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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 03 CR 978
)
Plaintiff,)
)
vs.)
)
MUHAMMAD HAMID KHALIL SALAH AND)
ABDELHALEEM HASAN ABDELRAZIQ ASHQAR,) Chicago, Illinois
) November 29, 2006
Defendants.) 4:15 o'clock p.m.

E X C E R P T
TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE AMY J. ST. EVE, AND A JURY

APPEARANCES:

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S/A JILL PETTORELLI, FBI

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1 (Proceedings heard in open court; jury present:)

2 * * * * *

3 MR. SCHAR: Judge, the government calls Mohamed
4 Al-Shorbagi.

5 THE COURT: Please come forward, sir. Raise your
6 right hand, sir.

7 (Witness sworn.)

8 THE COURT: You may be seated.

9 You may proceed.

10 MR. SCHAR: Thank you, Judge.

11 MOHAMED SHORBAGI, GOVERNMENT'S WITNESS, DULY SWORN,

12 DIRECT EXAMINATION

13 BY MR. SCHAR:

14 Q. Sir, could you please state your name, spell both your
15 first name and your last name.

16 A. Yes. My name is Mohamed Shorbagi. My first name is
17 Mohamed, M-O-H-A-M-E-D. Last name is Shorbagi,
18 S-H-O-R-B-A-G-I.

19 Q. Sir, I'd like to direct your attention to October 1997 to
20 about December 2001. During that time period, did you enter
21 into an agreement and understanding with others to provide
22 monetary support to the Hamas terrorist organization?

23 A. Yes, sir.

24 Q. At the time you provided money to Hamas, did you know that
25 Hamas was engaged in terrorist activities?

1 A. Yes, sir.

2 Q. Based on your involvement with providing money to Hamas,
3 were you criminally charged in federal court with providing
4 material support to a terrorist organization, namely, Hamas?

5 A. Correct.

6 Q. In addition, from approximately 2001 to 2005, you
7 defrauded your employer of approximately \$240,000.

8 A. Correct.

9 Q. Direct your attention to August 28th of this year.

10 Did you plead guilty in federal court in Georgia to
11 providing material support to Hamas?

12 A. Correct.

13 Q. Did you enter into a plea agreement with the government
14 before you pled guilty?

15 A. Correct.

16 Q. In that plea agreement, did you agree to cooperate with
17 the government?

18 A. Correct.

19 Q. What, Mr. Shorbagi, did you agree to do?

20 A. To say the truth.

21 Q. Have you been sentenced yet?

22 A. Not yet.

23 Q. What is your understanding of the sentence you were facing
24 if you had not cooperated with the government?

25 A. 15 years.

1 Q. In return for your cooperation, what do you understand the
2 government will do for you at the time of your sentencing?

3 A. To recommend reduction to the federal judge.

4 Q. Reduction in what?

5 A. Reduction of the jail time.

6 Q. Has the government indicated at this point how much of a
7 reduction it will request?

8 A. None.

9 Q. What do you have to do in order for the government to make
10 that motion for you to receive a reduced sentence?

11 A. To say the truth.

12 MR. MOFFITT: Objection. May we approach?

13 THE COURT: Yes.

14 (Proceedings heard at side bar:)

15 MR. MOFFITT: Your Honor, he's bolstering this
16 witness's testimony. Now he's got this witness saying that
17 what he's got to do is to say the truth, and that is
18 bolstering the testimony.

19 MR. SCHAR: Judge, in the 7th Circuit at least, I
20 think the law is fairly clear that I'm allowed to front the
21 plea agreement and the terms of the plea agreement and what it
22 is he needs to do to abide by the terms of the plea agreement,
23 and that's all I'm doing.

24 THE COURT: The law is clear here in this circuit
25 that that is appropriate.

1 MR. MOFFITT: Okay. You can front the plea
2 agreement, but he can't comment on his own testimony and say
3 that I'm telling the truth. That's the problem that I'm
4 having.

5 THE COURT: He's not bolstering his testimony. He's
6 asking him about what the terms of his deal are, and what the
7 witness just testified to is I have to tell the truth in order
8 to get a reduction in my sentence. That's appropriate.

9 You're free to ask him who makes that determination.
10 You're free to do the standard cross of it, but it's not
11 bolstering. It's appropriate.

12 (Proceedings heard in open court:)

13 THE COURT: You may continue.

14 MR. SCHAR: Thank you.

15 BY MR. SCHAR:

16 Q. What do you have to do in order for the government to make
17 a motion for a reduced sentence?

18 A. To say the truth.

19 Q. Who decides whether you are actually going to receive a
20 reduced sentence?

21 A. It's the federal judge.

22 Q. Where?

23 A. In Rome, Georgia.

24 Q. And has the government also agreed not to prosecute you
25 for your defrauding of your employer?

1 A. Correct.

2 Q. In addition to possibly receiving a lower sentence, has
3 the government also agreed to assist you to reside legally in
4 the United States?

5 A. Correct.

6 Q. And, if necessary, has the government agreed to assist you
7 in entering the Witness Protection Program once you're
8 incarcerated?

9 A. Correct.

10 Q. Sir, I'd like to direct your attention now to the early
11 1990s. Where were you living at that time?

12 A. In Houston, Texas.

13 Q. What type of job did you have?

14 A. I worked for Maxwell Coffee Company, and then I worked for
15 a shipping company in Houston, Texas.

16 MS. THOMPSON: We're having a little trouble
17 understanding.

18 THE COURT: Maybe you can slow down just a little
19 bit, sir, so we can make sure we can all understand you.

20 MS. THOMPSON: Thank you.

21 THE WITNESS: Yeah, fine. Sorry.

22 BY MR. SCHAR:

23 Q. Also if you can keep your voice up, I think that would be
24 helpful as well.

25 A. Okay.

1 Q. You said it -- was it Maxwell Coffee one of the places
2 that you worked?

3 A. That is correct.

4 Q. And you indicated you worked for a shipping company. How
5 long did you work for the shipping company?

6 A. I worked for about year and a half there.

7 Q. Then what did you do?

8 A. Logistics, shipping overseas.

9 Q. What did you do after you left that job?

10 A. I moved to Rome, Georgia.

11 Q. And did you get a job in Rome, Georgia?

12 A. Yes, I did.

13 Q. What type of job?

14 A. It's the same thing, it's in shipping company.

15 Q. Are you familiar with an organization called the Muslim
16 Arab Youth Association?

17 A. Yes, I do.

18 Q. Is that organization commonly referred to as MAYA,
19 M-A-Y-A?

20 A. Correct.

21 Q. While you were in Houston, were you involved in doing any
22 work for MAYA, the Muslim Arab Youth Association?

23 A. Correct.

24 Q. What did you do?

25 A. My job with MAYA really was logistics stuff. I was MAYA

1 representatives in the state of Houston. I used to -- MAYA
2 used to bring guest speakers from overseas, scholars, very
3 known prominent speakers from Middle East. I used to go to
4 the airport or arrange for someone to pick them up from the
5 airport, and I used to take them to find accommodation for
6 them at hotel and also take them to the Islamic Center in
7 Houston for the Friday sermon, which is our day of prayer.

8 And during the nighttime, I would arrange for a
9 lecture for that speaker in the Islamic Center to speak about
10 certain subjects, and sometimes after the speaking -- after
11 the speech is over, there will be donate -- collection for
12 money.

13 Q. Were you involved in any other organizations while you
14 were in Houston?

15 A. Correct.

16 Q. What other organization?

17 A. I was also representatives for -- in Houston for IAP,
18 Islamic Association for Palestine.

19 Q. What did you do for the IAP, the Islamic Association for
20 Palestine?

21 A. Exactly the same thing for MAYA, because IAP, Islamic
22 Association for Palestine would have their speakers also.
23 They would call me. I will go to the airport, pick up the
24 speaker, do the same thing, arrange for Friday sermon, and
25 then Friday night, he will be speaking about the subject that

1 he came for.

2 Q. Were you involved in providing any literature or handouts
3 on behalf of the IAP?

4 A. That is correct.

5 Q. What were you involved with?

6 A. Now, IAP was, I think, founded in sometime mid '80s, but
7 then when the very famous Palestinian uprising started in
8 1987, early 1988 in the occupied territory against Israeli
9 occupation, Hamas came to exist, and then leaflets by Hamas
10 was printed in the occupied territory, faxed to IAP office.

11 It was reprinted again by IAP and was mailed to my
12 attention to the Islamic Center. I would get it, make copies,
13 and make distribution for those leaflets.

14 Q. You say make distribution. What would you do with the
15 Hamas leaflets that you were provided?

16 A. I'm sorry?

17 Q. What would you do with the Hamas leaflets that you were
18 provided?

19 A. Make copies and distribute them to the people at the
20 Friday prayer.

21 Q. Do you have a recollection of any of the leaflets that you
22 personally distributed?

23 A. Yes. Most of those leaflets were really, as I said,
24 printed in West Bank and Gaza under the Israeli occupation.
25 Those leaflets would call for like sometimes for a general

1 strike or for encouraging the Palestinians for throwing stones
2 at the occupation, at the soldiers.

3 And some other leaflets, starting in I think after a
4 year or two year of the uprising, taking responsibilities of
5 some of the actions that Hamas is doing in the occupied
6 territory.

7 Q. What particular actions?

8 MR. MOFFITT: Objection.

9 THE COURT: What's your objection?

10 MR. MOFFITT: Best evidence. If he's going to speak
11 about a writing, then we should have the writing.

12 MR. SCHAR: Judge, he's going to speak from his
13 memory as to what he distributed.

14 THE COURT: Overruled.

15 MR. DEUTSCH: Judge, also we should have a better
16 foundation. He said several years after. I don't -- I want
17 to know --

18 THE COURT: Sustained. See if you can get a better
19 foundation.

20 BY MR. SCHAR:

21 Q. Directing your attention to approximately 1989, do you
22 recall any particular leaflets that you distributed -- Hamas
23 leaflets you distributed on behalf of IAP in 1989?

24 A. Correct.

25 Q. Which leaflets?

1 A. There was a famous leaflet that I made copies and
2 distributed. There was the abduction of the two Israeli
3 soldiers. One of them is I remember is Ilan Sa'doan. And
4 also I think in 1990, there was another leaflet of abduction
5 of Nissam Toledan, the Israeli soldier.

6 Q. Were you involved in any way with the distribution of the
7 Hamas charter through IAP?

8 A. Correct.

9 Q. How were you involved?

10 A. Hamas came to exist in '87 and then a few months after
11 that -- late '87. A few months after that, they had their
12 charter in February of '88. The same thing, IAP made the copy
13 of that charter and sent several copies to the mosque in
14 Houston, and I got those copies. They were in Arabic.

15 I got those copies of the charter, and I distributed
16 them to the people that come to the mosque.

17 Q. Did you eventually distribute it in English as well?

18 A. A few months later in '88, another copy came in English.
19 First came in Arabic, the second came in English. I did the
20 same thing to the non-Arabic speaking comes to the mosque.

21 Q. You provided the English version of the Hamas charter?

22 A. Correct.

23 Q. During the early 1990s, did you involve or did you attend
24 any conventions held by the Muslim Arab Youth Association,
25 MAYA?

1 A. Correct.

2 Q. To the best of your recollection, where were those
3 conventions held? Focusing on the early 1990s.

4 A. I'm sorry?

5 Q. Focusing on the early 1990s.

6 A. They were mainly held in big cities. I remember Oklahoma
7 City. I remember Kansas City. I remember Phoenix, Arizona.
8 I remember Houston, Texas. I remember Chicago.

9 Q. Could you explain to the jurors what type of events
10 generally would go on at a MAYA convention?

11 First let me ask you about how many people would
12 attend a MAYA convention?

13 A. Usually between like 6,000 to 8,000.

14 Q. So a number of people would attend these conventions.

15 A. Correct.

16 Q. Could you explain now generally what would occur, how long
17 would the convention last and generally what would occur?

18 A. Usually the convention held or happened during the
19 Christmas time, two days before Christmas and a day or two
20 days after Christmas, so that's five days. And it's five days
21 and five nights.

22 The MAYA leadership used to rent big convention
23 center, two or three hotels in the city, and then we used to
24 go there, get a room, and spend the five days and nights in
25 the convention between the hotel and convention.

1 The day starts with the mayor of the city. The
2 convention starts with the mayor of the city having the
3 opening ceremony of the convention welcoming the people to his
4 city, and then there will be two major lectures, one in the
5 morning and one in the evening.

6 And during this, there will be lunch and dinner by
7 the leadership of the convention arranged, and also there will
8 be small lectures during the daytime.

9 Q. Could you buy things at these conventions?

10 A. Yes, absolutely.

11 Q. Can you explain what you could buy?

12 A. There would be a big area in the convention that there
13 will be booths for, I mean, anything you really want to buy,
14 like clothes, especially for women, head scarf. Books,
15 religious books, politics books, tapes, Islamic signs, and
16 videotapes. Also tapes of the lectures that's being -- during
17 the convention or of the last conventions, videotapes, same
18 thing. Cassette tapes.

19 Q. Buy food as well?

20 A. Yes, there was also booth for food.

21 Q. During two of these early 1990 MAYA conventions, were you
22 invited to attend small, closed meetings of certain
23 individuals?

24 A. Correct.

25 Q. And which convention did the first closed meeting which

1 you were invited to occur?

2 A. Oklahoma City.

3 Q. Where within the convention was the closed meeting held?

4 A. There was a room inside the convention center, a private
5 room inside the convention center.

6 Q. What did the room look like?

7 A. Probably the same size as this court here.

8 Q. What was in the room?

9 A. Staged like this and chairs for people to sit on.

10 Q. Let's talk specifically about the Oklahoma City closed
11 meeting.

12 Approximately how many people attended that meeting?

13 A. About 150.

14 Q. Excuse me?

15 A. About 150.

16 Q. 150.

17 A. 150, yes, sir.

18 Q. Who invited you, sir, to the closed meeting?

19 A. Close friend of mine in Houston, Jamil Dalu.

20 Q. First name J -- well, actually, J-A-M-I-L?

21 A. Correct.

22 Q. Last name D-A-L-U?

23 A. Correct.

24 Q. How did you know Jamil Dalu?

25 A. We went to the same school in Texas, and we were close

1 friends in Houston, and we were working together also for the
2 IAP.

3 Q. When you say working together for the IAP, what were you
4 doing together?

5 A. Same thing, like doing the programs for the speakers when
6 they come, like what kind of program, how was the program
7 going to be and things of that nature.

8 Q. When Mr. Dalu invited you to the meeting, did he tell you
9 what was going to occur at the meeting or why you were being
10 invited?

11 A. He told me there will be a private speech.

12 MR. DEUTSCH: Objection, hearsay.

13 MR. SCHAR: It's offering to show why he ends up
14 going to the meeting, his understanding of what the meeting is
15 about.

16 THE COURT: Ladies and gentlemen, the answer you're
17 about to hear is not being offered for the truth of the
18 matter. It's instead being offered to show what actions were
19 taken.

20 You may answer.

21 BY THE WITNESS:

22 A. I'm sorry, your question again, sir?

23 BY MR. SCHAR:

24 Q. What did he tell you about the meeting?

25 A. That there will be a closed meeting by Mousa Abu Marzook,

1 Hamas. They'll be speaking about Hamas from inside.

2 Q. You say from inside, what do you understand that to mean?

3 A. Means it's not going to be a public speech. It's going to
4 be a closed private speech about Hamas.

5 Q. And what was your understanding as to why you were invited
6 to this?

7 A. Because I was a supporter for Hamas.

8 Q. Did you go to the closed meeting in Oklahoma City?

9 A. I did.

10 Q. To the best of your recollection, who do you recall being
11 at that closed meeting in Oklahoma City where Mr. Marzook was
12 to speak?

13 A. I remember, of course, Jamil was there. I remember Ahmed
14 Yousef, Yasir Bushnaq, Ismail Barrasse. I remember Ziad
15 Hamdan. I remember Abdelhaleem Ashqar. That's --

16 Q. Do you remember whether Muhammad Muzein was present?

17 A. Muhammad Muzein, Shukri Al-Baker also.

18 Q. Now, prior to this meeting, had you ever met Abdelhaleem
19 Ashqar?

20 A. No.

21 Q. Did you meet him at this meeting?

22 A. After the meeting, I was introduced to him by my friend
23 Jamil Dalu.

24 Q. How were you introduced to Abdelhaleem Ashqar after the
25 meeting?

1 A. I'm sorry, inside the meeting after the lecture was over,
2 inside the room.

3 Q. And how were you introduced to him?

4 A. "Hi, how are you. This is Mohamed Shorbagi. This is
5 Abdelhaleem Ashqar."

6 Q. Did Jamil Dalu tell you how he knew Abdelhaleem Ashqar?

7 MR. MOFFITT: Objection, hearsay.

8 MR. SCHAR: Co-conspirator, Judge.

9 THE COURT: Overruled.

10 THE WITNESS: I'm sorry?

11 BY MR. SCHAR:

12 Q. Did Jamil Dalu tell you how he knew Abdelhaleem Ashqar?

13 A. He knew him because they went to the same school in West
14 Bank, Birzeit University.

15 Q. Birzeit, B-E-I-R-Z-E-I-T?

16 A. Correct.

17 Q. Now, at the closed meeting, did anybody speak or give a
18 lecture?

19 A. Correct.

20 Q. Who spoke?

21 A. Mousa Abu Marzook.

22 Q. Had you heard of Mousa Marzook before this meeting?

23 A. Yeah, I heard about him.

24 Q. Who did you understand him to be?

25 MR. MOFFITT: Objection, foundation.

1 BY MR. SCHAR:

2 Q. How had you heard of Mousa Abu Marzook prior to this
3 meeting?

4 A. I heard him -- I mean I'm a Palestinian. I came from that
5 area. And then Hamas was becoming very active in the occupied
6 territory, and the main associates to Hamas also becoming
7 known and known among the Palestinians. So his name was --

8 MR. MOFFITT: Objection, hearsay.

9 MR. SCHAR: It's being laid to give his particular
10 understanding of who this was. I'm not offering it for that
11 particular truth. It's a foundation.

