



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

September 12, 2011

VIA E-MAIL

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FILED

SEP 12 2011

**Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia**

**Re: United States v. Irfan UI Haq
Crim. No. 11-056 (JDB)**

Dear Counsel:

This letter sets forth the complete offer of a plea agreement to your client, **Irfan UI Haq** (the “defendant” or “your client”) from the Office of the United States Attorney for the District of Columbia, and the Criminal Division and National Security Division of the United States Department of Justice (collectively, “the Government” or “the United States”). If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below and return it to me. Because of the nature of the offense in this matter, this plea agreement cannot take effect until and unless authorization is received from the Assistant Attorney General of the National Security Division of the United States Department of Justice. Upon receipt of such authorization from the Assistant Attorney General and upon receipt of the executed document, this letter will become the plea agreement. The terms of the offer are as follows:

1. **Charges and Statutory Penalties.** Your client agrees to plead guilty to conspiracy to provide material support to a foreign terrorist organization, in violation of 18 U.S.C. § 2339B, which is charged in a single count Information that will be filed in this case.

Your client understands that pursuant to 18 U.S.C. § 2339B, this offense carries a maximum penalty of not more than 15 years of imprisonment, a maximum fine of \$250,000 (see 18 U.S.C. § 3566), a 3 year term of supervised release (see 18 U.S.C. §§ 3559(a) and 3583(b)(2)), an order of restitution, and an obligation to pay any applicable interest or penalties on fines or restitution not

timely made.

In addition, your client agrees to pay a special assessment of \$100 per felony conviction to the Clerk of the United States District Court for the District of Columbia. Your client also understands that pursuant to 18 U.S.C. § 3571 and United States Sentencing Guidelines (hereinafter “Sentencing Guidelines” or “U.S.S.G.”) § 5E1.2, the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release and period of probation.

2. **Dismissal of Remaining Counts.** The Government agrees to dismiss all of the counts of the Indictment against your client at sentencing. Your client, however, agrees and acknowledges that the charges to be dismissed at the time of sentencing were based in fact, and that your client is not a “prevailing party” within the meaning of the “Hyde Amendment,” Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

3. **Factual Stipulations.** Your client agrees that the attached Statement of Facts in Support of Guilty Plea fairly and accurately describes your client’s actions and involvement in the offense to which your client is pleading guilty. Prior to or during the plea hearing, your client will adopt and sign the Statement of the Facts as a written proffer of evidence.

4. **Offense Level under the Sentencing Guidelines.**

Your client understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the guidelines and policies promulgated by the United States Sentencing Commission, Guidelines Manual (2010) (hereinafter “Sentencing Guidelines” or “U.S.S.G.”). Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties stipulate to the following Guidelines calculation.

A. Offense Level under the Guidelines

The parties agree that the following Sentencing Guidelines sections and calculations apply:

U.S.S.G. § 2M5.3	Base Offense Level:	26
U.S.S.G. § 3B1.1(c)	Aggravating Role (organizer, leader, or manager)	+2
=====		
Adjusted Offense Level		28

B. Adjustment for Acceptance of Responsibility

Provided that your client clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through your client's allocution and subsequent conduct prior to the imposition of sentence, the Government agrees that a 2-level reduction would be appropriate, pursuant to U.S.S.G. § 3E1.1(a). Furthermore, assuming your client has accepted responsibility as described in the previous sentence, the Government agrees that an additional 1-level reduction would be appropriate, pursuant to U.S.S.G. § 3E1.1(b), because your client has assisted authorities by providing timely notice of your client's intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines Offense Level for the offense is 25.

C. Criminal History Category

Based on the criminal records available to this Office, your client has no criminal convictions. Accordingly, your client's Criminal History is Category I.

D. Applicable Guideline Range

Based upon the calculations set forth above (Offense level 25, Criminal History Category I), your client's Stipulated Sentencing Guidelines range is 57 - 71 months.

5. **Guideline Departures.** Your client reserves the right to request a downward departure of up to six (6) months, based on your client's status as a removable alien, pursuant to United States v. Smith, 27 F.3d 649 (D.C. Cir. 1994), and U.S.S.G. § 5K2.0(2)(B).

