, acts inconsistent with acceptance of responsibility as explained in USSG § 3E1.1.

With a three-level reduction for acceptance of responsibility the Offense Level is 23. The parties stipulate, and will jointly move at the time of sentencing, that pursuant to Application Note 1 to U.S.S.G. § 2M5.2 there should be an upward departure of 7 offense levels because this offense was committed during time of war and armed conflict against the United States of America. This produces a final Offense Level of 30 and an applicable sentencing range of 97-121 months. The government agrees not to seek any other upward departures or adjustments, except as specified in this agreement. Defendant agrees not to seek any downward departures or adjustments, except as specified in this agreement. The Court is not bound by the recommendations of the parties or of the Presentence Report (PSR) writer. Because this agreement is made under Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw his guilty plea or rescind this plea agreement if the Court does not follow the agreements or recommendations herein.

8. Cooperation and Continued Acceptance of Responsibility.

a. Defendant shall continue to accept responsibility for his criminal conduct.

b. Defendant shall cooperate completely and truthfully with the Government in the investigation and prosecution of other individuals involved in criminal and terrorist activity, including being debriefed and providing truthful testimony at any proceeding resulting from or related to his cooperation, including grand juries, hearings, trials, and military commissions.

Defendant shall provide complete and truthful information at all times during his cooperation, including during debriefings and testimony. Defendant also agrees to disclose the existence of and to make reasonable efforts to produce to the Government any and all documents, records, and other items of evidentiary value that are in his actual or constructive possession. This Plea

Agreement is not conditioned upon the result of any investigation or the outcome of any trial as to which Defendant may cooperate, or on whether the information provided by Defendant helps or hurts the Government's position. Defendant agrees to cooperate with any efforts and requests by the Government to verify that the information provided is complete and truthful, including taking a polygraph examination if it is deemed necessary by the United States, with an examiner selected by the Government.

c. Defendant's complete and truthful cooperation shall be provided to all federal, state, and local law enforcement, intelligence, military, and other authorities designated by the Government, at any location within the United States and at the Guantanamo Naval Station, Guantanamo Bay, Cuba. Defendant will be required to provide information to foreign government authorities only if the foreign government first agrees that it will not prosecute Defendant for any conduct related to the subject matter on which he provides information. The Government will designate a specific Assistant United States Attorney for the District of Oregon and/or a specific Trial Attorney for the Criminal Division, United States Department of Justice, through which requests for Defendant's cooperation will be coordinated and communicated to Defendant and his counsel. Defendant agrees that he will not engage in any investigation or cooperation that is not specifically authorized by the Government. The defendant's counsel is expressly permitted to be present at any time that the defendant is interviewed or testifies. Should defendant be indigent when he is required to travel outside the District of Oregon to provide such testimony, the government will reimburse his counsel for counsel's reasonable travel and lodging costs associated with accompanying the defendant to the place of such testimony.

d. To protect the integrity of investigations, prosecutions, and intelligence activities, defendant HAWASH agrees that he will not communicate, directly or indirectly through intermediaries (including family members), any information he has about his own or other persons' involvement in criminal and terrorist activity to anyone other than: (1) in testimony during proceedings resulting from or related to his cooperation; (2) in debriefings by authorities designated by the Government; (3) to his counsel and their authorized agents; (4) if his counsel so authorizes, to counsel for persons about whom he has provided information; or (5) as otherwise authorized in advance by the Government.

e. Defendant agrees not to object to any requests by the Government for continuances of his sentencing date up to one year after entry of his guilty plea.

f. The Government agrees that any information provided by Defendant in connection with this Plea Agreement shall not be used to determine his sentence, except to the extent permitted by Section 1B1.8 of the Sentencing Guidelines.

9. Substantial Assistance Departure. If defendant remains in compliance with this agreement, the Government will recommend a particular sentence which will be not less than 7 nor more than 10 years. The particular sentence to be recommended will be in the sole discretion of the Government and the Government may recommend downward departure if necessary to achieve such a sentence pursuant to U.S.S.G. § 5K1.1 and/or Rule 35 of the Federal Rules of Criminal Procedure for substantial assistance to authorities. The defendant agrees not to request a sentence less than 7 years.

10. Additional Sentencing Recommendations.

a. The Government will recommend that Defendant receive credit for all time he has served in custody from March 20, 2003, through the date of sentencing. Defendant understands, however, that the final calculation of his statutory time-served credit will be made by the Bureau of Prisons and cannot be controlled by this Plea Agreement.

b. The Government will support the Defendant's request to the Court and the Bureau of Prisons (BOP) that he be designated to serve the balance of his prison sentence at FCI Sheridan, or other medium security facility, if the BOP determines that he is eligible for such a designation. Defendant understands, however, that the final designation decision will be made by the BOP and cannot be controlled by this Plea Agreement.