12 THE COURT: Overruled. You may continue.

13 BY MR. SCHAR:

14 Q. Now, based on your information, who did you understand
15 Mr. Marzook to be?

16 MR. MOFFITT: Objection, hearsay.

17 THE COURT: What's your response?

18 MR. SCHAR: I don't think his understanding is
19 hearsay, and I think he's laid the foundation to explain he
20 had some understanding prior to the meeting as to who was
21 going to be speaking.

22 MR. MOFFITT: His entire understanding of who
23 Mr. Marzook was is based on hearsay. There's no
24 co-conspirator statements there.

25 MR. SCHAR: That's a weight issue, Judge.

1 THE COURT: Are you offering it for the truth?

2 MR. SCHAR: No, his understanding. It's his
3 understanding.

4 THE COURT: Overruled.

5 MR. MOFFITT: Can I have an instruction that it's not
6 being offered for the truth?

7 THE COURT: Certainly.

8 The witness's answer as to his understanding of who
9 Mr. Marzook is is not being offered for the truth of that's
10 who he is.

11 BY MR. SCHAR:

12 Q. Sir, who was your understanding who Mr. Marzook was at the
13 time of this closed meeting in Oklahoma City?

14 A. That time I mean I knew Mousa Abu Marzook was active in
15 the -- in the MAYA, MAYA conventions, and also within the IAP
16 structure and also with Hamas because, as I said, like as
17 Palestinians, most of the names they were associated with
18 Hamas were coming to known to us by like whenever we talk
19 about Palestine, Hamas and so on.

20 Q. During the closed meeting, did Mr. Marzook speak?

21 A. Yes, he did.

22 Q. Can you tell us what he spoke about?

23 A. I mean I don't remember -- I remember what he talked about
24 Hamas, and the statement that I remember he mentioned that
25 Hamas is becoming a major player in the Middle East policy,

1 and Hamas is going to start creating actions to affect the
2 Middle East policy.

3 Q. And when Mr. Marzook said Hamas was going to start
4 creating actions, what did you understand him to mean?

5 MR. MOFFITT: Objection.

6 MR. SCHAR: He was present, Judge.

7 THE COURT: Overruled.

8 BY THE WITNESS:

9 A. I'm sorry, your question?

10 BY MR. SCHAR:

11 Q. My question, sir, is when Mr. Marzook says in this closed
12 meeting that Hamas is going to create action or actions, what
13 did you understand him to be referring to?

14 A. Hamas is a resistance movement against an occupation,
15 foreign occupation to Palestine. Actions mean fighting the
16 occupation, which is he clarify it by jihad against the
17 foreign occupation of Palestine.

18 Q. You say he clarified. Who clarified?

19 A. Mr. Mousa Abu Marzook.

20 Q. What did he say?

21 A. Later on, he, by mentioning creating actions against the
22 Israeli occupation, that is the only way by dealing -- to deal
23 with -- to end the Israeli occupation of Palestine is by
24 jihad.

25 Q. And did you have an understanding of what jihad meant?

1 A. I mean as a Muslim, there are too many names of jihad, but
2 when dealing with occupation, jihad means armed struggle to
3 end the occupation.

4 Q. About how long did Mr. Marzook speak for in the closed
5 meeting in Oklahoma City?

6 A. About an hour.

7 Q. What happened after he spoke?

8 A. There was an open session for questions and answers.

9 Q. Were you present for the question-and-answer session?

10 A. Yes, I was.

11 Q. As you sit here today, do you have any recollection of any
12 of the questions and answers?

13 A. There was a question about really the concern of the FBI
14 watching over us as Palestinians working for the Palestinian
15 cause using Hamas way in the United States by concern over the
16 FBI watching some of our activities.

17 Q. Was there an answer provided or a comment made about that
18 particular concern, that is, the FBI beginning to watch
19 Hamas's activities in the United States?

20 A. Yes, there was an answer by Abu Marzook.

21 Q. What did Mr. Marzook say at the Oklahoma City closed
22 meeting?

23 A. That was in early '90s, so his answer was that really the
24 FBI has so many things to worry about rather than activity
25 here or activity there for a Palestinian's cause that is

1 thousands of miles away from the United States inside the
2 occupied territory, so they wouldn't have really a lot of
3 concern about the activities inside the United States, that
4 not to worry about the FBI.

5 Q. Now, did you attend a second MAYA convention where a
6 second closed meeting was held?

7 A. Correct.

8 MR. SCHAR: Judge, I'm sorry, how long do you want to
9 go tonight? Should I keep going?

10 THE COURT: Another five, ten minutes.

11 MR. SCHAR: Okay. See how far we get.

12 BY MR. SCHAR:

13 Q. Sir, did you attend another second closed meeting at a
14 second convention?

15 A. Correct.

16 Q. Where was that convention?

17 A. It was in Chicago.

18 Q. Do you recall approximately what year that was?

19 A. I think '94.

20 Q. And were you again invited to a closed meeting at the
21 Chicago MAYA convention?

22 A. Correct.

23 Q. Who invited you?

24 A. By my friend Jamil Dalu.

25 Q. Again, what did he tell you about this particular closed

1 meeting, if anything?

2 A. He said the same thing, that there will be a speaker.
3 It's going to be about Hamas, and there will be a speaker
4 about Hamas.

5 Q. Where was the closed meeting held in Chicago?

6 A. Inside the convention center in a room, private room
7 inside the convention center.

8 Q. Similar to the room you described before?

9 A. Yes, similar to this room also.

10 Q. Did you attend the second closed meeting in Chicago?

11 A. Yes, I did.

12 Q. Who was present at the second closed Hamas meeting in
13 Chicago?

14 A. There were also about 150 or so there.

15 Q. Do you have a recollection as you sit here of any
16 particular people who were present?

17 A. Yes. I remember Mousa Abu Marzook, Ahmed Yousef, Ismail
18 Barrasse, Muhammad Muzein, Shukri Al-Baker, Abdelhaleem
19 Ashqar. I think those are some of the names I remember.

20 Q. Was Ziad Hamdan present?

21 A. Yes, uh-huh.

22 Q. How about Mohammad Jarad?

23 A. Yes, Mohammad Jarad was there also.

24 Q. Now, was there a particular speaker at the second closed
25 Hamas meeting in Chicago?

1 A. Yes, there was.

2 Q. Who spoke?

3 A. Khalid Mishal.

4 Q. Was he introduced as Khalid Mishal, or was he introduced
5 by another name?

6 A. He was introduced by Mousa Marzook as Khalid the Sheikh.

7 Q. And had you heard of Khalid Mishal before?

8 A. That was the first time I came in touch with Khalid
9 Mishal.

10 Q. What did Khalid Mishal speak about at this particular
11 closed Hamas meeting?

12 A. His speech was about Hamas, how Hamas became a big
13 organization inside the occupied territory and how Hamas
14 really is gaining the support inside the occupied territory.
15 And there is a peace process at this time, the Oslo agreement
16 that was signed in 1993 in Washington, D.C., and his two
17 topics -- he had really the thing I remember about two points
18 that he stressed and talked about, is that, number one is how
19 to stop the peace process because the PLO, who is doing the
20 peace process with Israel, is really selling out the
21 Palestinian rights by giving up the right of the Palestinian
22 land, most of the Palestinian land, giving up the right of the
23 return for the refugees who were forced to leave their homes
24 and lands in Palestine, and selling out the Palestinian
25 rights. So it will not be a good peace process for the

1 Palestinians.

2 In order to do that, Hamas has to step up its
3 military actions, jihad, against the Israelis in order for the
4 Israelis to respond, and there will be violence on both sides,
5 so the peace process will not move on.

6 The second thing is that we, as Palestinians living
7 outside the territory, we've got to work on gaining the
8 support of the Palestinians outside Palestine for Hamas among
9 the Palestinians, Arabs as well as Muslims. So we need -- as
10 Hamas did its work inside the occupied territory, we need to
11 work hard outside Palestine in order to bring the support of
12 Hamas to -- from the people outside Palestine.

13 Q. Were those the two main points he spoke about during the
14 second closed Hamas meeting?

15 A. Correct.

16 Q. Did he speak in any way about how to organize support for
17 Hamas outside of the territories in Israel?

18 A. Yes.

19 Q. What did he say?

20 A. He said, like, for us really as Palestinians inside the
21 United States to work for Hamas, we need to have, like, groups
22 such as political group, media group, education group,
23 financial group, and every group is led by someone and some
24 people work for those groups to gain the support for Hamas.

25 Q. After -- after Mr. Mishal spoke, was there a

1 question-and-answer session?

2 A. Yes.

3 Q. What, if anything, do you recall from the
4 question-and-answer session?

5 A. I recall a comment made by Abdelhaleem Ashqar.

6 Q. What was that comment? Was it in the form of a question
7 or an answer or a comment?

8 A. It was -- it was a comment.

9 Q. What was the comment?

10 A. The comment, I remember he was talking about how did
11 Israeli came to exist in 50 years. He was referring to the
12 founder of the Zionist movement, Theodore Herzl, that he had a
13 plan, he called it, Theodore Herzl called it the ten-year
14 plan, that in every ten year, he had a goal and this is how he
15 going to work for the goal.

16 And that was Theodore Herzl, the founder of the
17 Zionist movement back in 1897, and it came after 50 years in
18 1948, he fulfilled the establishment of the State of Israel
19 over the land of Palestine by following the ten-year plan.

20 Q. What, if anything, did Mr. Ashqar say about what Hamas
21 should do in that regard?

22 A. He said we could learn from -- from this plan really to
23 set a goal for us every ten years and -- or every few years
24 and to work toward the goal of ending the foreign occupation
25 of our land.

1 Q. When you say us, who are you referring to?

2 A. As Hamas member -- supporters or members.

3 MR. SCHAR: Judge, this probably would be a good
4 time.

5 THE COURT: Okay. Let's end for the evening. We'll
6 pick up tomorrow morning. Please meet on the second floor at
7 9:15. Remember, do not discuss the case or watch, listen to,
8 or read any media coverage. Have a good night. I'll see you
9 tomorrow morning.

10 (Jury exits courtroom.)

11 THE COURT: You may step down, sir. Please be back
12 tomorrow morning by 9:00.

13 A couple of things for you. One, I spoke with the
14 juror, and it looks like next Thursday if we can end by 3:00,
15 that will accommodate her situation. Start on time and end by
16 3:00. I will -- is that acceptable to everybody?

17 MR. FERGUSON: That's fine, Judge.

18 MR. MOFFITT: That's fine.

19 THE COURT: Mr. Deutsch, any objection to that?

20 MR. DEUTSCH: That's fine.

21 THE COURT: And I will let the jury know that
22 tomorrow.

23 Also I have the notes of Agent Pettorelli. I have
24 not reviewed them yet, but I will review them tonight so we
25 can take it up tomorrow to the extent we need to.

1 I also have the motion Mr. Moffitt handed me this
2 morning. I don't know if you've had a chance to look at it
3 yet or if you want to respond. I'm sure you'll want to
4 respond. The question is orally or in writing.

5 MR. SCHAR: I think we'd probably prefer to do it
6 orally.

7 THE COURT: Okay.

8 MR. SCHAR: I think the -- part of the difficulty --
9 first of all, the issue, I think, isn't formed unless there's
10 some proffer that Dr. Ashqar was aware of this leak or alleged
11 leak, and somehow it influenced his decision or belief about
12 why he couldn't testify in the grand jury, which I don't see a
13 proffer of in that at all.

14 Otherwise, this leak and basically every other leak
15 that exists in the investigation in the United States falls
16 under the same premise of, well, see, the government is
17 investigating leaks and, therefore, I wouldn't testify. So I
18 think there's a lack of connection that would make any of this
19 relevant.

20 The other problem I foresee but would be happy to
21 deal with this ex parte is the government as a rule does not
22 comment on ongoing investigations, which this is. However,
23 the AUSA who's involved, I'm sure, could brief your Honor
24 because I'm not sure there are some accurate statements in
25 there about who actually is being investigated and who's not

1 being investigated.

2 THE COURT: Okay.

3 MR. SCHAR: Dealing with the kind of *Giglio-Brady*
4 issue.

5 THE COURT: I'll look at it further tonight and hear
6 from you tomorrow on it.

7 Also just a word to put you on notice, I'm going to
8 have to figure out where in the schedule to do this, I'm going
9 to need to hear, Mr. Deutsch, from you and the government and
10 have a hearing or further argument on the expert issues.

11 MR. DEUTSCH: Okay.

12 THE COURT: There are some ones I'll be able to tell
13 you based on the submissions yes, some ones I'll be able to
14 tell you based on the submissions no, and then there's a murky
15 area that I need more from you on.

16 MR. DEUTSCH: Okay.

17 THE COURT: Also, there is -- there are discrepancies
18 between your original disclosures, what the government
19 represents you plan on doing with these experts, which I know
20 that's their representation, but more puzzling to me and is
21 adding to some of my confusion, your response to their motion
22 to strike.

23 So there are discrepancies between your initial
24 disclosure and your response, where I think your response, at
25 least on some of them, more accurately portrays what could be

1 expert testimony than in your disclosure, and I'm not sure
2 which one you're seeking.

3 MR. DEUTSCH: Well, I don't know specifically what he
4 refered to, but I could tell you that once we started to
5 grapple with what the government was saying and what we needed
6 for our case, I think we clarified in our own minds what the
7 kind of testimony we're seeking.

8 THE COURT: Okay.

9 MR. DEUTSCH: So I'm not surprised there's some
10 differences between the original disclosure and what we put in
11 now, but what we put in now is what we intend to do.

12 THE COURT: Okay. So I'll rely more on what you have
13 disclosed in your response.

14 MR. DEUTSCH: Yeah.

15 THE COURT: And maybe Friday after court since we're
16 done early, we can take up some of these things. I'll give
17 you a more definite time tomorrow.

18 MR. DEUTSCH: This is that CJA matter about the
19 affirmation that you want because I'm going to submit a
20 voucher.

21 THE COURT: Okay, thank you.

22 Anything else for me?

23 MR. SCHAR: No, Judge.

24 THE COURT: Okay. 9:15 tomorrow.

25 (Court adjourned, to reconvene at 9:15 a.m. on 11-30-06.)

CERTIFICATE

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

Kathleen M. Fennell
Official Court Reporter

Date

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 03 CR 978
)
Plaintiff,)
)
vs.)
)
MUHAMMAD HAMID KHALIL SALAH AND)
ABDELHALEEM HASAN ABDELRAZIQ ASHQAR,) Chicago, Illinois
) November 30, 2006
Defendants.) 9:20 o'clock a.m.

VOLUME TWENTY-SIX
EXCERPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE AMY J. ST. EVE, AND A JURY

APPEARANCES:

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S/A JILL PETTORELLI, FBI

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1 THE CLERK: 03 CR 978, USA vs. Muhammad Salah and
2 Abdelhaleem Ashqar. Jury trial continues.

3 * * * * *

4 (Jury in.)

5 THE COURT: You may be seated.

6 Good morning, ladies and gentlemen.

7 Two things before we continue with the presentation
8 of evidence.

9 First of all, I know they are predicting snow. And I
10 received your note regarding the procedures if there is snow.
11 I will give you further direction later on today. I am
12 watching. If things get bad, we may break and end early for
13 the day. That is about as much as I can tell you. But before
14 you leave here today, we will have a specific plan for
15 tomorrow if the weather is bad.

16 Secondly, I have not touched the thermostat since
17 yesterday.

18 (Laughter.)

19 THE COURT: It is quite different than it was in here
20 yesterday. So, feel free to bring jackets or whatever you
21 need to. There is no control over that.

22 We will continue with the presentation of evidence.

23 Sir, let me remind you that you are still under oath.

24 Mr. Schar, you may continue.

25 MR. SCHAR: Thank you, Judge.

1 MOHAMED SHORBAGI, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

2 DIRECT EXAMINATION - Resumed

3 BY MR. SCHAR:

4 Q. Mr. Shorbagi, when we left off yesterday, I believe we
5 were discussing the closed Hamas meeting that was occurring at
6 the Chicago convention.

7 Do you recall that?

8 A. Right.

9 Q. Now, I recall your testimony Mr. Mishal had spoken,
10 Dr. Ashqar made some comments; and, we were in the
11 question-and-answer session.

12 During that question-and-answer session, did the
13 topic of the FBI come up, again?

14 A. Correct.

15 Q. Could you tell us what was discussed?

16 A. Yeah. There was a question I remember about now that more
17 concern to the FBI issue. Since Hamas was becoming a major
18 player in the Middle East, since things has been evolved
19 bigger than before, that we should be really more careful in
20 our conduct and our behavior than before because the concern
21 of the FBI.

22 Q. After the speeches and the question-and-answer session
23 were done, was anything done to implement Mr. Mishal's
24 comments about organizing Hamas within the United States into
25 different groups?

1 A. Yes.

2 Q. Could you tell us what was done?

3 A. Yeah. After Mishal's speech, we broke into groups. The
4 groups were called, like, the Financial Group, the Media
5 Group, the Politics Group, Education Group; that there will be
6 different groups, and names will be assigned to different
7 groups and different leaders to different groups.

8 Q. What was your understanding of the goals of these groups?

9 A. The goal of this -- these -- groups really -- really -- to
10 work as different teams, but in the same time to work for what
11 Mishal was saying: To -- as a support to bring the support
12 for Hamas.

