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CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Cr. No. 09-38 (JMR)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	PLEA AGREEMENT AND
)	SENTENCING STIPULATIONS
)	
v.)	
)	
KAMAL SAID HASSAN,)	
)	
Defendant.)	

The United States of America and Kamal Said Hassan (hereinafter referred to as "the defendant") agree to resolve this case on the terms and conditions that follow. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. This agreement does not bind any other United States Attorney's Office or any other federal or state agency. The government agrees not to bring any further charges against the defendant for his participation in criminal activity disclosed by the defendant to the government as of the date of this agreement.

PLEA AGREEMENT

1. Charges. In addition to the charges contained in the Information numbered 09-38 (JMR), to which the defendant pleaded guilty on February 18, 2009, the defendant agrees to waive indictment by a grand jury on this charge and to consent to the filing of a criminal information. The defendant further agrees to execute a written waiver of the defendant's right to be indicted by a grand jury on this offense. Finally, the defendant agrees to

FILED AUG 12 2009
 RICHARD D. SLETJEN ⁰⁹
 JUDGMENT ENTD ^{8/12/09}
 DEPUTY CLERK ^{E.S.H.}

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plead guilty to Count 3 of this Supplemental Information, which charges the defendant with making a false statement in violation of Title 18, United States Code, Section 1001.

2. Factual Basis and Stipulated Facts. The parties agree on the following factual basis for the plea agreement: On February 9, 2009, in the State and District of Minnesota, the defendant informed a special agent of the Federal Bureau of Investigation that, after finishing training at an al-Shabaab training camp in Somalia, he left al-Shabaab and traveled to Yemen without taking any further acts on behalf of al-Shabaab. The defendant agrees that this statement was false because, in fact, after finishing training, the defendant continued to work with members of al-Shabaab and follow the orders of al-Shabaab in Somalia.

3. Waiver of Pretrial Motions. The defendant understands and agrees that he has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the defendant knowingly, willingly, and voluntarily waives his right to file any motions and gives up the right to litigate pre-trial motions in this case.

4. Statutory Penalties. The parties agree that Count 3 of this Supplemental Information carries maximum statutory penalties of:

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- a. Eight (8) years' imprisonment;
- b. a supervised release term of three (3) years;
- c. a criminal fine of \$250,000; and
- d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

5. Revocation of Supervised Release. The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment of up to two years.

6. Plea on February 18, 2009. The defendant agrees that his guilty plea and allocution to the offenses charged in Counts 1-2 of United States v. Kamal Hassan, 09-38 (JMR), remain in full force and will not be modified in any way. The defendant agrees that he will not be permitted to withdraw or contest his guilty plea in any way. The Information numbered 09-38 (JMR) charged the defendant with two counts. Count One charged the defendant with providing material support for terrorism in violation of 18 U.S.C. § 2339A. Count Two charged the defendant with providing material support for a foreign terrorist organization in violation of 18 U.S.C. § 2339B.

The parties agree that Count One of the Information numbered 09-38 (JMR) carries the following maximum statutory penalties:

- a. fifteen (15) years' imprisonment;
- b. a supervised release term of life;
- c. a criminal fine of \$250,000;

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d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

The parties agree that Count Two of the Information numbered 09-38 (JMR) carries the following maximum statutory penalties:

- a. fifteen (15) years' imprisonment;
- b. a supervised release term of life;
- c. a criminal fine of \$250,000;
- d. a mandatory special assessment of \$100, which is payable to the Clerk of Court prior to sentencing.

The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment up to two years, pursuant 18 U.S.C. § 3583(e).

7. Consecutive Sentence: The defendant agrees to be sentenced for the offense charged in this Supplemental Information at the same time that he is sentenced for the offenses charged in the Information numbered 09-38 (JMR), and that the sentence imposed on the offense charged in this Supplemental Information may run consecutive to the sentence imposed on the offenses charged in the Information numbered 09-38 (JMR).