11. Waiver of Appeal/Post-Conviction Relief. Defendant waives the right to appeal from his conviction and sentence unless the sentence imposed exceeds the statutory maximum. Should defendant seek an appeal, despite this waiver of that right, the government may take any position on appeal. Defendant also waives the right to file a motion pursuant to 28 U.S.C. § 2255 to set aside the conviction and sentence, except on grounds of ineffective assistance of counsel

12. Forfeiture. In settlement of the forfeiture claims alleged in Count Fifteen of the Superseding Indictment, defendant Hawash agrees to immediately forfeit all right, title, and interest in following asset which is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(G) and 28 U.S.C. § 2461(c), including One 2000 Volkswagen Passat, Oregon License XKA 503, VIN WVWMD23B8YP176618, which defendant admits is property belonging to him and is subject to forfeiture.

Defendant agrees to fully assist the government in the forfeiture of the vehicle and to take whatever steps are necessary to pass clear title to the United States, including but not limited to surrender of title and execution of any documents necessary to transfer his interest in any of the above property to the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture.

In the event any claim is successfully made by third parties to any of the assets listed above, defendant agrees to forfeit substitute assets equal in value to those assets claimed by third parties, specifically the following property, \$15,000.

Defendant agrees not to file a claim to any of the listed property in any civil proceeding, administrative or judicial. Defendant further agrees to waive his right to notice of any forfeiture proceeding involving this property, and agrees not to assist others in filing a claim in that forfeiture proceeding.

Defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets. Defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses to the forfeiture of these assets, including any claim or defense under the Eighth Amendment to the United States Constitution, and any rights under Rule 32.2 of the Federal Rules of Criminal Procedure. Defendant further agrees forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this court may impose upon the defendant in addition to forfeiture.

Defendant further waives any and all right to any and all material witness fees to which he may be entitled from the United States.

13. Revocation of Plea Agreement

a. If Defendant commits a material violation of any of his obligations under this Plea Agreement, including but not limited to his obligations to cooperate and to abide by conditions after release from custody, then the Government may elect to move the District Court to find a material breach of this Plea Agreement. The Government and Defendant agree that the preponderance of the evidence standard of proof applies to all violations of this Plea Agreement.

b. If the District Court makes a finding of material breach, Defendant agrees that the Government will be released from its commitments under this Plea Agreement. Defendant further agrees that the Government may then prosecute Defendant for any and all federal crimes that he has committed, including the charges dismissed pursuant to this Plea Agreement, and upon conviction may recommend to the Court any sentence for such crimes up to and including the maximum sentence. Defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. In addition, Defendant agrees that, in any such prosecution, all admissions and other information that he has provided at any time, including all statements he has made and all evidence he has produced during proffers, interviews, testimony, and otherwise, may be used directly and indirectly against him, regardless of any constitutional provision, statute, rule, guideline provision, prior agreement, or other term of this Plea Agreement to the contrary. Finally, Defendant understands that his violation of the terms of

this Plea Agreement would not entitle him to withdraw his guilty plea to the charge in the Superseding Indictment.

14. The defendant MAHER MOFEID HAWASH and his attorney further stipulate that the defendant is entering his guilty plea freely and voluntarily and with full knowledge of the consequences and without reliance on any discussions with representatives of the UNITED STATES OF AMERICA except as to those concessions contained in this Plea Agreement and without any threats, force, intimidation or coercion of any kind.

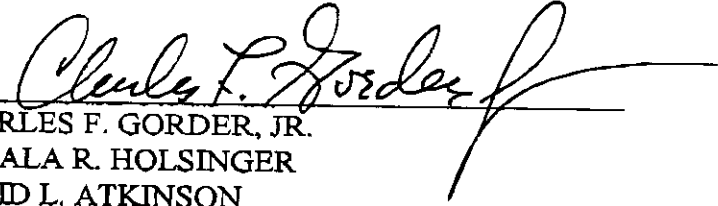
15. This is the entire plea agreement among the parties.

Dated: August 6, 2003.

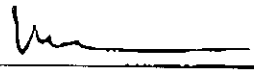
For Plaintiff United States of America:

CHRIS WRAY
Acting Assistant Attorney General
Criminal Division
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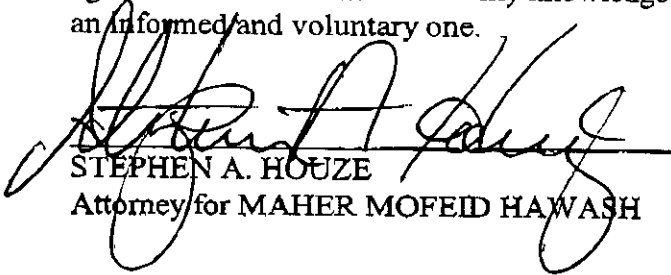
MICHAEL W. MOSMAN
United States Attorney
District of Oregon

By: 
CHARLES F. GORDER, JR.
PAMALA R. HOLSINGER
DAVID L. ATKINSON
Assistant United States Attorneys

I have read this agreement carefully and reviewed every part of it with my attorney. I understand the agreement and voluntarily agree to it. I am satisfied with the legal assistance provided to me by my attorney.

 MAHER MOFEID HAWASH
Defendant MAHER MOFEID HAWASH

I represent defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge defendant's decision to enter into this agreement is an informed and voluntary one.


STEPHEN A. HOUZE
Attorney for MAHER MOFEID HAWASH