13 Q. Was there an indication or announcement made as to who
14 would be heading particular groups?

15 A. Yes.

16 Q. Do you recall who made that announcement?

17 A. I really don't recall who made the announcement. But
18 there was calls that the head of such a group like the Media
19 Group will be Ahmed Yusif, the Politics Group will be Mousa
20 Marzook, and so on.

21 Q. What other groups had people assigned to lead them?

22 A. I remember, like, the Financial is Muhammad Muzein,
23 Education is Abdelhaleem Ashqar. That's what I remember.

24 Q. Were you chosen for a particular group?

25 A. Yes, sir.

1 Q. Which group?

2 A. The Media Group.

3 Q. After people were chosen for particular Hamas groups, what
4 happened?

5 A. There was a form distributed there. We filled in our
6 names, our address, phone numbers -- how to be contacted by
7 mail or by phone -- and the group that you are assigned to.

8 Q. During this formation of these groups and the breakout of
9 these groups, was there a particular individual who was or
10 became upset?

11 A. Yes.

12 Q. Do you recall who that was?

13 A. His name is -- his name was -- Khalid Habib.

14 Q. Khalid, K-h-a-l-i-d; Habib, H-a-b-i-b?

15 A. That is correct.

16 Q. Why was he upset?

17 A. Khalid Habib, I knew him because when I moved to Rome, I
18 met him in Rome in '93. He was jailed in Israeli jails for
19 four years because -- as a Hamas activist. And when he came
20 to United States, he did his Master Degree in Business in
21 Oklahoma.

22 When he was in the meeting, he was objecting that he
23 was not chosen to be a leader of a group.

24 Q. Why was he objecting?

25 A. Because he was thinking that he was Hamas activist and he

1 was jailed in Israel for a long time and he should be chosen
2 to be a leader of a group.

3 Q. Had he told you why he was jailed in Israel?

4 A. Yeah. I remember him speaking about it publicly, really,
5 in Rome that he was the financial director --

6 MR. MOFFITT: Objection.

7 THE COURT: On what basis?

8 MR. MOFFITT: The question, is this in furtherance
9 of?

10 MR. SCHAR: Judge, I think it is in furtherance as an
11 explanation as to who it is, why he was involved.

12 THE COURT: Objection overruled.

13 THE WITNESS: I'm sorry?

14 BY MR. SCHAR:

15 Q. What did he tell --

16 THE COURT: You may continue.

17 MR. SCHAR: I'm sorry, Judge.

18 THE COURT: You can continue your answer.

19 If you need to rephrase it, go ahead.

20 BY MR. SCHAR:

21 Q. Can you continue your answer as to why he -- what he had
22 indicated he had been jailed for in Israel?

23 A. I mean, you got to know that time, '93, I mean, there was
24 not a lot of news about Hamas in the media. So, things were
25 talk in publicly somehow. So, he was speaking publicly there

1 in Rome with the community that he was arrested for being a
2 financial director under Sheikh Ahmed Yasin for Hamas.

3 Q. Do you understand Sheikh Ahmed Yasin to be the spiritual
4 leader of Hamas?

5 A. Yes.

6 Q. And did you fill out an application to provide information
7 for the Hamas Media Group?

8 A. That is correct.

9 Q. I should ask you -- I know it's been a long time -- do you
10 think you would recognize Abdelhaleem Ashqar if you saw him,
11 again?

12 A. Yes.

13 Q. Do you see him in the courtroom here today?

14 A. Yes.

15 Q. Would you point him out or describe an article of clothing
16 that he's wearing?

17 A. Yeah. He's sitting in the last row, right there
18 (indicating).

19 Q. What is he wearing?

20 A. Can I turn to see what he -- he was wearing -- he -- I'm
21 not sure, is that black or blue jacket. He's -- he's --
22 standing right -- he's sitting right -- there in the last row,
23 in the corner.

24 Q. All right.

25 Is he wearing any -- is he wearing a tie or not

1 wearing a tie?

2 A. I cannot see him because the computer monitor is in front
3 of me. But he's wearing eyeglasses. I mean, the three
4 gentlemen are wearing eyeglasses, but he's wearing also
5 eyeglasses.

6 MR. SCHAR: I think, Judge, the record should reflect
7 he's identified Abdelhaleem Ashqar.

8 THE COURT: The record will so reflect.

9 BY MR. SCHAR:

10 Q. At some point, did you actually become involved in doing
11 work for the Hamas Media Group in the United States?

12 A. That is correct.

13 Q. Before we get to that, what was it -- based on your
14 involvement with these meetings, what was your understanding
15 as to how, for instance, the Media Group -- or any of these
16 groups -- was to assist Hamas in the United States?

17 A. See, you got to understand that we were -- or we are --
18 Palestinians living under foreign Israeli occupation. So, we
19 wanted to help to get rid of the Israeli occupation. And we
20 were divided into these groups to help Hamas by getting rid of
21 the Israeli occupation.

22 So, you got Media helping in one way. You got
23 Politics helping in one way. You got Financial helping in
24 other way. Just like there is a big aim or a big goal for us,
25 as Palestinians and as Hamas, to really get rid of Israel

1 instead of Israel over Palestine.

2 And that goal is just like an ocean there and you got
3 rivers going towards that ocean. That is the education river,
4 the politics river, the financial river; and, all of it is
5 going towards one direction, which is really to save Palestine
6 from the Israeli occupation.

7 Q. When you say "save Palestine," what was the ultimate goal
8 of Hamas?

9 A. I mean, for us, as -- as -- a Palestinian and as a Muslim
10 and as a Hamas supporter, Palestine is the whole Palestine.
11 We used to call it from water to water, from the Mediterranean
12 Sea to the Jordanian River. That's the whole Palestine for
13 us.

14 Q. Does that include what is now considered the State of
15 Israel?

16 A. That con- -- concluded the State of Israel, the West Bank
17 and the Gaza Strip.

18 Q. How does working -- your work -- for the Hamas Media Group
19 assist Hamas in taking back all of the land of Israel?

20 A. I was really working with the Media Group, along with
21 others, into preparing reports about what does the United
22 States look upon Hamas and what is United States is gonna do
23 for Hamas.

24 So, once we watch the news, read the paper and make
25 the reports and send it over to the one who will make the

1 decision, so he will have a clear idea of what somehow is
2 going on into the minds of the decision maker in the United
3 States here toward Hamas. So, they will be prepared for it.

4 Q. How does working for the Education Group -- the Hamas
5 Education Group -- in the United States assist Hamas in its
6 ultimate goal of taking back all the land of Israel?

7 MR. MOFFITT: If he knows, your Honor.

8 MR. SCHAR: Judge, I think the foundation is laid at
9 this point.

10 MR. MOFFITT: I don't think so. He said it was
11 broken into groups. He was in one group. He wasn't in the
12 Education Group.

13 THE COURT: Mr. Moffitt, is your objection a
14 foundation one or is your objection if he knows?

15 MR. MOFFITT: It's both.

16 THE COURT: Okay.

17 Lay a further foundation.

18 Sustained.

19 BY MR. SCHAR:

20 Q. During these meetings, was there discussions in relation
21 to each of these particular groups?

22 A. Somehow, yes. I mean, you can tell, like, what -- I mean,
23 in some regard. Not like -- I mean, the Media, I know exactly
24 what was my job and because we broke into different groups.

25 But you have some sense of, like, what others is

1 gonna do, but not really in details what are they going to do.

2 Q. Well, not just specific details of what exactly the

3 Education Group was going to do. Do you have an

4 understanding, through these meetings and your discussions, as

5 to how each of these groups was going to ultimately work for

6 Hamas in the United States and the ultimate goal of the

7 destruction of Israel?

8 MR. DEUTSCH: Judge, I'm going to object. That's the

9 second time he's referred to the ultimate goal of the

10 destruction of Israel. I don't think it's proper.

11 He did mention that, but he also talked about ridding

12 the occupation -- ending the occupation by -- of the

13 Palestinian people. So, he's kind of repeating this kind of

14 ultimate goal in his question, and I don't think it's fair.

15 THE COURT: That came from the witness, though.

16 Objection overruled.

17 BY THE WITNESS:

18 A. I'm sorry, what was the question?

19 MR. SCHAR: I'm sorry, Judge, could you --

20 THE COURT: Okay.

21 (Whereupon, the record was read by the Court.)

22 BY THE WITNESS:

23 A. As I said, because I work for the Media, I know exactly

24 what I was going to do for the decision makers in Hamas. But

25 for the -- such as, like, the Financial, we know that

1 collecting money -- I mean, though I was working for the
2 Media; but, also, I could help with others, if I have the time
3 and if I have the ability to do it, like, financially or
4 otherwise.

5 But for the Education, I heard -- and this is the
6 thing that I heard, also -- that one of the things that
7 Education used to do is collecting books and send it to the
8 university in -- in -- the West Bank and Gaza to help the
9 schools there; or, also, collecting money and sending it to
10 the universities there to help the university students and
11 teachers.

12 And, also, one other thing I heard is there was a lot
13 of encouragement for us as Palestinians that if you get a
14 higher education, really, to go back to Palestine and start
15 working there and people will look -- the less educated
16 Palestinians there, they will look -- high upon you because
17 you are an educated -- U.S.-educated, highly-educated --
18 person.

19 In the meantime, you are a Hamas supporter. So,
20 there will be a lot of influence by someone who is
21 highly-educated Hamas supporters towards the less educated or
22 the other Palestinians in the Palestinian territory.

23 BY MR. SCHAR:

24 Q. And how does that ultimately help achieve Hamas' goals?

25 A. The support for Hamas will be increased, absolutely. If

1 you got someone who is really an educated Palestinian and
2 well-behaved and good-mannered and in the same time he's a
3 Hamas, then people will look high toward them and they will
4 follow what he is gonna say about Hamas. They're not gonna
5 follow the PLO corrupted ones. They would follow the Hamas
6 good -- the good -- ones, good educated ones.

7 Q. And in relation to, you say, these universities, do you
8 know which universities the Education Group was helping?

9 A. I mean, one of the universities, I understand, was the
10 Islamic University in Gaza.

11 Q. How do you understand that?

12 A. Because, I mean, I kept hearing that, again, from, like,
13 one of the -- I mean, from not in the groups, but like outside
14 the groups -- that the Islamic University is one of the
15 priorities in the occupied territories.

16 Q. Priorities for whom?

17 A. For us, for Hamas.

18 Q. Now, you mentioned a collection of books. During the
19 Chicago MAYA convention -- I want to stay with the Chicago
20 MAYA convention -- did you see a booth that defendant Ashqar
21 had set up for the Al Aqsa Education Group?

22 A. Yeah, I saw that booth, yeah.

23 Q. What was happening at that booth? What was occurring at
24 the booth?

25 A. I mean, I remember passing by, that there were a

1 collection of books into that booth. And they were selling,
2 also, some -- some -- books in that booth.

3 Q. So, they were both collecting books and selling books?

4 A. That is correct.

5 Q. What books did you see for sale there?

6 MR. MOFFITT: Objection.

7 May we approach?

8 THE COURT: Sure.

9 (Proceedings had at sidebar:)

10 MR. MOFFITT: There can't be anything that's more the
11 First Amendment than the sale of books. Are we now trying to
12 claim that the sale of books is criminal activity?

13 MR. SCHAR: No. I don't believe he's charged with
14 any sale-of-books crime. I'm not sure in the United States
15 Code there is such a statute that would permit that.

16 However, I'm fairly confident that what we can do is
17 demonstrate that the books he had for sale were Hamas related
18 and, therefore, would certainly be suggestive of the
19 government's theory that, in fact, he was working for Hamas
20 and supporting Hamas.

21 And, so, it's incriminating evidence, despite the
22 fact he was legally permitted to do it.

23 THE COURT: Objection overruled.

24 I certainly agree with you that nothing is more --
25 that the reading of books or purchase of books is protected by

1 the First Amendment.

2 MR. MOFFITT: But now --

3 THE COURT: Wait. Let me finish.

4 And the jury instructions will clearly tell the jury
5 what the violations of law are.

6 MR. MOFFITT: But --

7 THE COURT: But the fact that you have them there is
8 evidence that they can use.

9 MR. MOFFITT: Now what we're saying is that the
10 content of the book determines whether or not it's evidence.
11 Now, that also is a problem with the First Amendment, that
12 we're now making content-based decisions on a particular book.
13 And we don't have the whole book here. We don't have -- we
14 only have this witness' opinion of what the book is. We don't
15 have the book. We can't -- no one can -- make an independent
16 determination.

17 THE COURT: That is a weight issue, and you are free
18 to cross him on it.

19 MR. MOFFITT: Ma'am, with all due respect to your
20 ruling -- and you know that I respect your rulings -- I am
21 asking for a mistrial.

22 THE COURT: Your motion for a mistrial is denied.

23 (Proceedings had in open court:)

24 THE COURT: You may continue.

25 MR. SCHAR: Thank you, Judge.

1 BY MR. SCHAR:

2 Q. Sir, when we broke, you indicated that you had seen
3 several of the books that were for sale?

4 A. Correct.

5 Q. Could you tell us or describe for us which books were for
6 sale at the Al Aqsa Education booth?

7 A. There were a few books, but two books that really grabbed
8 my attention is there is a book written by a prominent scholar
9 in the West Bank about the destruction of the State of Israel.
10 It's called, "Destruction of Israel: Myth or Fact."

11 MR. DEUTSCH: I'm sorry, I can't make that out.

12 MR. SCHAR: "Destruction of Israel: Myth or Fact."

13 BY THE WITNESS:

14 A. "Destruction of Israel: Myth or Fact." It's written by a
15 prominent figure in the West Bank. And it is verses from the
16 from the -- driven from the Koran, the holy books of us, the
17 Muslims. It's stated in the Koran that the Israelis will be
18 in Palestine. And, then, there --

19 MR. MOFFITT: Objection. Objection, with respect to
20 what's stated in the Koran. It doesn't have anything to do
21 with the book.

22 MR. SCHAR: I think he was describing what was in the
23 book.

24 THE COURT: Why do you not clarify, because his
25 answer was a little unclear.

1 BY MR. SCHAR:

2 Q. Sir, are you describing what you saw in the book?

3 Let me rephrase it.

4 Do you recall what you saw in the book?

5 A. That's what I'm talking about, yes, because --

6 Q. I'm sorry, could you please go ahead and describe for us
7 what you saw in that particular book about the destruction of
8 Israel?

9 A. Yeah, it's --

10 MR. MOFFITT: Your Honor, I'm going to raise another
11 objection at the bench.

12 THE COURT: I am sorry?

13 MR. MOFFITT: I'm going to raise another objection at
14 the bench.

15 THE COURT: Okay.

16 (Proceedings had at sidebar:)

17 MR. MOFFITT: We've gone through the First
18 Amendment --

19 (Brief interruption.)

20 MR. MOFFITT: We've gone with the First Amendment
21 with regard to books. Now we're in the First Amendment with
22 regard to religion. And I raise this same objection with
23 regard to religion that, certainly, someone can write a book
24 about the Koran and can interpret the Koran any way he chooses
25 to interpret it. In a free society -- at least in our

1 society -- that's okay. That's not banned. That's not wrong.
2 There's nothing wrong with it. He can express his religion in
3 any way he chooses to express his religion.

4 Now what we're doing is that expression of religion
5 is being used against my client because it's a book written by
6 someone else which we, again, have no statement about the book
7 itself, other than from this particular witness. And this
8 particular witness' interpretation of the Koran is now being
9 put into evidence. And I suggest to you that that's
10 impermissible and improper.

11 MR. SCHAR: My response, Judge, is I don't, in large
12 part, disagree in terms of the freedom-of-religion issue. But
13 it goes exactly back to my point the last time we were at the
14 bar; which is, that he's allowed to describe what the content
15 of the book was because it's relevant to show what it is
16 defendant Ashqar was selling.

17 I'm not here debating whether or not it's a proper or
18 improper interpretation of the Koran or whether or not people
19 shouldn't be allowed. But the fact is, this was the
20 particular interpretation that was for sale. And that is
21 evidence.

22 MR. MOFFITT: Do you think that anybody would sell a
23 controversial tome --

24 THE COURT: A controversial?

25 MR. MOFFITT: A controversial tome -- anything that's

1 controversial -- in this country if they knew that it could be
2 used as evidence against them in a criminal case?

3 The whole purpose of the First Amendment, it seems to
4 me, is that you can sell a book, you can advocate a position,
5 you can take a position, as long as you don't do it in a
6 violent manner.

7 Now, what we're doing here is we're on that slippery
8 slope, because if I have -- if I possess and sell Mao's Little
9 Red Book, that doesn't make me a communist. It makes me a
10 possessor of Mao's Little Red Book. If I sell Malcolm X's
11 autobiography and in Malcolm X's autobiography Malcolm X
12 advocates violence, that doesn't make me an advocate of
13 violence and it doesn't make me anything.

14 What the government is doing here is creating a
15 situation where the exercise of the First Amendment becomes
16 something sinister and something purposeful with respect to a
17 criminal case. That's inappropriate.

18 MR. SCHAR: Well, the exercise of the First Amendment
19 can be sinister. There's no debate about that. I can't
20 imagine there's debate about that.

21 And if it turns out we have lots of evidence that
22 Mr. Moffitt is a communist and was somehow charged in some
23 communist conspiracy and he had --

24 THE COURT: Let us not use Mr. Moffitt as an example.

25 (Laughter.)

1 MR. SCHAR: Well, he --

2 THE COURT: I know he threw it open, but let us not
3 use him as an example.

4 MR. SCHAR: If somebody has a particular affiliation
5 and is charged with a crime in relation to that affiliation
6 and they have documentation which they may have every legal
7 right because it's not a crime to actually possess and to have
8 it and suggests that, in fact, they are what has been charged,
9 then it is incriminating evidence, even if they're allowed to
10 have it.