8. Guideline Sentencing Stipulations. The defendant agrees to be sentenced in accordance with the Federal Sentencing Act, 18 U.S.C. § 3551, et seq., with reference to the applicable United States Sentencing Guidelines ("U.S.S.G."). The parties agree that

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the following stipulations regarding the Guidelines are binding upon them with respect to the offense charged in this Information as well as the offenses charged in the Information numbered 09-38 (JMR). The parties understand, however, that the stipulations contained herein are not binding upon the Court.

a. Base Offense Level.

09-38 (JMR) Count 1. The parties agree that the applicable guideline section is section 2A1.5, which provides a base offense level of 33. U.S.S.G. §§ 2X2.1, 2A1.5.

09-38 (JMR) Count 2. The parties agree that the applicable guideline section is 2A2.1, which provides a base offense level of 33. U.S.S.G. § 2M5.3(c)(2), 2A1.5(a).

09-38 (JMR). Count 3. The parties agree that the applicable guideline section is section 2J1.2, which provides a base offense level of 14. U.S.S.G. § 2J1.2(a).

b. Specific Offense Characteristics.

09-38 (JMR) Counts 1 and 2. The parties agree that a 12-level enhancement may be applicable to both counts pursuant to guideline section 3A1.4(a). The defense reserves its right to argue against the applicability of an enhancement under guideline section 3A1.4(a). The government reserves its right to argue for the applicability of an enhancement pursuant to guideline section 3A1.4(a).

The parties agree that, with respect to both counts, the defense is free to argue that the defendant played a minor role pursuant to guideline section 3B1.2(b). The government reserves its right to oppose such a reduction.

09-38 (JMR) Count 3. The parties agree that an 18-level enhancement may be applicable pursuant to guideline section 3A1.4(a). The defense reserves its right to argue against the applicability of an

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enhancement under guideline section 3A1.4(a). The government reserves its right to argue for the applicability of an enhancement pursuant to guideline section 3A1.4(a). The parties agree that if an enhancement pursuant to guideline section 3A1.4(a) does not apply, a 12-level upward adjustment will be applicable pursuant to guideline section 2J1.2(b)(1)(C).

- c. Obstruction of Justice. The parties agree that a 2-level adjustment will apply to the offenses charged in the Information numbered 09-38 (JMR) pursuant to guideline section 3C1.1.
- d. Chapter 3 Adjustments. The parties agree that the provisions of Chapter 3 of the Sentencing Guidelines do not apply, except as set forth in paragraphs (b) and (c) above and paragraph (e) below. The parties further agree that the facts of this case support no other specific offense characteristics or chapter three adjustments.
- e. Acceptance of Responsibility. The parties agree that if the defendant (1) provides full, complete and truthful disclosures to the United States Probation Office, including providing complete, accurate and truthful financial information; (2) testifies truthfully during the change of plea and sentencing hearings; (3) complies with this Agreement; and (4) undertakes no act inconsistent with acceptance of responsibility before the time of sentencing, the government agrees to recommend that the defendant receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a), and to move for an additional one-level reduction under § 3E1.1(b). Whether there will be a reduction for acceptance of responsibility shall be determined by the Court in its discretion.
- f. Grouping. The parties agree that the offense charged in this Supplemental Information forms one group with the offenses charged in the Information numbered 09-38 (JMR) pursuant to guideline sections 3D1.2(a) and (c).
- g. Total Offense Level. The parties agree that, taking into account the above adjustments, the total offense level could be as high as 47 (base

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offense level 33 + 12 (3A1.4 terrorism enhancement) +2 3C1.1 (obstruction enhancement)), minus 3 points for acceptance of responsibility, if applicable, for an adjusted offense level of 44. The parties further agree that, taking into account the above adjustments, the total offense level could be as low as 35, minus 3 points for acceptance of responsibility, if applicable, and minus 2 points for a minor role reduction, if applicable, for an adjusted offense level of 30.

