

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

FILED IN OPEN COURT
JACKSONVILLE, FLORIDA

JAN 13 2006

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 3:04-cr-323(S2)-J-20MMH

FADL MOHAMMAD MAATOUK

PLEA AGREEMENT

A. **Particularized Terms**

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Paul I. Perez, United States Attorney for the Middle District of Florida, and the defendant, FADL MOHAMMAD MAATOUK, and the attorney for the defendant, Henry M. Coxe, III, mutually agree as follows:

1. **Count(s) Pleading To**

The defendant shall enter a plea of guilty to Count One of the Superseding Information. Count One charges the defendant with Conspiracy to Violate the Laws of the United States, in violation of Title 18 U.S.C. § 371.

2. **Maximum Penalties**

Count One is punishable by a term of imprisonment of up to 5 years, a fine of \$250,000, both the term of imprisonment and fine, a term of supervised release of three (3) years, and a special assessment of \$50 per felony count for offenses committed prior to April 24, 1996, \$100 per felony count thereafter; for organizations the amounts are "\$200" and "\$400" respectively, said special assessment to be due on the

Defendant's Initials F.M

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date of sentencing. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

3. **Elements of the Offense(s)**

The defendant acknowledges understanding the nature and elements of the offense(s) with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

- First: That two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan, as charged in the Superseding Information;
- Second: That the Defendant, knowing the unlawful purpose of the plan, willfully joined in it;
- Third: That one of the conspirators during the existence of the conspiracy knowingly committed at least one of the methods (or "overt acts") described in the Superseding Information; and
- Fourth: That such "overt act" was knowingly committed at or about the time alleged in an effort to carry out or accomplish some object of the conspiracy.

4. **Counts Dismissed**

At the time of sentencing, the remaining counts against the defendant, Counts One (1) through Fourteen (14) of the Superseding Indictment, as well as the original Indictment, in Case No. 3:04-cr-323-J-20MMH, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. **No Further Charges**

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. **Chapter Two Offense Level**

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States and the defendant agree and will recommend to the Court that the defendant's Chapter Two offense level be calculated at 28 pursuant to USSG §2M5.3. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea. The defendant also understands that the total offense level can be increased if the Court finds that the enhancement of USSG §3A1.4 applies to the facts of this case.

7. **Acceptance of Responsibility - Three Levels**

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will

not oppose the defendant's request to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant complies with the provisions of USSG §3E1.1(b), the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

8. **Recommendation that USSG §3A1.4 is Applicable**

The United States will recommend that the enhancement of USSG §3A1.4 is applicable under the facts of this case, and recommends that the Court apply such an enhancement in arriving at a guideline range under the sentencing guidelines. The defendant agrees to remain silent on the issue of the applicability of this enhancement, understands that this recommendation is not binding on the Court, but if it is accepted by the Court, the defendant would not be allowed to withdraw his plea.

9. **Forfeiture of Assets**

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), whether in the possession or control of the United States or in the possession or control of the defendant or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, the following:

- a. \$43,000.00 in U.S. currency (out of a total of \$50,000.00) seized from a Bank of America safety deposit box located at 29 Blanding Boulevard, Orange Park, Florida on March 9, 2005;
- b. Fifteen (15) \$1,000.00 Traveler's Express Company International Money Orders; and
- c. 2003 Chevrolet Suburban-V8 Utility C1500 LS 2WD, VIN 3GNEC16ZX3G313492.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil, and/or administrative forfeiture action. The defendant also hereby agrees that the forfeiture described herein is not excessive and, in any event, the defendant waives any constitutional claims that the defendant may have that the forfeiture constitutes an excessive fine.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1), the United States and the defendant request that at the time of accepting this plea agreement, the court make a determination that the government has established the requisite nexus between the property subject to forfeiture and the offense(s) to which

Defendant's Initials F. M

defendant is pleading guilty and enter a preliminary order of forfeiture. Pursuant to Rule 32.2(b)(3), the defendant agrees that the preliminary order of forfeiture shall be final as to the defendant at the time it is entered, notwithstanding the requirement that it be made a part of the sentence and be included in the judgment.

The defendant agrees to forfeit all interests in the properties described above and to take whatever steps are necessary to pass clear title to the United States. These steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

Defendant further agrees to take all steps necessary to locate property and to pass title to the United States before the defendant's sentencing. To that end, defendant agrees to fully assist the government in the recovery and return to the United States of any assets, or portions thereof, as described above wherever located. The defendant agrees to make a full and complete disclosure of all assets over which defendant exercises control and those which are held or controlled by a nominee. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States.

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.

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B. **Standard Terms and Conditions**

1. **Restitution, Special Assessment and Fine**

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1) (limited to offenses committed on or after April 24, 1996); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663 (limited to offenses committed on or after November 1, 1987) or § 3579, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. On each count to which a plea of guilty is entered, the Court shall impose a special assessment, to be payable to the Clerk's Office, United States District Court, and due on date of sentencing. The defendant understands that this agreement imposes no limitation as to fine.

2. **Supervised Release**

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. **Sentencing Information**

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background,

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character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit, upon execution of this plea agreement, an affidavit reflecting the defendant's financial condition. The defendant further agrees, and by the execution of this plea agreement, authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office or any victim named in an order of restitution, or any other source, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court.