11 Judge, there are no allegations -- there are no
12 crimes here charged in terms of violating the First Amendment.
13 It's a racketeering conspiracy with the Hamas enterprise. And
14 it's our burden to show the enterprise existed and that this
15 defendant was a part of the conspiracy that went to further
16 the enterprise. His possession and sale of these books does
17 that. Whether he's legally allowed to do it or not doesn't
18 change it in terms of incriminating evidence.

19 MR. MOFFITT: The problem is that, just as your Honor
20 has said, Hamas activities broach both sides of the --

21 THE COURT: Bifarious nature of it.

22 MR. MOFFITT: Yes.

23 The activities that he just described, with respect
24 to the Education Committee, is selling books, promoting
25 education, collecting money and collecting books for the

1 university.

2 THE COURT: Does that not help you, then?

3 MR. MOFFITT: I understand that.

4 But now what they're doing is they're saying there's
5 something sinister about the possession -- the mere possession
6 -- of a book.

7 THE COURT: If you are charged with the crime of
8 blowing something up and you have a book that teaches you how
9 to use explosives, that book could be evidence of the crime.
10 Possession of it alone is not a crime. And that is not what
11 they are saying here. And I certainly will not let them argue
12 that. And the instructions on the law will not reflect that
13 mere possession of these books is a crime.

14 MR. MOFFITT: But what we're talking about here,
15 Judge, is the possession of books that relate to a political
16 philosophy. Not to blowing up a building, not to doing
17 anything like that, but to a political philosophy.

18 THE COURT: But possessing a book that tells you how
19 to use explosives is not a crime in and of itself, either.

20 MR. MOFFITT: Well, but I'm saying it's like the
21 possession of the communist manifesto. The mere fact that I
22 possess the communist manifesto wouldn't make me a person who
23 believed that the government should be overthrown by violence.

24 THE COURT: I agree. And that is -- the mere fact
25 that they had these books, that alone is not a crime. But

1 they can use it to the extent they want to argue in connection
2 with all the other evidence.

3 Your objection is overruled.

4 MR. DEUTSCH: Judge, can I say one other thing?

5 I want to join Mr. Moffitt's comments, but I also
6 want to say -- he didn't tell us the author of this book,
7 right?

8 THE COURT: No, he has not --

9 MR. DEUTSCH: No. Okay.

10 THE COURT: I do not know if he knows.

11 MR. DEUTSCH: Well, I --

12 THE COURT: And he has only had one question --

13 MR. DEUTSCH: Yes, yes.

14 THE COURT: -- that he has not answered fully. So --

15 MR. DEUTSCH: I want to know the author of the book,
16 and I think we're entitled for the government to produce that
17 book so we can look at that book, examine that book and see
18 what is in there.

19 If they have a witness that says that he was selling
20 a book and this book has these things in there, we are at
21 least entitled to have a copy of that book.

22 THE COURT: Well, if they do not have it -- which I
23 assume you do not --

24 MR. FERGUSON: We don't.

25 MR. SCHAR: We don't.

1 THE COURT: -- then they are not required to turn it
2 over.

3 MR. DEUTSCH: Wait a minute.

4 THE COURT: Find out if he knows more about it. Find
5 out if he can tell you the author.

6 MR. DEUTSCH: Let me see if I understand this. They
7 never bothered to verify that book and what was in that book?
8 They're putting a witness on the stand who is mentioning a
9 book, it's something in the book and the government didn't
10 check the book to see if it's true or not?

11 THE COURT: Well, I do not think they are required to
12 do that, but you are free to cross-examine him on anything you
13 want. There is going to be a lot.

14 MR. DEUTSCH: Yes.

15 (Proceedings had in open court:)

16 THE COURT: You may proceed, Mr. Schar.

17 MR. SCHAR: Thank you, Judge.

18 BY MR. SCHAR:

19 Q. Sir, I think you were describing the contents of the book
20 when we broke. Could you continue with your answer?

21 A. Yes. I said it was really a small booklet, probably 30 to
22 40 pages, about the verses from the Holy Koran, about the
23 State of Israel, that the sons of Israel will be gathered in
24 the state of -- in Palestine -- in the land of al-Isra, the
25 land of Palestine -- for sometime and, then, there will be a

1 time that they will scatter all over around the world.

2 And, then, there will be a time for them that they
3 will be back through the -- to Palestine, there for their
4 final residence in Palestine; and, there, there will be the
5 end for the Israelis in -- in -- the land of Palestine. That
6 Palestine will be, again, come a Muslim land and Arab land.

7 Q. Do you recall who the author of that particular book was?

8 A. Yes. I think his name is Bassam Jarar.

9 MR. DEUTSCH: Can you spell that for me? Can you get
10 a spelling of the last name, please?

11 BY MR. SCHAR:

12 Q. Do you know how to spell it?

13 A. B-a-s-s-a-m; Jarar, J-a-r-a-r.

14 Q. Was that the only book that you saw at the Al Aqsa
15 Education booth?

16 A. I saw, I think -- I remember -- another book for Sheikh
17 Ahmed Yasin.

18 MR. MOFFITT: May I have a continuing objection to
19 this line of questions?

20 THE COURT: You certainly may.

21 MR. DEUTSCH: I join, as well.

22 THE COURT: I am sorry, Mr. Deutsch?

23 MR. DEUTSCH: I said I join in that objection.

24 THE COURT: You may.

25 BY MR. SCHAR:

1 Q. You said you saw a book about Sheikh Ahmed Yasin?

2 A. That's correct.

3 Q. Do you recall who wrote that book?

4 A. I think Ahmed Yusif is the one. I'm not really sure.

5 Ahmed Yusif is the author of the book about the life of Sheikh
6 Ahmed Yasin.

7 Q. Do you recall whether or not defendant Ashqar was present
8 in the booth when you saw these books?

9 A. I didn't really recall that he was there at the time.

10 Q. Can you speak up, please?

11 A. I'm sorry.

12 I don't recall that I saw him at the booth that time.

13 Q. After you moved to Georgia, did you still host
14 individuals, as you previously described you had in Houston?

15 A. That is correct.

16 Q. Are you familiar with an individual named Jamil Hamami?

17 A. Correct.

18 Q. How are you familiar with Jamil Hamami?

19 A. Jamil Hamami came to Rome, Georgia, for collection
20 money -- collection of money -- to the Palestinians --

21 MR. MOFFITT: Can we have a date, time and place of
22 this?

23 THE COURT: Foundation.

24 Sustained.

25 BY MR. SCHAR:

1 Q. Do you recall when he came?

2 A. Yes. He came in at the time of the Israeli massacres to
3 the worship prayers at Hebron mosque February -- after
4 February -- '94. There was a famous massacre of the worship
5 prayers in Hebron mosque. So, he was -- he came after that --
6 because I remember that time -- to collect money for the
7 Palestinians. So, it was in '94.

8 Q. Who sponsored him to come?

9 A. Al Aqsa Education Fund.

10 Q. Did you understand him to be affiliated with a particular
11 organization?

12 A. Yes.

13 Q. Which organization?

14 A. Hamas.

15 MR. MOFFITT: Objection. Foundation, please.

16 BY MR. SCHAR:

17 Q. How did you understand him to be affiliated with Hamas?

18 A. I mean, as a Palestinian and as a Hamas supporter, we used
19 to read a lot and hear the news, and so on. So, his name
20 was -- became a familiar with Hamas that he was Hamas --

21 MR. MOFFITT: Objection. Hearsay.

22 MR. SCHAR: Judge, I think he can describe his
23 understanding.

24 THE COURT: Overruled. It is his understanding.

25 You may continue.

1 THE WITNESS: Okay.

2 BY THE WITNESS:

3 A. Again, as I said, like a Palestinian and a Hamas, that we
4 read a lot and we are concerned about our homeland and
5 Palestine, and so on. So, his name was coming a lot that he
6 is the Hamas representative in the West Bank.

7 BY MR. SCHAR:

8 Q. What happened when he came to Georgia?

9 A. To be honest, because that time Khalid Habib was there in
10 Rome and I was new in Rome, so he was in -- the one who was in
11 doing the logistics for Khalid -- for Jamil Hamami. But he
12 came to collect money.

13 Q. And did he, in fact, collect money on behalf of the Al
14 Aqsa Education Fund?

15 A. I remember so.

16 Q. Was Mr. Hamami eventually kicked out of Hamas?

17 A. Correct.

18 Q. How do you know that?

19 A. Again, reading the news --

20 MR. MOFFITT: Objection, again.

21 MR. SCHAR: Judge, can --

22 MR. MOFFITT: Objection, again. It's all hearsay.
23 It's rumor and innuendo. The newspapers. There's no basis to
24 believe necessarily anything in the newspaper is accurate.

25 MR. SCHAR: Whether the newspaper is accurate or not

1 is a weight issue. If I could, I'd like to lay the
2 foundation.

3 THE COURT: Lay your foundation.

4 MR. SCHAR: Thank you, Judge.

5 BY MR. SCHAR:

6 Q. Did you read or hear about particular individuals speaking
7 of kicking Jamil Hamami out of Hamas?

8 A. Again, I mean, I'm a very concerned Palestinian about my
9 homeland. So, I read a lot about Palestine and I do a lot for
10 Palestine.

11 So, there is a Web site -- or there are several Web
12 sites -- one which is very well known called
13 Palestine-info-info or based on -- based on -- -info.info, I'm
14 sorry. It's very well known that it's, like, pro-Hamas and
15 speaks highly about Hamas. And I usually go to that Web site.
16 A lot of news about Hamas there in Arabic, English and other
17 languages.

18 I saw that -- that -- some Hamas officials saying
19 that Jamil Hamami is no longer a Hamas member after that --
20 that -- thing.

21 MR. MOFFITT: Could we have a time?

22 BY MR. SCHAR:

23 Q. Approximately when did -- was Jamil Hamami kicked out of
24 Hamas?

25 A. I think '96, '97.

1 Q. And is it your indication that certain Hamas leaders
2 announced that he was being kicked out of Hamas?

3 A. That he is no longer Hamas, just to be -- to clarify the
4 point that whenever he talks, he talks of his own; he doesn't
5 belong to Hamas anymore.

6 Q. What --

7 MR. DEUTSCH: I would object to the continuing
8 reference to him being kicked out of Hamas. That's not what
9 the witness is saying. He's saying he read something that
10 said he was no longer a member of Hamas.

11 THE COURT: Clarify that.

12 BY MR. SCHAR:

13 Q. What did the Hamas members say about Jamil Hamami, why he
14 was no longer going to be a part of Hamas?

15 MR. DEUTSCH: Objection. Objection. There's no real
16 foundation here and it is just blatant hearsay. And I don't
17 understand the purpose of it at all.

18 MR. SCHAR: Judge, he's saying he heard or read Hamas
19 members announcing this. So, I don't think that it is
20 hearsay. It's in furtherance --

21 MR. MOFFITT: Excuse me.

22 THE COURT: It is in furtherance of --

23 MR. MOFFITT: What he said was he went to a Web site
24 that he believes is a Hamas Web site and he saw it on the Web
25 site. That's what he said.

1 THE COURT: Clarify the foundation with him, if that
2 is what he is basing it on, the Web site only.

3 BY MR. SCHAR:

4 Q. Are you basing it on purely the Web site or anything else,
5 whether any articles -- what was it that you read or learned
6 or heard about from Hamas members specifically --

7 MR. DEUTSCH: Could he --

8 BY MR. SCHAR:

9 Q. -- about Jamil Hamami?

10 MR. DEUTSCH: Could he identify who -- what other
11 persons he's talking about? "Hamas members," that's very
12 vague. Can he give us a name of someone who told him that, if
13 that happened?

14 THE COURT: Why do you not ask him first if he did
15 learn from other sources; and, then, find out who and when.

16 BY MR. SCHAR:

17 Q. Who did you learn -- or how did you learn -- that Jamil
18 Hamami had been disassociated from Hamas?

19 A. Two main sources. One is that Web site,
20 Palestine-info.info.

21 The other source is there is a very well-known
22 magaz -- newspaper -- I'm sorry, magazine -- called Filistine
23 Al-Muslima -- Islamic Palestine -- that's also pro-Hamas
24 magazine. And I used to get that magazine every -- I think
25 it's a monthly magazine. And it was also said there that

1 Jamil Hamami is no longer a Hamas member or no longer speaking
2 on the behalf of Hamas.

3 Q. As you sit here today, do you recall who said that?

4 A. To be honest, no. It was -- it was -- like, a statement
5 from Hamas itself that -- I mean, as you say, like, in those
6 press releases that -- Hamas press releases that -- Jamil
7 Hamami is no longer a member of Hamas.

8 Q. Would this be one of the leaflets you previously
9 described?

10 A. It was more than a leaflet. It was -- I mean, because
11 that time there is what we called al Maktab al-I'Alami in
12 Hamas, that -- the information center for Hamas. And they had
13 that press release inside the magazine and on the
14 Palestine-info press release by Hamas that Jamil Hamami is no
15 longer a Hamas member.

16 Q. Why was he kicked out, according to the Hamas press
17 release?

18 MR. MOFFITT: Objection. Hearsay.

19 MR. SCHAR: That's in furtherance, Judge.

20 THE COURT: Overruled.

21 MS. THOMPSON: Judge, could you just read back his
22 last answer?

23 THE COURT: Sure.

24 (Record read.)

25 MS. THOMPSON: Thank you.

1 BY MR. SCHAR:

2 Q. Was there a reason as to why he was no longer going to be
3 a Hamas member?

4 A. Yes.

5 Q. What was the reason provided in the press release?

6 A. Now, Jamil Hamami is a member of Hamas. As any other
7 member of Hamas, that you have to follow the ideology of
8 Hamas.

9 So, Jamil Hamami attended a meeting in Copenhagen,
10 Denmark, by intellectuals from the Israelis and the
11 Palestinians called the Proclamation Or Declaration of
12 Copenhagen. Talks about peace between the -- or the
13 co-existence between the -- two nations, the Israelis and the
14 Palestinians.

15 And because of his attendance to that Copenhagen
16 conference, whatever, he was kicked out from there -- from
17 Hamas.

18 Q. As part of your role with the Hamas Media Group in the
19 United States, were you asked to perform any assignments?

20 A. Correct.

21 Q. Who asked you?

22 A. Friend of mine.

23 Q. What was his name?

24 A. Iyad Hindi.

25 MR. MOFFITT: Excuse us?

1 BY MR. SCHAR:

2 Q. I -- is it I --

3 A. I-y-a-d, H-i-n-d-i.

4 Q. How do you know Mr. Hindi?

5 A. He was working the same company I work with in -- too, in
6 -- Rome.

7 Q. Did you know him to have an Abu name, as well?

8 A. Yes.

9 Q. What was his Abu name?

10 A. His son -- we have the Arabic tradition that as a respect
11 to the man, you call him Abu of his first son. His first son
12 is Abdel Rahman. So, we called him Abu El Abed or Abu Abdel
13 Rahman.

14 Q. When approximately did Mr. Hindi ask you to act or to work
15 in furtherance of the Hamas Media Group?

16 A. After the -- that meeting in Chicago in '94.

17 Q. What did Mr. Hindi ask you to do?

18 A. It was -- I mean, it was -- told that now we need to
19 really look into different types of media in the United
20 States. And they know that I like to watch the news a lot.
21 So, I was told to watch some of the news outlets, TV.

22 So, I used to watch C-SPAN, CNN. At that time, there
23 was no Fox News or Al-Jazeera. So, most of the times,
24 watching the C-SPAN 1 and 2, I think, and CNN, what they are
25 talking about Hamas; and, some of the Congress sessions, the

1 Senate -- senator -- sessions about Hamas.

2 Because that time in '95, '96, Hamas became a very
3 major player in the Middle East, in the bombings -- the bus
4 bombings -- and other stuff. So, it was concern -- a lot of
5 concern -- to the American Congress and Senate how to deal
6 with Hamas since Israelis are the most or the biggest allies
7 to the Ameri- -- to the American government here.

8 So, I used to watch the news.

9 Q. What were you asked to do in terms of monitoring Hamas on
10 the news?

11 A. To write a report about what is the government -- the
12 United States government -- thinking about Hamas and thinking
13 to do with Hamas.

14 Q. Did you, in fact, do any monitoring of the news and the
15 United States positions in relation to Hamas?

16 A. Yes, I did.

17 Q. What did you do?

18 A. I monitored the -- those long Congressional hearings on
19 C-SPAN. And I used to most, like, nighttime spend hours
20 watching the C-SPAN and write the reports.

21 Q. When you say "write a report," what would you write?

22 A. Make notes about what's being said at the Congressional
23 hearings.

24 Q. Were you given any instructions after you completed the
25 report?

- 1 A. Yeah. To, I mean, take the notes and, then, format it --
2 write it -- in a neat way and, then, fax it.
- 3 Q. Who gave you the fax number?
- 4 A. Mr. Hindi.
- 5 Q. How did he give it to you?
- 6 A. He gave it to me in a coded way.
- 7 Q. How was it coded?
- 8 A. To read it background. Like, if he's telling me, like,
9 the number is "1-2-3," the number would be "3-2-1."
- 10 Q. I thought I heard "background." Are you saying backwards,
11 to read it right to left?
- 12 A. Right. Like, if the number is written from left to right,
13 like "1-2-3," so the real number would be "3-2-1."
- 14 Q. After he gave you the coded fax number, what did you do
15 with the Hamas report that you had written?
- 16 A. Whenever I'm done with the report, to fax the report.
- 17 Q. Where did you fax it to?
- 18 A. It was a long distance. It was in the United States.
- 19 Q. In the United States?
- 20 A. That is correct.
- 21 Q. Do you recall where in the United States?
- 22 A. Later on, I found it was to UASR, the Research Center in
23 Washington, D.C.
- 24 Q. Who do you know to be affiliated with UASR?
- 25 A. Ahmed Yusif.