6. **Agreement as to Sentencing Allocution.** The parties further agree that a sentence within the applicable Guidelines Range established by the Sentencing Guidelines, if determined in accordance with the parties' stipulations in this Agreement, would constitute a reasonable sentence in light of all of the factors set forth in 18 U.S.C. § 3553(a). However, the parties agree that your client may seek a sentence below the Guideline Range. The government will not seek a sentence above the Guideline Range.

Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should your client move to withdraw your client's guilty plea after it is entered, or should it be determined that your client has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) engaged in additional criminal conduct after signing this Agreement.

In addition, the Government reserves its right to full allocution in any post-sentence

litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any downward departure sentencing motion under U.S.S.G. § 5K1.1, 18 U.S.C. § 3553(e), or any post-sentence downward departure motion in this case pursuant to Fed.R.Crim.P. 35(b).

7. **Court Not Bound by the Plea Agreement.** It is understood that pursuant to Fed.R.Crim.P. 11(c)(1)(B) and 11(c)(3)(B), the Court is not bound by the above stipulations, either as to questions of fact or as to the parties' determination of the applicable Guidelines range, or other sentencing issues. In the event that the Court considers any Guidelines adjustments, departures, or calculations different from any stipulations contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in 18 U.S.C. § 3553(a), the parties reserve the right to answer any related inquiries from the Court.

8. **Court Not Bound by the Non-Mandatory Sentencing Guidelines.** It is understood that the sentence to be imposed upon your client is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. Your client acknowledges that your client's entry of a guilty plea to the charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence, which may be greater than the applicable Guidelines range. The Government cannot, and does not, make any promise or representation as to what sentence your client will receive. Moreover, it is understood that your client will have no right to withdraw your client's plea of guilty should the Court impose a sentence outside the Guidelines range.

9. **Waiver of Rights.** In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute, including: the right against self-incrimination with respect to the offense(s) to which your client is pleading guilty; the right to be tried by a jury, or by a judge sitting without a jury; the right to be assisted by an attorney at trial; and the right to confront and cross-examine witnesses. Your client further agrees that the District Judge should make any Sentencing Guidelines determinations.

10. **Appeal Waiver.** Your client is aware that federal law, specifically 18 U.S.C. § 3742, affords your client the right to appeal his sentence. Your client is aware that the Government's factual stipulations and predictions about the calculation of the sentencing guidelines are not binding on the sentencing judge. Knowing that, your client waives the right to appeal his sentence or the manner in which it was determined pursuant to 18 U.S.C. § 3742, except to the extent that (a) the Court sentences your client to a period of imprisonment longer than the statutory maximum, or (b) the Court departs upward from the applicable Sentencing Guideline range pursuant to the provisions of U.S.S.G. § 5K.2 or based on a consideration of the sentencing factors set forth in 18 U.S.C. § 3553(a). Further, your client reserves the right to make a collateral attack upon your client's sentence pursuant to 28 U.S.C. § 2255, if new and currently unavailable information becomes known

to him. In agreeing to this waiver, your client is aware that your client's sentence has yet to be determined by the Court. Realizing the uncertainty in estimating what sentence the Court ultimately will impose, your client knowingly and willingly waives your client's right to appeal the sentence, to the extent noted above, in exchange for the concessions made by the Government in this Agreement. If the Court applies the terrorism enhancement, U.S.S.G. Section 3A1.4, then the defendant may appeal the Court's decision on this issue.

11. Stipulation to Judicial Order of Removal

The defendant agrees to the entry of a stipulated judicial order of removal pursuant to Title 8, United States Code, Sections 1228(c)(5) and 1182. Specifically, the defendant admits that he is a native and citizen of Pakistan and that he is removable from the United States pursuant to Title 8, United States Code, Sections 1182(a)(3)(B)(i)(I), 1182(a)(2)(A)(i)(I), and 1182(a)(2)(B).