4. **Sentencing Recommendations**

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the

Defendant's Initials F. M.

assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

5. **Appeal of Sentence-Waiver**

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence or to challenge it collaterally on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by Title 18, United States Code, Section 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by Title 18, United States Code, Section 3742(a).

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6. **Middle District of Florida Agreement**

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

7. **Filing of Agreement**

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

8. **Voluntariness**

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine

the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

9. **Factual Basis**

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth in the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

10. **Entire Agreement**

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no

other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

11. **Certification**

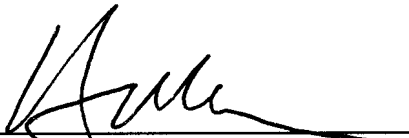
The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

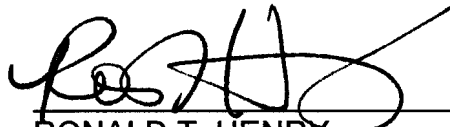
DATED this 13th day of January, 2006.

PAUL I. PEREZ
United States Attorney


FADL MOHAMMAD MAATOUK
Defendant

By: 
DALE R. CAMPION
Assistant United States Attorney


HENRY M. COXE, III
Attorney for Defendant


RONALD T. HENRY
Assistant United States Attorney
Deputy Chief, Jacksonville Division

Defendant's Initials F.M.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

Case No. 3:04-cr-323(S2)-J-99MMH

FADL MOHAMMAD MAATOUK

PERSONALIZATION OF ELEMENTS

1 Do you admit that, during the period of in or around May 2003, through in or around December 2003, two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan, namely, to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A, to a designated foreign terrorist organization, namely Hizballah?

2. Do you admit that, knowing the unlawful purpose of the plan, you willfully joined in it?

3. Do you admit that, on or about May 27, 2003, in the Middle District of Florida, you knowingly committed an overt act, that is, during a telephone conversation you agreed to loan a machine gun to a member of Hizballah for purpose of providing personal security or bodyguard service, in South Lebanon, to a leader of Hizballah?

4. Do you admit that you knowingly committed the overt act in an effort to carry out some object of the conspiracy?

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UNITED STATES DISTRICT COURT
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v.

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FADL MOHAMMAD MAATOUK

FACTUAL BASIS

FADL MOHAMMAD MAATOUK, the defendant herein, is a Lebanese national. On or about January 1, 1999, at the U.S. Embassy at Nicosia, Cyprus, the defendant was issued a non-immigrant visa for the purpose of visiting the United States. In the visa application, the defendant had falsely represented that he was married to a Lebanese woman, that he owned a jewelry store in the area of Beirut, Lebanon, and that he intended to stay in the area of Detroit, Michigan during his temporary visit to the United States.

On or about January 25, 1999, the defendant arrived in the United States at Miami, Florida. The defendant thereafter stayed in Florida. In or around November 2000, the defendant moved to the area of Orlando, Florida, for approximately two months, and then Jacksonville, all of which are within the Middle District of Florida. By virtue of his eventual marriage to a United States citizen, the defendant was allowed to remain in the United States, as a conditional resident alien.

Defendant's Initials F.M

After he arrived in the Jacksonville area, and until his arrest in March 2005, the defendant was self-employed, primarily as the owner and operator of a business at a Jacksonville flea market.

On October 8, 1997, by publication of the Federal Register, Secretary of State Madeleine K. Albright designated Hizballah (Party of God) as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act, as added by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996). 62 Fed. Reg. 52,650 (1997). On October 8, 1999, by publication in the Federal Register, the Secretary of State re-designated Hizballah as a foreign terrorist organization, and was also re-designated as a foreign terrorist organization on October 5, 2001, and October 2, 2003. Therefore, at all times material, Hizballah was a designated foreign terrorist organization.

During the period that the defendant resided in the Middle District of Florida, the defendant traveled several times to Beirut, Lebanon. During those visits, the defendant stayed at the Maatouk family building, in a suburb of Beirut. The defendant had resided in that building prior to coming to the United States in 1999.

At all times material, the defendant's adult brother, Mr. Ramez Maatouk, resided at the Maatouk family building in the suburb of Beirut.

At all times material, Mr. H. H. was a Maatouk family friend who resided in the same suburb of Beirut, Lebanon where the Maatouk family building was located. At all times material, Mr. H. H. was known by the defendant to be a member of Hizballah.

At all times material, the defendant owned a machine gun which he kept at the Maatouk family home in the suburb of Beirut, Lebanon.

On or about May 27, 2003, during a telephone conversation on his home telephone, the defendant gave permission to his brother, Ramez Maatouk, in Lebanon, to loan Mr. H. H., a Hizballah member, a machine gun for the purpose of providing personal security or bodyguard service, in South Lebanon, to a leader of Hizballah.

On or about June 30, 2003, at Orlando International Airport, at Orlando, Florida, the defendant transported, in his checked luggage, camouflage-pattern military fatigues during his air travel to Beirut, Lebanon.

On or about December 15, 2003, at Jacksonville International Airport, at Jacksonville, the defendant transported, in his checked luggage, camouflage-pattern military fatigues during his air travel to Beirut, Lebanon.

The defendant furnished some of the camouflage-pattern military fatigues to Mr. H. H., whom he knew to be a member of Hizballah. They were subsequently furnished by H.H. to other Hizballah members.