1 Q. Anybody else?

2 A. I think at that time --

3 MR. MOFFITT: Objection to what he thinks.

4 BY MR. SCHAR:

5 Q. Do you know?

6 THE COURT: Sustained.

7 BY MR. SCHAR:

8 Q. Do you know whether anyone else was?

9 A. Yeah. Mousa Marzook.

10 Q. In addition to giving you the fax number in code, did
11 Mr. Hindi ever talk to you about ways to avoid being tracked
12 or watched by the FBI?

13 A. Correct.

14 Q. When did that conversation occur?

15 A. I think in '95, '96.

16 Q. Where were you when it occurred?

17 A. In Rome.

18 Q. Was it over the phone or was it in person?

19 A. No, it was in private, person.

20 Q. What did Mr. Hindi tell you about being -- avoid being --
21 tracked by the FBI?

22 A. Because I was in the Media Group, so I used to write the
23 reports from the TV. There are others who would monitor the
24 newspapers, like New York Times and Chicago Tribune, and so
25 on, and Los Angeles Times, and write their own reports. So,

1 sometimes we used to get together and do the report and fax it
2 over.

3 So, whenever using the travel -- travel -- not to use
4 the -- the advice was not to use the airline because your name
5 will be there, driver license, and so on. Try to use, like,
6 the bus, the train, to avoid having your name on the -- on the
7 -- airline.

8 Q. Did Mr. Hindi give you an example of how using airplanes
9 could hurt Hamas?

10 A. Correct.

11 Q. What example did he give you?

12 A. Mousa Abu Marzook example.

13 Q. What did he say about Mousa Abu Marzook?

14 A. He say that when Mousa Marzook used to live in Louisiana,
15 he used to travel inside the United States and outside the
16 United States. So, he used to use the airlines. And because
17 of his overwhelming travel plans here and there, the FBI were
18 able to track all of his cities and towns that he went to and
19 connecting the dots of Hamas members and Hamas activities
20 inside the United States and outside.

21 Q. Now, sir, were you concerned that your actions on behalf
22 of Hamas in the Media Group could get you in trouble with the
23 FBI?

24 A. Correct.

25 MR. MOFFITT: Objection.

1 Can we have a date and time that he was concerned
2 about that?

3 THE COURT: You can lay a foundation as to when he
4 had that concern.

5 BY MR. SCHAR:

6 Q. When did you become concerned or -- let me ask it this
7 way: Was there always a concern that your actions --

8 MR. MOFFITT: Objection.

9 BY MR. SCHAR:

10 Q. -- on behalf of --

11 MR. MOFFITT: Leading.

12 THE COURT: Sustained.

13 BY MR. SCHAR:

14 Q. When did you become concerned your actions on behalf of
15 Hamas could potentially get you in trouble with the FBI?

16 A. To be honest, I mean, as a Palestinian and knowing exactly
17 what's going on in the Middle East -- with the Israelis, with
18 the Palestinians issue, occupation, demolishing homes,
19 killing, and so on; U.S. government, Israeli allies, Hamas,
20 and so on -- so there was a lot of concern from the beginning.

21 Like, when I start working for Hamas, I knew there is
22 a concern that this is not an easy thing. It's something
23 related to U.S. government, Israel, Hamas, bombings, killing,
24 occupation, a lot of things.

25 Q. So, is it fair to say from the beginning of your work for

1 Hamas, you were concerned that what you might be doing could
2 get you in trouble with the FBI?

3 A. Correct.

4 Q. Why was that?

5 A. I mean, as I said, because you got occupation and you got
6 fighting. You got resistance. You got -- you got -- a lot of
7 activities going on.

8 Q. When you say "activities," what are you referring to?

9 A. Activities, meaning killing on both sides.
10 Palestinians -- I mean, Israeli killing Palestinians,
11 demolishing their homes; Palestinians are revenging back and
12 resisting the occupation. So, there's a fighting going on.

13 Q. I want to direct your attention to August, 1995. At that
14 time, did Mr. Hindi ask you to accept a package for him?

15 A. Yes.

16 Q. What did he ask you to do?

17 A. He said, "There will be package coming from Abdelhaleem
18 Ashqar. So, keep that package for me."

19 Q. Why did he ask you to accept that package and not simply
20 accept it himself?

21 A. He was really in --

22 MR. MOFFITT: Foundation as to how he knows why.

23 BY MR. SCHAR:

24 Q. Did you have a conversation with Mr. Hindi about why he
25 wanted you to accept the package?

1 A. Correct.

2 Q. Who was present for it?

3 A. No one. Me and him.

4 Q. Where did it occur?

5 A. In Rome.

6 Q. What did he tell you about why he wanted you to accept the
7 package?

8 A. He was in transition. Like, he had lived in Rome for
9 sometime -- I don't remember how long, really. But he lived
10 in three different places. He used to move. And, then, he
11 moved to Atlanta. Same thing: He lived in two different
12 places in Atlanta.

13 So, because he was in transition, so he thought that
14 if the mail was coming, it will be lost in the mail. I was
15 sitting in my place, was not moving. So, that's why.

16 Q. What did you agree to do?

17 A. I agreed to accept the package.

18 Q. How did it arrive?

19 A. By mail.

20 Q. What did you do with the package when it arrived?

21 A. When it arrives, I kept it. And, then, I told Mr. Hindi
22 about it, that I got the package.

23 Q. What happened?

24 A. I kept it for sometime. And I think that time he had
25 moved out of Georgia after a while, and I kept the package

1 with me.

2 Q. Did you open it?

3 A. Out of concern, yes, I did open it later on.

4 Q. When you say "later on," about how long after you received
5 it did you open it?

6 A. To be honest, I mean, because I knew it was a package
7 coming from Abdelhaleem to Iyad and I knew the situation, so I
8 kept it in a safe place knowing that I'll -- be handed over to
9 Iyad one time.

10 And, after that, I move from the apartment to a
11 home -- to house. And most -- I mean, some -- of the stuff
12 when you move, you throw away; but, I kept that package with
13 me. So, a little while -- probably year after that, maybe
14 year-and-a-half -- it came to my eyes, that I opened the
15 package.

16 Q. When you say that it came from Dr. Ashqar to Hindi so you
17 had an idea, what do you mean by that?

18 A. That is an important package.

19 Q. Why would it be an important package? Why do you think it
20 was an important package?

21 A. Maybe because we're all Hamas.

22 MR. MOFFITT: Objection. "Maybe because we're all
23 Hamas." Ask that it be struck.

24 THE COURT: Sustained, if he is speculating.

25 And I will strike it.

1 BY MR. SCHAR:

2 Q. Are you guessing or did you have the belief at that time?

3 A. Yeah. We are Hamas.

4 Q. And did you believe that at that time, that this package
5 may be related to that?

6 A. Yes.

7 Q. And when you opened it, did you eventually look through
8 the contents of it?

9 A. I looked into the first page. When I got the package, I
10 wrote "private" on it so no one -- or in Arabic, so my wife
11 will not look in -- at there -- at it; or, when the kids,
12 also. But I kept it in a safe place. So, even if someone
13 came across at it, so no one will open it.

14 Q. I'm going to --

15 A. But --

16 Q. I'm sorry, you can finish your answer.

17 A. But I'm saying when I opened it, I looked at the first
18 page, I read the first page, and then I flipped through the
19 pages. And, then, I kept it back in the safe place.

20 Q. I show you what's marked Government Exhibit Shorbagi
21 Search Documents Group.

22 MR. SCHAR: May I approach, Judge?

23 THE COURT: You may.

24 (Document tendered.)

25 BY MR. SCHAR:

1 Q. I ask you to look at that.

2 A. Yes.

3 Q. Is that the package that you accepted for Mr. Hindi from
4 Mr. Ashqar?

5 A. Correct.

6 Q. Who is it addressed to?

7 A. Okay. You got two items there. The first one is Mr. Abu
8 El Abed, who I knew to be Iyad Hindi; and, then, it has my
9 address there.

10 Q. When you say "Mr. Abu El Abed," is that the Abu name of
11 Iyad Hindi?

12 A. Correct.

13 Q. And that was your old address?

14 A. Correct.

15 Q. Is there a return address?

16 A. There is a return address, right.

17 Q. Could you actually open it up and take out what's marked
18 Government Exhibit, I believe, A. It should be the cover
19 page, I think, you indicated?

20 A. Yes.

21 Q. Was that the cover page that you read when you opened it?

22 A. Correct.

23 Q. Does it indicate it's to Mr. Abu El Abed, who you
24 understand to be Iyad Hindi?

25 A. Correct.

1 Q. If you look at the last line of that cover page, does it
2 indicate that these documents are being sent for research?

3 A. Correct.

4 Q. And you're looking at the Arabic. Do you read Arabic?

5 A. Correct.

6 Q. What was Mr. Iyad Hindi's profession?

7 A. He was computer engineering.

8 Q. Do you know him to be doing any research?

9 MR. MOFFITT: Objection.

10 THE COURT: I am sorry?

11 MR. MOFFITT: Objection.

12 THE COURT: What is your objection.

13 MR. MOFFITT: He needs to lay a foundation, it seems
14 to me. Simply because he was a computer -- it doesn't mean he
15 wasn't doing research.

16 THE COURT: It is a "Yes" or "No" question, and then
17 you can find out how.

18 BY MR. SCHAR:

19 Q. Did you understand him to be involved in any research?

20 Mr. Hindi.

21 A. No.

22 Q. Now, you said you had gone through these documents at some
23 point. Did you see that some of them were statements being
24 made regarding Hamas?

25 A. As I said, like, when I read the first page, I realized

1 that it is -- that there are some documents in there. I knew
2 that I wasn't supposed to open the package, but out of
3 concern, I start flipping through the pages.

4 I start reading from the first page. It was Muhammad
5 Salah interrogation by the Israeli Securities in Palestine
6 when he was there. And I read, like, few pages and then
7 flipped, like, ten pages down; and, then, read few lines and,
8 then, the other. And, then, I realize that was the confession
9 of Muhammad Salah under the Israeli interrogation by the
10 Israeli Security in Palestine. So, I put it back and I left
11 it back -- I left it there.

12 Q. As a member of the Hamas Media Group, how would your
13 receiving confessions such as these assist you?

14 MR. MOFFITT: Objection.

15 MR. DEUTSCH: Objection.

16 MR. MOFFITT: He didn't receive them. He received
17 them for somebody else.

18 THE COURT: Sustained.

19 The question you asked asks for him to speculate.

20 BY MR. SCHAR:

21 Q. As a member of Hamas at that time, how would receiving --
22 how would the distribution of confessions help you?

23 MR. DEUTSCH: Objection. It's speculation and he --

24 THE COURT: Objection sustained.

25 MR. SCHAR: Judge, I'm just asking him as a member of

1 the conspiracy.

2 MR. DEUTSCH: He didn't receive --

3 THE COURT: But you are asking, "How would it have
4 helped you?" without --

5 MR. SCHAR: Okay.

6 THE COURT: -- saying he ever received them.

7 BY MR. SCHAR:

8 Q. Were you aware --

9 THE COURT: Or --

10 BY MR. SCHAR:

11 Q. Well, let me ask you this: Was Iyad Hindi part of the
12 Media Group, as well?

13 A. Yes.

14 Q. And was this directed towards him?

15 A. Correct.

16 Q. Were you also part of the Media Group?

17 A. Yes.

18 Q. Were you aware of the distribution of confessions from
19 time to time?

20 A. I'm sorry, I --

21 Q. Were you aware that there were confessions from Israel
22 being moved?

23 A. Yes, uh-huh.

24 Q. And how would it help or how did it help the Hamas Media
25 Group to have these confessions?

1 MR. DEUTSCH: Objection. Can we lay a foundation as
2 to whether or not, and when, he saw any alleged confessions
3 from Israel?

4 MR. SCHAR: Judge, I know he saw these. He's
5 testified --

6 MR. DEUTSCH: He said he looked at one page, two
7 pages and flipped to the end of it.

8 THE COURT: Lay your foundation.

9 BY MR. SCHAR:

10 Q. Other than these confessions, did you personally see any
11 other confessions?

12 A. Again, I mean, some of those things when Palestinians is
13 being taken by Israeli Securities under the pressure from the
14 Israelis, they say things. So, sometimes you read them in the
15 newspapers or the magazines or on the Web sites. So, those
16 things are there.

17 Q. In specific relation to these types of documents, did you
18 see any others?

19 A. No.

20 Q. How does receiving those confessions help you?

21 MR. DEUTSCH: Objection. He just said he didn't see
22 any others.

23 MR. SCHAR: Judge, in relation to his involvement in
24 the Media Group, he's saying that they did receive them; and,
25 in particular, Iyad Hindi, who was a member of the Media

1 Group, as well, received these.

2 MR. DEUTSCH: Well, I'm confused because, first of
3 all, he testified that Mr. Hindi wasn't doing any research,
4 right? Now he's saying Mr. Hindi's part of the Media Group.
5 So, I don't --

6 THE COURT: Well, you are certainly free to cross the
7 --

8 MR. DEUTSCH: Yeah.

9 THE COURT: -- witness on --

10 MR. DEUTSCH: Yeah. But it just seems like he's
11 shifting ground on us now.

12 He's now -- other than reading in the newspaper about
13 confessions, he hasn't really received any.

14 THE COURT: Mr. Schar?

15 MR. SCHAR: Let me ask it a different way.

16 BY MR. SCHAR:

17 Q. You reviewed some of these documents, correct?

18 A. Correct.

19 Q. Did reviewing these documents help you in any way?

20 A. Yes.

21 Q. How?

22 A. By reading some of the names on the confession, that tells
23 me that these names are now at the Israeli Securities, which
24 means that the FBI will know these names eventually because of
25 the cooperation. And that means they will be under

1 surveillance, so it's better to avoid those guys.

2 Q. I'd like to, if I could, show you some pictures.

3 MR. DEUTSCH: Judge, I need a sidebar, please. I'm
4 sorry to interrupt, but I do.

5 THE COURT: Okay.

6 (Proceedings had at sidebar:)

7 MS. THOMPSON: Judge, the front row over there is,
8 apparently, all of the handlers for this particular witness,
9 including the FBI agent yesterday, who was in court the last
10 two days after he testified, who, apparently, did nothing more
11 than the search.

12 And I am seeing nods from the blond-haired woman
13 sitting next to the FBI agent who signaled to him to say "No";
14 when he answered that in the affirmative, got extremely upset.

15 THE COURT: I am sorry, you saw --

16 MS. THOMPSON: And there's whispering going on --

17 THE COURT: You saw the blond woman --

18 MS. THOMPSON: The blond woman in the front row,
19 second, is nodding --

20 THE COURT: To the FBI agent?

21 MR. DEUTSCH: No.

22 MS. THOMPSON: To the witness on the stand.

23 THE COURT: Okay.

24 MS. THOMPSON: And when they seemed disappointed that
25 he didn't give the answer, there was a big conversation that

1 took place between them.

2 Now, I don't want to cast aspersions about it, but I
3 am concerned about that front row. I think it's intimidating.
4 I think there's five of them. I don't know why that FBI
5 witness is in here. And it's very much concerning if there's
6 something going on.

7 MR. MOFFITT: Can we understand who the blond woman
8 is?

9 MS. THOMPSON: Who they are. Who that whole row is.

10 MR. SCHAR: As I understand -- well, obviously, one
11 of the witnesses testified. I think one is his lawyer. One
12 is --

13 MS. THOMPSON: Which one is the lawyer?

14 THE COURT: Is it the blond woman that is his lawyer?

15 MR. SCHAR: No, it's --

16 THE COURT: No, she is --

17 MR. SCHAR: -- the gentleman.

18 The blond woman is the assistant U.S. attorney
19 from --

20 MR. MOFFITT: Dammers? Ms. Dammers?

21 MR. SCHAR: Yes, yes, yes.

22 And I think there's two other FBI agents and maybe a
23 Customs agent, all from out of state.

24 Obviously, I have my back turned, so I don't know
25 what's going on.

1 THE COURT: I did not see it.

2 MR. DEUTSCH: Okay.

3 THE COURT: And I have been watching the audience.

4 We have a full house today. I will watch very closely.

5 That is, obviously, something you can cross-examine
6 him on.

7 MS. THOMPSON: Obviously. And we intend to
8 cross-examine him --

9 THE COURT: At a minimum.

10 MS. THOMPSON: -- on it.

11 THE COURT: At a minimum.

12 But I will watch and, if I see anything
13 inappropriate, will take the appropriate action.

14 MS. THOMPSON: Thank you, Judge.

15 Do we have a motion to exclude witnesses with regard
16 to the FBI agent or not?

17 THE COURT: There was motions in limine --

18 MR. SCHAR: I don't think there's a motion.

19 THE COURT: I thought we addressed this at the
20 beginning, but he has already testified.

21 MS. THOMPSON: May have, but I --

22 THE COURT: So, typically, if somebody has already
23 testified, I do not care.

24 MS. THOMPSON: That's fine.

25 THE COURT: The other thing I will do is when we

1 break, I will have the marshal mention to those individuals in
2 the first row not to be giving any kind of gestures to the
3 witness.

4 MS. THOMPSON: And it may be -- I'm not going to
5 suggest anything about intent because sometimes people just
6 react.

7 THE COURT: Yes.

8 MS. THOMPSON: But --

9 THE COURT: That will be made clear.

10 MR. MOFFITT: But frowns and those kind of things are
11 not helpful, either.

12 MS. THOMPSON: Right, especially since he's being
13 judged whether he's getting a deal based upon the assessment
14 of that front row.

15 THE COURT: I will have a deputy marshal talk to
16 them.

17 For scheduling purposes, too, since we got started a
18 little later today, I was going to try to go until about 1:00
19 before we broke for lunch, if that is okay.