A. Voluntary Waiver of Rights

After consultation with counsel and understanding the legal consequences of doing so, the defendant knowingly and voluntarily waives the right to the notice and hearing provided for in Title 8, United States Code, Section 1228(c)(2) and further waives any and all rights to appeal, reopen, reconsider, or otherwise challenge this stipulated removal order. The defendant understands and knowingly waives his right to a hearing before an immigration judge or any other authority under the Immigration and Nationality Act ("INA"), on the question of the defendant's removability from the United States. The defendant further understands the rights the defendant would possess in a contested administrative proceeding and waives these rights, including the defendant's right to examine the evidence against him, to present evidence on his behalf, and to cross-examine the witnesses presented by the government.

The defendant agrees to waive his rights to any and all forms of relief or protection from removal, deportation, or exclusion under the INA, as amended, and related federal regulations. These rights include, but are not limited to, the ability to apply for the following forms of relief or protection from removal: asylum; withholding of removal under Title 8, United States Code, Section 1231(b)(3); any protection from removal pursuant to Article 3 of the United Nations Convention Against Torture, including withholding or deferral of removal under 8 C.F.R. § 208; cancellation of removal; adjustment of status; registry; de novo review of a denial or revocation of temporary protected status (current or future); waivers under Title 8, United States Code, Sections 1182(h) or 1182(i); visa petitions; consular processing; voluntary departure or any other possible relief or protection from removal available under the Constitution, laws or treaty obligations of the United States. As part of this agreement, the defendant specifically acknowledges and states that the defendant has not been persecuted in, and has no present fear of persecution in, Pakistan on account of his race, religion, nationality, membership in a particular social group, or political opinion. Similarly, the defendant further acknowledges and states that the defendant has not been tortured in, and has no present fear of torture in Pakistan.

The defendant hereby requests that an order be issued by this Court for his removal to Pakistan. The defendant agrees to accept a written order of removal as a final disposition of these proceedings and waives any and all rights to challenge any provision of this agreement in any United States or foreign court or tribunal.

The defendant hereby agrees to make the judicial order of removal a public document, waiving his privacy rights, including his privacy rights under 8 C.F.R. § 208.6. At the request of the U.S. Attorney's Office, U.S. Immigration and Customs Enforcement ("ICE") concurs with the government's request for a judicial order of removal. As a result of the above-referenced order, upon the completion of the defendant's criminal proceedings, including any sentence of incarceration, the defendant shall be removed to Pakistan.

B. Assistance in the Execution of Removal

The defendant agrees to assist ICE in the execution of his removal. Specifically, the defendant agrees to assist ICE in the procurement of any travel or other documents necessary for the defendant's removal; to meet with and to cooperate with representatives of the country or countries to which the defendant's removal is directed; and, to execute those forms, applications, or waivers needed to execute or expedite the defendant's removal. The defendant further understands that his failure or refusal to assist ICE in the execution of his removal shall breach this plea agreement and may subject the defendant to criminal penalties under Title 8, United States Code, Section 1253.

C. Re-entry and Penalties

The defendant concedes that the entry of this judicial order of removal renders him permanently inadmissible to the United States. He agrees that he will not enter, attempt to enter, or transit through the United States without first seeking and obtaining permission to do so from the Secretary of the Department of Homeland Security or other designated representative of the U.S. government.

12. **Interpreter.** Your client agrees that if an interpreter is required to assist your client in translating this Plea Agreement into your client's native language, then your client agrees to request the Court, pursuant to 28 U.S.C. § 1827, "The Court Interpreter's Act," to secure the services of a certified interpreter at Court expense to verbally translate the Plea Agreement and related documents for the your client into your client's native language. If no such request is made, then your client hereby declares that your client understands the English language sufficiently well to read and understand this Plea Agreement, or that the plea agreement has been read to him in his native language and he therefore understands the Plea Agreement

13. **Release/Detention and Actions Pending Sentencing.** Your client agrees not to object to the Government's recommendation to the Court at the time of the plea of guilty in this case that, pursuant to 18 U.S.C. § 3143, your client be detained without bond pending your client's sentencing in this case and that if a term of incarceration is imposed that he will not seek to be released after sentencing.