- h. Criminal History Category. The parties agree that if a 3A1.4 enhancement is applied, the defendant has a criminal history category of VI. If the enhancement is not applied, the parties believe that the defendant's criminal history category is I.
- g. Guidelines Range. The parties agree that, if the adjusted offense level is 44, and the defendant's criminal history category is VI, then the effective guidelines range is 456 months' imprisonment, the statutory maximum sentence. The parties agree that, if the adjusted offense level is 30, and the defendant's criminal history category is I, then the guidelines range is 97-121 months' imprisonment.
- i. Fine Range. The parties agree that, if the adjusted offense level is 44, the fine range is \$25,000 to \$250,000. The parties agree that, if the adjusted offense level is 30, the fine range is \$15,000 to \$150,000. U.S.S.G. § 5E1.2(c)(3). There is no agreement as to the imposition of a fine or, if one is imposed, the amount of any such fine.
- j. Supervised Release. The parties agree that the Sentencing Guidelines specify that, if a term of supervised release is ordered, the term of supervised release is 2 years to life. U.S.S.G. §§ 5D1.2(a)(2), 5D1.2(b)(1).
- k. Departures: The parties agree that the defense reserves its right to argue for a downward departure from the ultimate guideline determination in this case.

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1. Further Offense Characteristics: The parties agree that the facts of this case support no other specific offense characteristics or chapter three adjustments.

9. Discretion of the Court. The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determinations regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, the parties may not withdraw from this Agreement and the defendant will be sentenced pursuant to the Court's determinations.

10. Special Assessment. The Guidelines require payment of a special assessment in the amount of \$100 for each felony count of which the defendant is convicted. U.S.S.G. § 5E1.3. In this case, the defendant stands convicted of Count 3 in this Supplemental Information and two counts for the Information numbered 09-38 (JMR), for a total of 3 counts, and therefore is required to pay \$300.

11. Forfeiture. The government reserves its right to proceed against any of the defendant's assets if said assets represent real

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or personal property involved in violations of the laws of the United States or are proceeds traceable to such property.

12. Complete Agreement. The foregoing sets forth the full extent of the Plea Agreement and Sentencing Stipulations in the above-captioned case. There are no other agreements, promises, representations or understandings. To the extent that this agreement differs in any way from the charges to which the defendant has already pleaded guilty, this agreement controls.

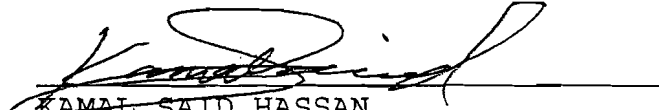
Dated: August 12, 2009

FRANK J. MAGILL, JR.
United States Attorney



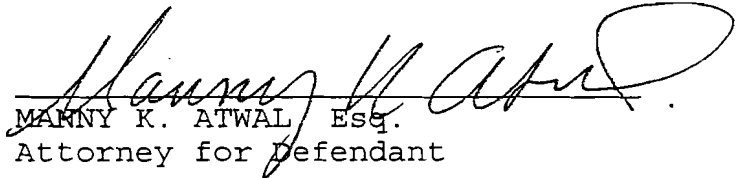
BY: W. ANDERS FOLK
Assistant U.S. Attorney

Dated: August 12, 2009



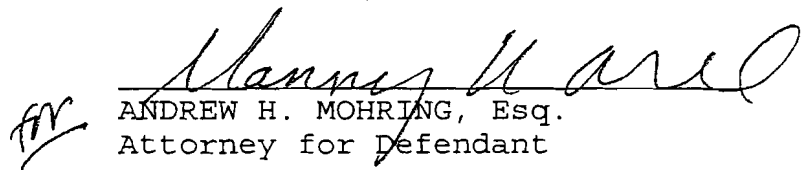
KAMAL SAID HASSAN
Defendant

Dated: August 12, 2009



MANNY K. ATWAL, Esq.
Attorney for Defendant

Dated: August 12, 2009



ANDREW H. MOHRING, Esq.
Attorney for Defendant

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