20 MR. MOFFITT: Are you going to have a break? Are you
21 going to have a mid-morning break?

22 THE COURT: Yes, I will break soon.

23 MR. SCHAR: Judge, actually, I don't have that much
24 more left in my direct. So, maybe --

25 THE COURT: When you are done.

1 MR. SCHAR: -- that would be a good time to break.

2 THE COURT: Okay.

3 (Proceedings had in open court:)

4 THE COURT: You may continue, Mr. Schar.

5 MR. SCHAR: Thank you, Judge.

6 BY MR. SCHAR:

7 Q. I don't know if your computer screen is on next to you,
8 Mr. Shorbagi, to your right.

9 I want to put up -- I'm going to ask you, do you see
10 the person who is on your screen?

11 A. Correct.

12 Q. Do you recognize that person?

13 A. Yes.

14 Q. Who is --

15 THE COURT: Is there an exhibit number on this, for
16 the record?

17 MR. SCHAR: I'm sorry, Judge. That is government
18 Exhibit Levitt Photo 1, in evidence.

19 BY MR. SCHAR:

20 Q. Who do you recognize that to be?

21 A. That's Mousa Abu Marzook.

22 Q. How do you recognize him?

23 A. I saw him.

24 MR. SCHAR: Move ahead to Government Exhibit Levitt
25 Photo 3.

1 BY MR. SCHAR:

2 Q. Do you recognize that person?

3 A. Yes, I recognize him.

4 Q. Who is that?

5 A. That's Dr. Abdel Aziz Al-Rantisi.

6 Q. How do you recognize him?

7 A. I saw him on TV.

8 MR. SCHAR: Move ahead to the next exhibit,
9 Government Exhibit Levitt Photo 5.

10 BY MR. SCHAR:

11 Q. Do you recognize that individual?

12 A. Yes.

13 Q. Who is that?

14 A. Sheikh Ahmed Yasin.

15 Q. How do you recognize Sheikh Ahmed Yasin?

16 A. I saw him on TV, also.

17 Q. Moving ahead to Government Exhibit Levitt Photo 2, do you
18 recognize that individual?

19 A. Correct.

20 Q. Who do you understand -- who do you recognize that to be?

21 A. That's Salah Shahadah.

22 Q. How do you recognize Salah Shahadah?

23 A. I saw him in magazine; and, then, later on when he was
24 assassinated by Ariel Sharon, his picture was on TV.

25 Q. When you saw him in the magazines, what magazine did you

1 see him in?

2 A. Filistine al-Muslima.

3 Q. Do you recognize that individual?

4 A. That's Imad Al-Alami.

5 Q. That's Government's Exhibit Levitt Photo 6.

6 How do you recognize Imad Al-Alami?

7 A. Same way: From the magazine and the Web site.

8 Q. Do you recognize that individual?

9 A. Correct.

10 Q. Who is that?

11 A. That's Dr. Mahmoud Zahar.

12 Q. How do you recognize Dr. Zahar?

13 A. From the TV.

14 Q. Sir, previously, I think, you testified yesterday that
15 you've pled guilty to providing material support to Hamas; is
16 that correct?

17 A. Correct.

18 Q. Did the FBI first approach you about your criminal
19 activity in approximately March of this year, in March, 2006?

20 A. Correct.

21 Q. Since then, have you been interviewed on a number of
22 occasions by various FBI agents and attorneys?

23 A. Correct.

24 Q. Did you lie to the agents and attorneys about your
25 activities on behalf of Hamas during certain of your

1 interviews?

2 A. Correct.

3 Q. Why?

4 A. It's a natural thing and obvious. It's Hamas, 9/11,
5 United States, FBI, Palestinian, legal resident in this
6 country. I was concerned for myself, my family -- I have five
7 kids -- and, my friends, the ones that I -- they trusted me,
8 we worked together for such a long time -- and, for the
9 movement, for Hamas. So, I lied.

10 Q. At some point did you decide to tell the truth about
11 Hamas?

12 A. Yeah, after a while, I decided to say the truth.

13 Q. Why?

14 A. Because I understand keep lying is gonna get me nowhere;
15 say the truth and take the responsibility.

16 MR. SCHAR: May I have one moment, Judge?

17 THE COURT: Yes.

18 (Brief pause.)

19 MR. SCHAR: I have nothing else at this time.

20 THE COURT: Let us take our morning break.

21 (Jury out.)

22 THE COURT: We will pick up at about 25 to 12:00.

23 (Brief recess.)

24 THE COURT: Mr. Schar, do you have your witness?

25 MR. SCHAR: He is on his way, Judge.

1 (Brief pause.)

2 THE COURT: Bring in the jury, please.

3 (Jury in.)

4 THE COURT: You may be seated.

5 Mr. Deutsch?

6 MR. DEUTSCH: Mr. Moffitt is going to go first.

7 THE COURT: Okay.

8 Mr. Moffitt, cross-examination.

9 MR. MOFFITT: Thank you, ma'am.

10 CROSS-EXAMINATION ON BEHALF OF DEFENDANT ASHQAR

11 BY MR. MOFFITT:

12 Q. Good morning, Mr. Shorbagi.

13 A. Good morning, sir.

14 Q. My name is Bill Moffitt and I represent Dr. Ashqar.

15 A. Yes.

16 Q. You ended your direct examination by telling us that you
17 lied to the government, correct?

18 A. Correct.

19 Q. Now, from the moment you started meeting with the
20 government -- and that was in March; was it not?

21 A. Correct.

22 Q. -- they told you that you had to be truthful, correct?

23 A. Correct.

24 Q. But --

25 (Brief interruption.)

1 MR. MOFFITT: Are we all right?

2 THE COURT: I am sorry. We had an issue with the
3 acoustics. The government had placed a cup over the
4 microphone, which messed up everything.

5 MR. MOFFITT: I knew they would do something like
6 that.

7 (Laughter.)

8 THE COURT: Fortunately, Mr. Moffitt, we were all
9 still able to hear you.

10 So --

11 (Laughter.)

12 MR. MOFFITT: I hope so.

13 THE COURT: -- you may continue.

14 MR. MOFFITT: I hope so.

15 BY MR. MOFFITT:

16 Q. We were talking about now that from the very beginning, in
17 March -- or on March 9th -- when you went to see the
18 government, the first thing the government told you was that
19 you were going to have to be truthful, wasn't it?

20 A. Correct.

21 Q. And they've told you that over and over and over again,
22 correct?

23 A. Correct.

24 Q. Now, you met with the government on March 9th, correct?

25 A. Correct.

1 Q. March 13th?

2 A. Uh-huh.

3 Q. March 14th?

4 A. Uh-huh.

5 Q. March 16th?

6 A. Uh-huh.

7 Q. Bear with me, sir.

8 (Brief pause.)

9 BY MR. MOFFITT:

10 Q. March 17th?

11 A. Correct.

12 Q. March 23rd, March 20- -- right? March 23rd?

13 A. I mean, you're saying the dates. I remember that I met
14 with them several times, but, I mean -- go on. These dates
15 seems to be correct, right.

16 Q. March 23rd, can you give me an answer?

17 A. I mean, March 23rd -- I didn't remember exact date, but
18 correct. Right, right, uh-huh.

19 Q. Do you want to look?

20 A. No, no, no. I'm not saying you're wrong, but I'm saying
21 it's correct.

22 Q. All right.

23 March 29th?

24 A. Correct.

25 Q. April 13th?

- 1 A. Correct.
- 2 Q. April 18th?
- 3 A. Uh-huh.
- 4 Q. April 26th?
- 5 A. Correct.
- 6 Q. April 27th?
- 7 A. Uh-huh.
- 8 Q. April 28th?
- 9 A. Uh-huh.
- 10 Q. May 1st?
- 11 A. Uh-huh.
- 12 Q. May 10th?
- 13 A. Uh-huh.
- 14 MR. SPIELFOGEL: You need a "Yes" or "No" answer,
- 15 Bill.
- 16 BY MR. MOFFITT:
- 17 Q. Well, please answer me "Yes" or "No."
- 18 May 15th?
- 19 A. Yes.
- 20 Q. May 17th?
- 21 A. Yes.
- 22 Q. May 23rd?
- 23 A. Yes.
- 24 Q. June 5th?
- 25 A. Yes.

1 Q. I think that was the last one that I have.

2 Have you met with the government since June 5th?

3 A. Yes.

4 Q. When?

5 A. What do you mean "the government," sir?

6 Q. All right.

7 Let's start in that front row right there

8 (indicating).

9 A. Right.

10 Q. All right.

11 Do you know who the people are in that front row?

12 A. Correct.

13 Q. Who is the person sitting in the corner?

14 A. That's from the FBI.

15 Q. All right.

16 And the person sitting next to him?

17 A. Is Kim Dammers.

18 Q. And who is Kim Dammers?

19 A. Prosecution.

20 Q. Prosecution.

21 Is she the prosecutor that you entered a plea
22 agreement with?

23 A. Correct.

24 Q. And she's from Georgia; am I right?

25 A. Correct.

1 Q. She flew up here to see you testify, correct?

2 A. I guess so.

3 Q. Who is sitting next to Ms. Dammers?

4 A. Mike Rotti.

5 Q. Who is he?

6 A. FBI.

7 Q. Who is sitting next to -- Mr. Ryan?

8 A. Rotti.

9 Q. Riley?

10 A. R-o-t-t-i, Rotti.

11 Q. Okay. R-o-t-t-i.

12 Who is sitting next to him?

13 A. Matthew Saylor.

14 Q. Who is he?

15 A. Immigration. ICE.

16 Q. ICE.

17 He's a law enforcement officer, as well, right?

18 A. Correct. Correct.

19 Q. And where is he from?

20 A. He's from Georgia, also.

21 Q. Where is Mr. Rotto -- Rotti -- from?

22 A. Rotti.

23 Also, Georgia.

24 Q. And who is the woman sitting next to the ICE officer?

25 A. Lara.

1 Q. Lara who?

2 A. Lara Burns.

3 Q. Who is she?

4 A. FBI.

5 Q. And you know her by the name "Lara"?

6 A. Correct.

7 Q. First-name basis, huh?

8 A. I'm sorry?

9 Q. You have a first-name relationship with her?

10 A. Correct, uh-huh.

11 Not -- not -- relationship, but I know Lara Burns,
12 that what her name is.

13 (Laughter.)

14 BY MR. MOFFITT:

15 Q. All right.

16 And the gentleman sitting in the corner is your
17 lawyer, right, on the --

18 A. Correct, yes.

19 Q. And he -- what's his name?

20 A. Michael Tross.

21 Q. All right.

22 Now, you just told us that you lied to the
23 government --

24 A. Correct.

25 Q. -- correct?

1 When you met with the government -- since I don't
2 know what you lied about, when you met with the government --
3 on 4-20 --

4 MR. MOFFITT: May I approach?

5 BY MR. MOFFITT:

6 Q. -- can you tell us what you lied about then?

7 (Document tendered.)

8 THE COURT: Can you, for the record, Mr. Moffitt,
9 describe what you are handing to the witness?

10 MR. MOFFITT: I'm handing him FBI 302s.

11 MR. SCHAR: Judge --

12 THE COURT: The ones you just went through?

13 MR. MOFFITT: Yes.

14 MR. SCHAR: I'm not sure what he's trying to do.

15 MR. MOFFITT: I'm trying to find out -- since I don't
16 know what he lied about, I'm trying to ask the witness what he
17 lied about.

18 What you just asked him.

19 MR. SCHAR: Does he need his -- refreshing
20 recollect- -- I mean, the document itself isn't in evidence
21 and, obviously, shouldn't be since it's not --

22 MR. MOFFITT: I haven't offered it into evidence. I
23 handed it to the witness.

24 MR. SCHAR: What I'm trying to figure out is whether
25 he's trying to refresh recollection, in which case there's

1 actually no particular question pending right now.

2 BY MR. MOFFITT:

3 Q. What did you lie about on 4-20-06?

4 THE COURT: And, for the record, Mr. Moffitt, maybe
5 you want to clarify first if he can answer that based on his
6 memory or if he needs to look at the document.

7 MR. MOFFITT: Well, I asked him if he can tell me if
8 he didn't -- if he doesn't -- remember what he lied about on
9 4-20.

10 THE COURT: I do not think you asked that question.

11 So --

12 BY MR. MOFFITT:

13 Q. What did you lie to the government about on April 20th --
14 no, I'm sorry, on 3-9; that's the right one -- on March 9th,
15 19 -- 2006?

16 A. As I said, the whole case was about my conduct with Hamas
17 and other stuff, the money issue with Alexandria. So, the
18 questions came from both sides and, like, "Whom do you know in
19 Hamas? Did you work for Hamas? Did you do anything for
20 Hamas?"

21 And my questions were "No."

22 Q. So, you lied about Hamas on 4-20?

23 MR. SCHAR: I think --

24 BY THE WITNESS:

25 A. It could be right, uh-huh.

1 MR. SCHAR: -- March 9th he's asking him.

2 MR. MOFFITT: March 9th. I'm sorry.

3 BY MR. MOFFITT:

4 Q. It could be? You don't know what you lied about?

5 A. This is what I knew that I lied about. When they start
6 asking me questions about Hamas, my answers were not true.

7 Q. Okay.

8 Well, on March 9th, the first thing they asked you
9 about was the money you stole, correct?

10 A. Correct, uh-huh.

11 Q. And they asked you about how much money you stole,
12 correct?

13 A. Correct.

14 Q. And you, basically, told them that you stole the money,
15 but you stole it because you were afraid to ask for a raise?

16 A. Correct.

17 Q. Okay.

18 And you also acknowledged that you stole money in
19 2001, 2002, 2003, 2004 and 2005?

20 A. Correct.

21 Q. Right?

22 A. Uh-huh.

23 Q. And it totalled up to almost a quarter of a million
24 dollars; did it not?

25 A. Correct.

1 Q. All right.

2 Well, did you lie when you told them that the money
3 that you collected in -- you didn't steal any of the money
4 that you collected at the mosque?

5 A. I'm sorry, I didn't hear that.

6 Q. Did you lie --

7 A. Uh-huh.

8 Q. -- about whether you stole any money that you collected at
9 the mosque?

10 A. No.

11 Q. That was the truth?

12 A. Right.

13 Q. All right.

14 Now, when you lied, did the government make a list of
15 the things that you lied about?

16 A. I don't know. I mean, I could answer it in different way,
17 also, that later on they told me, "You lied about this, you
18 lied about this, you lied about that."

19 Q. All right.

20 Well, what did they tell you you lied about?

21 A. I'm sorry?

22 Q. What did they tell you you lied about?

23 Didn't you tell them that you didn't use fraudulent
24 invoices?

25 A. I'm sorry? If you just say the question, again.

1 Q. Didn't you tell them in your theft that you didn't use
2 fraudulent invoices?

3 A. Correct, yes, uh-huh.

4 Q. That was a lie, right?

5 A. That was a lie, right.

6 Q. Okay.

7 And that wasn't about Hamas. That was about your
8 theft, right?

9 A. Correct, uh-huh.

10 Q. Okay.

11 And they didn't stop dealing with you after you lied
12 to them, did they?

13 A. I'm sorry?

14 Q. The government did not stop dealing -- stop -- the
15 government didn't stop dealing with you after you lied to
16 them?

17 A. No, they kept asking me the questions.

18 Q. Ultimately, you admitted that you never asked for a pay
19 raise, correct?

20 A. Correct, uh-huh.

21 Q. So, initially, you lied about that, as well, right?

22 A. I'm sorry, what was your question, again?

23 Q. Initially, you lied about the pay-raise situation?

24 A. Correct, uh-huh.

25 Q. And, then, you admitted that you had received a pay raise,

1 correct?

2 A. Correct.

3 Q. So, you lied about that, as well?

4 A. Wrong.

5 Q. Oh, okay.

6 So, when you said you didn't -- the reason you stole
7 the money was you didn't get a pay raise -- then you admitted
8 that you had a pay raise -- that you did get a pay raise --
9 that wasn't a lie?

10 A. It's a compound question. Which one is the -- which is
11 the question?

12 Q. Are you a lawyer?

13 A. I'm sorry?

14 Q. You --

15 MR. SCHAR: Judge, I object. It is compound. So,
16 I'll object to the --

17 THE COURT: Sustained.

18 MR. SCHAR: -- compound nature of the question.

19 BY THE WITNESS:

20 A. Yeah, I -- I look at TV. I watched lawyers a lot.

21 THE COURT REPORTER: I'm sorry?

22 BY MR. MOFFITT:

23 Q. Okay. Good.

24 (Laughter.)

25 BY MR. MOFFITT:

1 Q. Did you report that to Hamas?

2 BY THE WITNESS:

3 A. I watched TV and lawyers.

4 BY MR. MOFFITT:

5 Q. Did you report what you watched about lawyers to Hamas?

6 A. I reported you when you was interview with O'Reilly.

7 Q. You saw me on an interview with Bill O'Reilly?

8 A. Yeah, I saw you on an interview with Bill O'Reilly.

9 Q. Sir, I've never been on an interview with Bill O'Reilly.

10 Never in my life.

11 A. On Fox News, sir, after al-Arian convictions.

12 Q. I was never. I was never interviewed. I refused to go on

13 Bill O'Reilly.

14 A. You was there, sir. Anyway --

15 (Laughter.)

16 BY MR. MOFFITT:

17 Q. I was there? All right.

18 THE COURT: Okay, Mr. Moffitt, let us move on.

19 (Laughter.)