14. **Breach of Agreement.** Your client understands and agrees that if, after entering this Plea Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client's obligations under this Plea Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Plea Agreement. In the event of such a breach: (a) the Government will be free from its obligations under the Agreement; (b) your client will not have the right to withdraw the guilty plea; (c) your client shall be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the Government will be free to use against your client, directly and indirectly, in any criminal or civil proceeding, all statements made by your client and any of the information or materials provided by your client, including such statements, information and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of this Agreement, including your client's statements made during proceedings before the Court pursuant to Fed.R.Crim.P. 11.

Your client acknowledges discussing with you Fed.R.Crim.P.11(f) and Federal Rule of Evidence 410, rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights which arise under these rules.

Your client understands and agrees that the Government shall only be required to prove a breach of this Plea Agreement by a preponderance of the evidence. Your client further understands and agrees that the Government need only prove a violation of federal, state, or local criminal law by probable cause in order to establish a breach of this Plea Agreement.

Nothing in this Agreement shall be construed to permit your client to commit perjury, to make false statements or declarations, to obstruct justice, or to protect your client from prosecution for any crimes not included within this Agreement or committed by your client after the execution of this Agreement. Your client understands and agrees that the Government reserves the right to prosecute your client for any such offenses. Your client further understands that any perjury, false statements or declarations, or obstruction of justice relating to your client's obligations under this Agreement shall constitute a breach of this Agreement. However, in the event of such a breach, your client will not be allowed to withdraw this guilty plea.

15. **Waiver of Statute of Limitations.** It is further agreed that should the conviction following your client's plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution related to the statement of offense, indictment, and/or information that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed not to prosecute or to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against your client, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution related to the statement of offense, indictment, and/or information that is not time-barred on the date that this Agreement is signed.

16. **Forfeiture:** Not Applicable.

17. **Wiring of Plea Agreement:** Your client understands and acknowledges that this plea agreement is contingent upon the entry of guilty pleas by your client's two co-defendants, in this case. If a co-defendant fails to enter a guilty plea, or successfully withdraws his guilty plea, this agreement and any proceedings pursuant to this agreement may be withdrawn or voided at the option of the government.

18. **Complete Agreement.** No other agreements, promises, understandings, or representations have been made by the parties or their counsel than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by your client, defense counsel, and an Assistant United States Attorney for the District of Columbia.


Your client further understands that this Agreement is binding only upon the Criminal and Superior Court Divisions of the United States Attorney's Office for the District of Columbia, and the Department of Justice Criminal Division and National Security Division. This Agreement does not bind the Civil Division of this Office or any other United States Attorney's Office, nor does it bind any other state, local, or federal prosecutor. It also does not bar or compromise any civil, tax, or administrative claim pending or that may be made against your client.

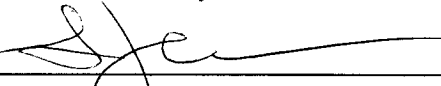
If the foregoing terms and conditions are satisfactory, your client may so indicate by signing the Agreement in the space indicated below and returning the original to me once it has been signed by your client and by you or other defense counsel.

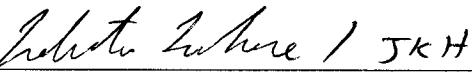
Sincerely,


RONALD C. MACHEN JR.

United States Attorney
for the District of Columbia


John Han / Anthony Asuncion
Assistant United States Attorneys
National Security Section


Stephen Curran
Trial Attorney
Human Rights & Special Prosecutions Section
Criminal Division
U.S. Department of Justice

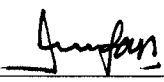

Lolita Lukose
Trial Attorney
Counterterrorism Section
National Security Division
U.S. Department of Justice

Defendant's Acceptance

I have read or had read to me this Agreement and discussed it with my attorney. I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offenses identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Agreement. I am satisfied with the legal services provided by my attorney in connection with this Agreement and matters related to it.

9-12-11
Date

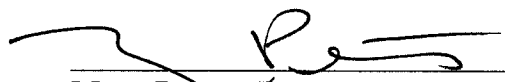


Irfan Ul Haq
Defendant

Attorney's Acknowledgment

I have read each of the pages constituting this Agreement, reviewed them with my client, and discussed the provisions of the Agreement with my client, fully. These pages accurately and completely sets forth the entire Agreement.

9-12-11
Date



Mary Petras, Esq.
Counsel for Defendant