20 BY MR. MOFFITT:

21 Q. Well, while you were watching me, let's talk about you.

22 A. Good.

23 Q. Okay?

24 Now, you received a pay raise, didn't you?

25 A. Yes, uh-huh.

1 Q. And you received a pay raise before March 9th, correct?

2 A. Correct, uh-huh.

3 Q. So, when you told somebody that you stole money because
4 you didn't get a pay raise, you lied about it?

5 A. Correct.

6 Q. Thank you.

7 Now, among the things you did with the money that you
8 stole is you built an apartment in Gaza, right?

9 A. Correct.

10 Q. And how much was that?

11 A. 25,000.

12 Q. 25,000?

13 A. Right.

14 Q. Is it \$25,000 today and was it a different amount on March
15 9th?

16 A. No. At that time, it was 25. It may have been March it
17 was 35 or so.

18 Q. Did you tell the government it was 40,000?

19 A. Could be 40,000.

20 Q. So, today it was 25, but then it was 40?

21 A. No. What I'm saying, like, I started with that number.
22 It could be, like, 40,000 in March.

23 Q. Did you tell the government on March 9th that it was
24 \$40,000?

25 A. Correct.

1 Q. Okay.

2 But today you're telling us it was 25?

3 A. That's -- and I said the number I started with, right.

4 Q. Well, weren't you supposed to be telling the truth, sir?

5 A. Right.

6 Q. And you're supposed to be -- and, in fact --

7 A. Uh-huh.

8 Q. -- in this courtroom, you held your hand up, correct?

9 A. Correct.

10 Q. You swore on a bible, right?

11 A. Correct. No, I -- I -- didn't touch a bible, no. I --

12 Q. You didn't touch a bible?

13 A. Right.

14 Q. But you --

15 A. I swore.

16 Q. But you affirmed you'd tell -- to tell the truth, correct?

17 A. Correct, yes, uh-huh.

18 Q. And you know that if you don't tell the truth, you could
19 be charged with perjury, right?

20 A. Correct, uh-huh.

21 Q. So, what happened between March 9th and today to reduce
22 the value of the property from 40,000 to 25?

23 A. Nothing happened. I said -- I started by saying 25. Then
24 I said it ended up with 40,000. So, that's the number you got
25 there.

1 Q. Well, wait a minute. But you told us 25 here.

2 A. Correct.

3 Q. Thank you.

4 Now, originally, when you went in on March 9th, you
5 went in and the FBI talked to you first about the fraud that
6 you were involved in; am I right?

7 A. Correct, uh-huh.

8 Q. And it was you who brought up Hamas and, actually, it was
9 you who first brought up the issue of Ramadan; am I right?

10 A. Ramadan?

11 Q. You talked with the FBI. When you talked with the FBI,
12 you were the person that brought up anything having to do with
13 Hamas, right?

14 A. I'm sorry, if you rephrase the question, again, please?

15 Q. When you spoke with the FBI on March 9th --

16 A. Uh-huh.

17 Q. -- it was you who brought up the issue of Hamas?

18 A. No, sir. I was there to answer their questions.

19 Q. Well, they -- the first set of questions they asked you
20 were -- had nothing to do with Hamas, right?

21 A. Right.

22 Q. Had to do with your fraud, right?

23 A. On the first day, there was mix of questions, this and
24 that.

25 Q. Do you recall, at 11:01 a.m., it was explained to you that

1 since you mentioned the Holy Land Foundation -- which provides
2 funds to Hamas -- that there was an agent who would like to
3 speak to you?

4 Do you recall that?

5 A. On which date, sir?

6 Q. March 9th.

7 A. Uh-huh, right.

8 Q. So, it was you who brought up Holy Land and Hamas,
9 correct?

10 A. No, no. You're saying that they said that, right?

11 Q. "They" being the FBI.

12 A. The FBI, right.

13 Q. That's what they said --

14 A. Uh-huh.

15 Q. -- that you brought it up.

16 A. I brought it up?

17 Q. Yes, that you brought up Holy Land. That you were the
18 person who brought up Holy Land and Hamas.

19 A. No, sir. The question was: "Did you ever send money to
20 Hamas or to Palestine?"

21 I said, "Yes, I through -- I used to send money to
22 Palestine through the Holy Land Foundation."

23 Q. All right.

24 So, you didn't bring it up, correct?

25 A. Correct.

1 Q. And --

2 A. That was based on the question.

3 Q. Okay.

4 And, then, you met Lara Burns, correct?

5 A. Correct.

6 Q. Now, then you were asked whether you were -- had ever been
7 a member of the Muslim Brotherhood, correct?

8 A. Correct.

9 Q. And you lied about that?

10 A. No. I said the truth about that.

11 Q. Okay.

12 It isn't that you initially stated that "he had never
13 been a member and that he did not pay dues"?

14 A. I'm sorry?

15 Q. You didn't say that at first?

16 A. I'm sorry?

17 Q. That you had never been a member of the Muslim Brotherhood
18 and you didn't pay dues; you never said that?

19 A. Yeah, that's what I said. I am a sympathizer with the
20 Brotherhood, right; but, I never did dues. Right, uh-huh.

21 Q. Okay.

22 So, you were a supporter, not a member; is that what
23 you're saying?

24 A. Correct, yes, uh-huh.

25 Q. And you can be a supporter of Hamas and not a member, too,

1 correct?

2 A. Well, yeah, absolutely.

3 But you are not referring to me, sir. You're
4 referring to, like, in public, correct?

5 Q. Excuse me?

6 A. Are you referring to me that I could be a member or
7 supporter, or are you referring this thing in general?

8 Q. I'm saying, in general, you can be a supporter of Hamas
9 and not be a member?

10 A. True, yes, correct.

11 Q. When did you start sending money to the Holy Land to
12 Hamas?

13 A. I started doing that since the start of the intifada, in
14 '87.

15 Q. Well, there wasn't anything like Hamas before 1987, was
16 there?

17 A. That's -- the intifada started in 1987 -- late '87; then
18 went on '88; and, then, there was something called Occupied
19 Land Foundation. We used to collect money and send it through
20 the Occupied Land Foundation. And, then --

21 Q. That's not what I asked you, sir.

22 A. Yes.

23 Q. Hamas started in 1987; did it not?

24 A. Correct.

25 Q. So, you couldn't send money to Hamas before 1987, because

1 it didn't exist, correct?

2 A. Before 1987, correct. Yes, uh-huh.

3 Q. All right.

4 And when did you stop sending money to Hamas?

5 A. I think in late 2001.

6 Not to Hamas. To Holy Land Foundation and, then,

7 Hamas. Right.

8 Q. Oh, well, but we know and you know -- and you've said in
9 your interviews -- that sending money to Holy Land was like
10 sending money to Hamas, correct?

11 A. Correct, yes, uh-huh.

12 Q. So, when you sent money to Holy Land, you were sending
13 money to Hamas, correct?

14 A. Correct.

15 Q. You don't want to mislead us about that, do you?

16 A. Correct.

17 Q. All right.

18 And you stopped sending money to Hamas in
19 2000-and-what?

20 A. I continued to send money to Hamas after 2001, but not
21 through the Holy Land Foundation.

22 Q. All right.

23 So, you continued to send money to Hamas post-2001.

24 When did you stop?

25 A. Probably -- what -- we are in 2006.

1 Q. So, you were sending money to Hamas --

2 MR. SCHAR: Judge, I don't think he's answered.

3 THE COURT: I am sorry? I cannot hear you.

4 MR. SCHAR: I'm not sure he answered. I'm not sure
5 he had actually answered the question.

6 THE WITNESS: I did not answer, no.

7 BY THE WITNESS:

8 A. I'm thinking about the day, but I don't have a date.
9 Maybe, like, two years ago, year-and-a-half ago. Things like
10 that.

11 BY MR. MOFFITT:

12 Q. So, you don't remember. It was either three years ago or
13 a year-and-a-half ago?

14 A. No, I'm not saying three years ago. I'm saying two years
15 or year-and-a-half ago.

16 Q. Now it's two years and a year-and-a-half ago?

17 A. You said three. I didn't say three. I said two.

18 Q. Didn't you --

19 MR. MOFFITT: Can you read back what his answer was,
20 please?

21 His first answer, please, may I have it read back?

22 THE COURT: Let me go back to where you started this
23 line of questioning.

24 (Whereupon, the record was read by the Court.)

25 BY MR. MOFFITT:

- 1 Q. All right. Let's go to two years ago.
- 2 Two years ago it was in 2004?
- 3 A. Correct, uh-huh.
- 4 Q. Now, you were aware that Hamas was a designated
- 5 organization; were you not?
- 6 A. Yes, I was aware, uh-huh.
- 7 Q. And Hamas was first designated in 1995, correct?
- 8 A. Yes, uh-huh.
- 9 Q. And you continued sending money to Hamas at least to
- 10 1995 -- to 2005 -- right?
- 11 A. Correct.
- 12 Q. Ten --
- 13 A. Uh-huh.
- 14 Q. Ten years after it was designated, correct?
- 15 A. Correct, uh-huh.
- 16 Q. And, then, Hamas was again designated in 1997; am I right?
- 17 A. Right, uh-huh.
- 18 Q. And you continued to send money after that?
- 19 A. Correct.
- 20 Q. And, then, Holy Land was designated, correct?
- 21 A. 2001, correct.
- 22 Q. And you continued to send money after that?
- 23 A. Correct.
- 24 Q. In March of 2006 -- March 9th --
- 25 A. Uh-huh.

1 Q. -- again -- you told the FBI that you would not find any
2 computers with Hamas-related material on them, right?

3 A. I'm sorry, I'm having a hard time hearing you, sir.

4 Q. All right. Let's see if I can speak English more clearly.

5 A. Good. Please.

6 Q. All right.

7 In March -- on March 9th --

8 A. Right.

9 Q. -- 2005 --

10 A. Uh-huh.

11 Q. -- you told the FBI that they would not find any computers
12 with Hamas-related material on them, correct?

13 A. On, what?

14 Q. On them. T-h-e-m, "them."

15 A. You said 2005.

16 Q. In 2006, did you tell --

17 A. Uh-huh.

18 Q. -- the FBI --

19 A. Right.

20 Q. -- that they would not find any computers with
21 Hamas-related material on them?

22 A. You mean my computers?

23 Q. Yes.

24 A. Yes, uh-huh.

25 Q. That was a lie, right?

1 A. That was a lie.

2 Q. Now, on March 9th, 2006, you were not arrested, were you?

3 A. No.

4 Q. You were allowed to leave, correct?

5 A. Correct.

6 Q. The next time you met with the agents was 3-13 -- March

7 13th -- 2006?

8 A. Uh-huh, correct.

9 Q. Do you remember what you lied about that time?

10 A. Maybe everything. I don't remember.

11 Q. Maybe everything?

12 A. Uh-huh.

13 Q. Okay.

14 Well, let's -- did you lie about telling the
15 government that the reason that you wanted money to go -- you
16 sent money -- to Hamas was you wanted it to go to the needy
17 people?

18 A. No, I didn't lie about that.

19 Q. That's why you sent money to Hamas, right?

20 A. Correct, uh-huh.

21 Q. You are from where in the occupied territories?

22 A. I am from Gaza Strip, a city called Khan Yunus.

23 Q. All right.

24 And is that where you grew up, sir?

25 A. That is where I grew up, sir, yes.

1 Q. All right.

2 And that is inside the occupied territories?

3 A. Inside the occupied territories, right.

4 Q. Okay.

5 And there were needy people there?

6 A. I'm sorry?

7 Q. There were needy people there?

8 A. Maybe 90 percent. Yes, sir.

9 Q. And what was some of the things they needed?

10 A. I'm sorry?

11 Q. And what was some of the things they needed?

12 A. They needed food, clothing. They need books, school
13 stuff. I mean, things like the ordinary belongings. Things
14 like everyone -- every human needs.

15 Q. Sort of the basics of life?

16 A. Basics of life, right, exactly.

17 Q. And that wasn't being provided for them?

18 A. I'm sorry?

19 Q. The basics of life were not -- was not -- being provided
20 for them?

21 A. By who?

22 Q. Well, let's try the group that occupied the territories.
23 Was it being provided by the Israelis?

24 A. You mean the Israelis, did they provide these things to
25 the Palestinians?

1 Q. Yes.

2 A. No.

3 Q. All right.

4 Well, who provided it to the Palestinians, the basics
5 of life?

6 A. Everyone got to really work for his own there. I mean,
7 some people has friends outside, such as myself and my family.
8 Some people work hard there. Some people just, like, get some
9 help from others.

10 Q. Did there come a time when Hamas provided the basics of
11 life?

12 A. Correct, yes.

13 Q. Well, what did Hamas provide in Khan Yunus?

14 A. There are a lot of needy people. There are a lot of
15 destroyed home by the Israelis. So, they provided shelters,
16 homes. They provided basic needs, again.

17 Q. There were a lot of destroyed homes by the Israelis.
18 Would you tell us about that?

19 A. Yes, there was a lot of destroyed homes by the Israelis.

20 Q. Why would the Israelis destroy homes?

21 A. Collective punishment.

22 Q. Collective punishment.

23 I don't know what you mean by that. Tell me what you
24 mean by that.

25 A. I mean, sometimes there is, like, some -- let's say, like,

1 if there is a rocket fired from a certain area. They want to
2 stop firing that rocket. So, they will go to that area and
3 destroy the area.

4 Q. And how would they destroy these homes?

5 A. By bulldozers. I mean, by bulldozers and the tanks.

6 Q. Would they tell people that that's what they were going to
7 do or would they just come up with the tanks and the
8 bulldozers and just destroy the homes?

9 A. Long time ago, they used to give them warning. Then they
10 start just, like, going there without any warnings.

11 Q. And, so, when you were contributing to Hamas, you were
12 trying to help those people?

13 A. Correct.

14 Q. Okay.

15 Was there anybody other than Hamas there to help
16 those folks?

17 A. Yes. There were other organizations helping the
18 Palestinians.

19 Q. Now, in 1987 -- you said Hamas had come into existence in
20 1987, correct?

21 A. Correct. Yes, sir.

22 Q. How long had the occupation existed prior to 1987?

23 A. Starting June or July, 1967. So, that could be, what? 32
24 years, I think, or something like that.

25 Q. Well, '67 to '87 is 20 years.

1 A. 20 years. Okay.

2 Q. You agree with me that's 20 -- it was 20 years?

3 A. Yeah, yeah, 20 years. You're right about this.

4 Q. How old are you, sir?

5 A. I'm now 42 years old, sir.

6 Q. So, most of your life there was an occupation?

7 A. Yeah. I was there till about 18-and-a-half, 19. Then I
8 came United States 22 years ago.

9 Q. Now, let me ask you another question.

10 A. All right.

11 Q. You're not a citizen of the United States, are you?

12 A. Correct, I'm not.

13 Q. Now, on 3-13-2006 -- March 13th, 2006 --

14 A. Uh-huh.

15 Q. -- you told the FBI that you were pro-Bush, right?

16 A. I was, but not -- no, I was. I said -- there was a
17 question about, like, Bush and something. And I was pro-Bush
18 because I didn't like Clinton the year 2000. And, then -- no,
19 I was not -- then I became not -- pro-Bush.

20 Q. Okay.

21 So, that was the truth, correct?

22 A. That was the truth, yes, uh-huh.

23 Q. Okay.

24 Do you recall on March 13th, 2006, asking, "What will
25 happen to me when I'm charged"?

1 A. What will happen to me if I will be charged?

2 Q. When -- well, I'm using the word "when you were charged."

3 Do you recall asking that question?

4 A. I don't recall then, sir.

5 Q. All right.

6 Do you recall somebody telling you that you were
7 looking at five years?

8 A. Maybe so. I'm not really recalling the time. But, I
9 mean, I was looking for a serious time. That's what I was
10 told.

11 Q. Now, amongst the things that the Holy Land Foundation did
12 was it sent money to the refugee camps, right?

13 A. Correct, yes, uh-huh.

14 Q. All right.

15 There are refugees in the occupied territories?

16 A. Yes, sir, there are.

17 Q. What are they refugees from?

18 A. From cities inside what's called now the State of Israel.

19 Q. Well, how did these people get to be refugees?

20 A. They were forced to leave their homes.

21 Q. And when did that occur?

22 A. 1948.

23 Q. And, so, those refugee camps have existed since 1948?

24 A. Correct.

25 Q. And there are people still living in refugee camps in

1 2006?

2 A. Correct.

3 Q. That's one of the reasons you contributed to Hamas,
4 correct?

5 A. Correct.

6 Q. How many refugee camps are there?

7 A. I mean, I know in Khan Yunus there are two. In Gaza,
8 there are more than three -- I mean, there's a big -- there's
9 a lot of refugee camps in the West Bank and Gaza and outside
10 Palestine: Lebanon, Jordan, Syria.

11 Q. And these are Palestinian refugee camps?

12 A. That is correct.

13 Q. And these were people who used to live in what is
14 Palestine or greater Israel?

15 A. I mean, before, in 1948, they moved mostly to Lebanon,
16 Syria, West Bank and Gaza. And, then, the second war, 1967,
17 you got two kind of refugees: Refugees from what's called
18 Israel and refugees from West Bank and Gaza.

19 Q. Okay.

20 What are the conditions in the refugee camps?

21 A. I never lived in one, but when I used to go to school when
22 I was a little kid, I used to pass through the refugee camps.
23 It's very bad.

24 Q. Well, when you tell me it's very bad, tell me about them.

25 A. I mean, you can imagine, like, 30,000 -- 30,000 -- people

1 living in one -- one -- kilomet- -- one square kilometer. So,
2 they will have, like, two rooms.

3 I mean, I have friends from the refugee camps because
4 that's the school we -- we -- went to; and, sometimes you
5 go -- I used to go -- visit. So, just like, I mean, a small
6 -- a small -- apartment trailer with two rooms -- two
7 bedrooms -- one bath and a small kitchen. It's very small --
8 very small -- places to live in.

9 Q. What about their conditions, in terms of healthcare and
10 various other things? The things of life that you talked
11 about.

12 A. They don't have any air-condition. I mean, the home --

13 Q. I'm not talking about air-condition. I'm talking about
14 food and water and various other things.

15 A. They used to get, really, assistance from the United
16 Nation. There is United Nation section for the refugees. So,
17 they used to wait in line and get, like, the basic supports
18 from -- by the United Nation.

19 Q. And the Israelis don't support people in the refugee
20 camps, either?

21 A. No, sir.

22 Q. Is that a reason why you became involved with Hamas?

23 A. Correct.

24 Q. Now, in fact, you became the representative for the Holy
25 Land Foundation in Rome, Georgia, correct?

1 A. Correct. Yes, sir.

2 Q. What year did you do that?

3 A. Starting in 1993 till the closing of the Holy Land
4 Foundation, 2001, the Holy Land Foundation used to call on me
5 that, "We have a guest speaker." And, then, I used to arrange
6 with them when is a good time to bring him over to Rome, speak
7 and -- or sometimes to Atlanta, and -- collect funds.

8 Q. Now, let's talk about these guest speakers for a moment.

9 These were people from where?

10 A. Again, before, like, probably we are talking about '93,
11 '94, '95 -- before Hamas was designated as terrorist
12 organization -- many, they were from Jordan and inside the
13 occupied territories.

14 Q. Okay.

15 And they would be able to get visas and come to the
16 United States?

17 A. That's why I had -- that's how they came in here, yes,
18 sir.

19 Q. All right.

20 And you would have to get a visa through the United
21 States government, correct?

22 A. Through the embassy there, yes, sir.

23 Q. All right.

24 And they would come and speak about, what?

25 A. They would speak about the bad, terrible situation over

1 the Palestinians and need for the basic livings.

2 Q. Now, on 3-14 -- again, that's March 14th -- you told the
3 government that the money from HLF went to Hamas
4 organizations, including the al-Salam Hospital known as the
5 Hospital of Peace, right?

6 A. Correct. Yes, sir.

7 Q. And to libraries?

8 A. Correct.

9 Q. How long have you been in this country, sir?

10 A. 22 years, sir.

11 Q. Okay.

12 (Brief pause.)

13 BY MR. MOFFITT:

14 Q. Bear with me, sir.

15 A. Okay.

16 (Brief pause.)

17 BY MR. MOFFITT:

18 Q. Now, you told the FBI on 3-16 -- I believe that's right --
19 that you believed that the checks sent to HLF would be
20 distributed to the infrastructure of Hamas, right?

21 A. I'm sorry, sir?

22 Q. That the checks that went from HLF would be distributed to
23 the infrastructure of Hamas, correct?

24 A. Did I say that?

25 Q. Yes.

1 A. You're reading that from the script, sir?

2 Q. No matter where I'm reading it from, did you say that?

3 A. No. Sir, I said -- if I remember, I said -- that the
4 money was sent from the Holy Land Foundation to institutions
5 run by Hamas.

6 Q. Okay.

7 And tell us what those institutions were.

8 Was the Islamic Society of Gaza?

9 A. Correct. Yes, sir.

10 Q. The Islamic University?

11 A. Correct.

12 Q. Let me -- let me -- say it -- let me try to say it, okay?

13 Al-Mujamah?

14 A. Al-Mujamah Islamiya, sir. "The Islamic Compound," you can
15 call it.

16 Q. Okay.

17 And that has a center with a school?

18 A. That has a health center, school, kindergarten, and so on.
19 Right.

20 Q. And did you tell the FBI that it was hard to tell if any
21 of these funds were filtered to the military side?

22 A. Correct.

23 Q. That was the truth, wasn't it?

24 A. That was the truth, yes, sir.

25 (Brief pause.)

1 BY MR. MOFFITT:

2 Q. You spoke about a person called Iyad Hindi?

3 A. Correct. Yes, sir.

4 Q. And he is a person that you knew?

5 A. Yes, sir, uh-huh.

6 Q. And he is a person that -- I can't remember exactly what
7 you said about Mr. Hindi, but was Mr. Hindi somebody you
8 talked about sending you the envelope?

9 A. No, sir -- yes. Yeah, he did talk to me about the
10 envelope. Yes, sir.

11 Q. All right.

12 And you talked about Mr. Hindi on 3-17-2006. Do you
13 recall?

14 A. It could be, yes, uh-huh.

15 Q. Do you remember telling the FBI that the reason you
16 believed that Mr. Hindi had something to do with Hamas was
17 that because he lived in Kuwait?

18 A. I'm not really sure, sir.

19 MR. MOFFITT: May I approach?

20 THE COURT: You may.

21 BY MR. MOFFITT:

22 Q. Would you read the highlighted portion to yourself?

23 A. Okay.

24 (Document tendered.)

25 (Brief pause.)

1 BY THE WITNESS:

2 A. Yeah, okay. That's difference from your statement, sir.

3 BY MR. MOFFITT:

4 Q. Okay.

5 Did you tell them that he lived in Kuwait?

6 A. Yes, sir, uh-huh.

7 Q. And that most of the Hamas leaders were from Kuwait?

8 A. That he knew -- he knew -- some of the Hamas leaders.

9 Q. Did you tell them that most of the Hamas leaders were from
10 Kuwait?

11 A. No, sir, I didn't say most. I said he knew some of the
12 leaders of Hamas that lived in Kuwait.

13 Q. And that's the reason why you thought he was Hamas?

14 A. No, no, no, no. That's -- that's -- wrong. I did not say
15 that, sir.

16 I said, "He's a Hamas, but he knows some of the Hamas
17 leaders because he used to live in Kuwait.

18 "How did he come to know those Hamas leaders?

19 "Those Hamas leaders used to live in Kuwait."

20 Q. Didn't you describe Mr. Hindi to the FBI as politically
21 favoring Hamas?

22 A. Yes, sir.

23 Q. That was the term that you used, wasn't it?

24 A. Yeah, yeah. Yes, uh-huh.

25 Q. All right.

1 What year was the Oklahoma City MAYA Convention?

2 A. I think it was either '91, '92. I'm not really sure, sir.

3 Q. Did you tell the FBI on March 17th that the Oklahoma City
4 MAYA Convention was in 1994?

5 A. Yeah, I could say that. Right, uh-huh.

6 Q. So, you're not really sure when it was, are you?

7 A. Correct, yes, uh-huh.

8 Q. You didn't tell the jury that on yesterday -- when Mr.
9 Schar was asking you questions -- that you weren't really
10 sure, did you?

11 A. You know, I mean, the first meetings with the FBI about
12 these things, you are under pressure. So, sometimes you miss
13 a year here and a year there. So, that's true, yes.

14 Q. Well, did you tell them it was 1990?

15 A. Because I knew that Oklahoma City held more than one time
16 convention -- MAYA Convention; so, yes, sir.

17 Q. But you're not really sure, are you?

18 A. I mean, I'm sure it was in Oklahoma City two times, but,
19 you know, the year is -- it's probably because that's 16 years
20 ago, sir.

21 Q. All right.

22 You discussed something called Charitable
23 Departments, correct?

24 A. Charitable Departments, correct, yes.

25 Q. What are Charitable Departments?

1 A. Those are what we call in Arabic "lajani (phonetic) zakat"
2 in West Bank, sir.

3 Q. Zakat?

4 A. Zakat, yes, uh-huh.

5 Q. And what are their functions?

6 A. As I said, they are existing West Bank, not Gaza Strip.
7 They collect the zakat, which is money that every Muslim must
8 pay out of his money for -- from the rich to the -- to the --
9 needy and to the poor.

10 Q. Now, some of these pamphlets that you distributed had
11 solicitations for the zakat, didn't it -- did they not -- for
12 the charitable organizations?

13 A. Correct. Yes, sir.

14 Q. And that was also to supply people in the occupied
15 territories with the necessities of life, correct?

16 A. Correct.

17 Q. Now, on -- there was an individual whose last name is
18 spelled N-i-m-r; is that right? Or is that an organization?

19 A. I'm sorry? M --

20 Q. N --

21 A. N --

22 Q. -- i-m-r.

23 A. Oh, that's a person, sir.

24 Q. All right.

25 And you discussed that person with the FBI; did you

1 not?

2 A. Yes, sir.

3 Q. And money went to him, correct?

4 A. Correct.

5 Q. And you were asked whether the money went to him --
6 whether it went to the military wing, correct?

7 A. Correct.

8 Q. And you said it's hard to track --

9 A. Correct.

10 Q. -- correct?

11 And that was the truth, correct?

12 A. Correct.

13 Q. Now, you met with the FBI on -- regarding, again, on --
14 4 -- on 3-23-2006, correct?

15 A. Correct, yes.

16 Q. Now, on 3-23-2006, you told the FBI that the last time you
17 had contact with Dr. Ashqar was in 1994?

18 A. Correct. Yes, sir.

19 Q. Was that a lie?

20 A. No, that was not a lie.

21 Q. That was the truth?

22 A. I said in 1994?

23 Q. Yes, sir.

24 A. That is correct. That is the truth.

25 Q. And that was prior to Hamas becoming a designated

1 organization, correct?

2 A. Correct. Yes, sir.

3 (Brief pause.)

4 BY MR. MOFFITT:

5 Q. Let me ask you -- let me change subjects for just a
6 moment, okay?

7 A. Okay.

8 Q. Now, when you were stealing money from your employer --

9 A. Yes, sir.

10 Q. -- was your wife aware of it?

11 A. No, sir.

12 Q. Okay.

13 Now, you had an addition made to your house, correct?

14 A. Correct, yes.

15 Q. And that was the reason that you gave the FBI for stealing
16 \$91,000 in a year, correct?

17 A. Correct, uh-huh.

18 Q. Was your wife aware of the addition?

19 A. Oh, yeah, absolutely.

20 Q. She was aware of your salary where you were working, as
21 well, right?

22 A. No.

23 Q. She wasn't?

24 A. Uh-huh.

25 (Brief pause.)

1 BY MR. MOFFITT:

2 Q. Bear with me, again, a second, sir.

3 (Brief pause.)

4 BY MR. MOFFITT:

5 Q. Now, these charitable organizations that you talked about,
6 the charitable committees --

7 A. Yes, sir.

8 Q. -- about 85 percent of them are run by Hamas, correct?

9 A. Yes, sir, uh-huh.

10 Q. How many speeches, sir, did you sponsor in the United
11 States?

12 A. How many -- I'm sorry?

13 Q. Speeches. People coming and making speeches.

14 A. Oh, how many persons, you mean?

15 Q. Yeah. Well, speeches, persons.

16 A. Okay.

17 I mean, I don't remember the number, but quite a good
18 number.

19 Q. You don't remember how many?

20 A. No, I don't remember, sir.

21 Q. Did you publicize it?

22 A. Publicize, what?

23 Q. The fact that somebody was coming to speak.

24 A. Oh, yeah, absolutely.

25 Q. Did you give out leaflets with regard to it?

1 A. I used to make the announcement in the mosque or calling
2 others. And whenever there's a function outside the mosque,
3 yes, we would make a leaflet and make a distribution for that
4 leaflet.

5 Q. What happened to those leaflets?

6 A. What happened to them?

7 Q. Yes.

8 A. I don't know. They were destroyed, gone.

9 Q. They were destroyed?

10 A. Right.

11 But, I mean, everyone take one. He knows if he want
12 to come, he can. If not, then he will just do whatever with
13 it.

14 Q. You didn't keep it -- keep --

15 A. I'm sorry?

16 Q. -- any of them?

17 You didn't keep any of them?

18 A. I kept some. Then I don't know what happened to them.

19 Q. All right.

20 And the magazines that you talked about --

21 A. Correct.

22 Q. -- distributing, did you keep any of those?

23 A. Yes, sir.

24 Q. Where are they today?

25 A. I'm sorry?

1 Q. Where are they today?

2 A. I think when the FBI came and searched the house, they
3 took almost everything.

4 Q. Took almost everything?

5 A. Yeah, concerning the magazines. Right, uh-huh.

6 Q. They took the magazines, as well?

7 A. I think so, yes, sir.

8 Q. Okay.

9 Now, among the things that were found when your house
10 was searched was a lockbox; am I right?

11 A. Correct. Yes, sir.

12 Q. And in that lockbox was \$29,500, correct?

13 A. Correct. Yes, sir.

14 Q. And that was money that was proceeds that you -- of your
15 theft?

16 A. Correct. Yes, sir.

17 Q. What happened to that money?

18 A. It's in the hand of the FBI now.

19 Q. Do you still have those documents that Mr. Schar showed
20 you in front of you?

21 A. Yes, sir, I do.

22 MR. MOFFITT: May I approach the witness?

23 THE COURT: You may.

24 And just note for the record what the exhibit sticker
25 is, please.

1 MR. MOFFITT: Yes, ma'am.

2 BY MR. MOFFITT:

3 Q. I'm going to want you to look at C and D in here, okay?

4 A. Okay.

5 Q. Would you do that?

6 A. Okay. This is C.

7 Q. Okay.

8 Would you look with me?

9 A. I'm sorry.

10 Q. Do you see at the top of it a fax number?

11 A. Yeah, it says, "From," and then a fax -- a fax -- number.

12 That is correct, yes, sir.

13 Q. Would you read that number, please, for me?

14 A. 703-237-9851.

15 Q. Are you familiar with what that number is?

16 A. No, sir.

17 Q. All right.

18 Would you also look at D, please?

19 A. D.

20 Okay, I'm looking at D.

21 Q. Do you see a fax number on that?

22 A. That is correct.

23 Q. Would you read that number for me, please?

24 A. Yes. It's 703-237-9851. It's the same number.

25 Q. Thank you, sir.

1 A. You're welcome.

2 Q. You can put them back.

3 (Brief pause.)

4 BY MR. MOFFITT:

5 Q. Now, you spoke with the agents, again, on 5-17?

6 A. Correct, yes.

7 Q. All right.

8 And there was some discussion about that envelope,
9 correct?

10 A. Yes, uh-huh.

11 Q. Do you remember telling them that you didn't open the
12 envelope, sir?

13 A. That is correct.

14 Q. That was a lie?

15 A. That was a lie, yes, sir.

16 Q. All right.

17 In fact, you opened it a year later?

18 A. That is correct, yes, sir.

19 Q. All right.

20 And that was this important envelope that was
21 important to get to somebody; you didn't get it to that
22 person; and, you opened it and you waited for a year to open
23 it, correct?

24 A. Because I kept it in a safe place and just forgot about
25 it. When I moved, I -- then that time I find out that I still

1 have that package.

2 Q. And you didn't get it to anybody?

3 A. I'm sorry?

4 Q. You didn't get it to the person that it was supposed to go
5 to?

6 A. That is correct.

7 Q. Did you tell the FBI that you didn't recall reading
8 anything in the FBI --

9 A. Yes.

10 Q. -- in the envelope?

11 A. Yeah. Because I was surprised to see that envelope. But,
12 I mean, the last time I saw it was maybe in '96, '97. Then
13 you're talking about ten years later. So --

14 Q. And you told them absolutely not -- that you read
15 anything -- correct?

16 A. That is correct.

17 Q. So, you lied to them, then?

18 A. Yeah, because I was surprised to see that package there.

19 Q. I see.

20 And when was the first time you bothered to tell them
21 the truth?

22 A. I'm sorry?

23 Q. When was the first time -- the first time -- that you
24 bothered to tell them the truth?

25 A. I mean, after they faced me with all these lies. And,

1 then, I decided to say the truth.

2 Q. When was that, sir?

3 A. Maybe it was on and off. Like, sometimes I would lie,
4 sometimes I would say the truth.

5 Q. Well, I'm not asking you about -- I'm asking you about
6 this particular incident.

7 A. Oh, this particular -- okay.

8 Q. When did you tell the FBI the truth about that?

9 A. Maybe a week later or so.

10 Q. A week later.

11 Who did you tell?

12 A. When I was approached by the FBI, again, about the same
13 package.

14 Q. Who did you tell?

15 A. The FBI. Mark Rotti.

16 Q. Do you know whether he wrote a report about it?

17 A. I'm sorry?

18 Q. Do you know whether he wrote a report about you changing
19 your mind about what you did?

20 A. Maybe it's in the scripts there. I don't know.

21 Q. Now, this was in May when you lied about this, correct?

22 A. Correct, yes.

23 About the package, you mean?

24 Q. Yes.

25 A. Uh-huh.

1 Q. And that wasn't the first thing you lied about, correct?

2 A. About the package, right?

3 Q. Yeah.

4 A. Correct.

5 Q. The package was not the first thing you lied about?

6 A. No, no, please. Now are you talking about the package or
7 something else? So, let's be specific.

8 Q. No, sir. I'm asking you a very simple question.

9 A. Okay.

10 Q. The package was not the first thing you lied about?

11 A. That is correct.

12 Q. So, you were lying throughout your interviews with the
13 FBI, correct?

14 A. Not through the lying, but for the first meetings, yes,
15 sir.

16 Q. Well, this wasn't one of the first meetings. This one was
17 in May?

18 A. Yes, this was in May, but it was the first time about this
19 package, sir.

20 Q. I see.

21 So, what you would do is you would see if you could
22 get away with a lie and see how long that would work, correct?

23 A. Correct.

24 Q. And nobody said after they caught you in a lie that they
25 would no longer deal with you, correct?

1 A. Correct.

2 (Brief pause.)

3 BY THE WITNESS:

4 A. But what I'm saying, they told me, like, "We know that
5 you've been lying. So, it's better you say the truth.
6 Otherwise, you will be more in trouble by keep lying."

7 BY MR. MOFFITT:

8 Q. They said to you. Tell me who "they" are, who said that
9 to you.

10 A. All these meetings I'm talking about -- talking about --
11 both the FBI, Mark Rotti; and, the ICE, Matthew Saylor.

12 Q. All right.

13 How about Ms. Dammers? Did she tell you anything?

14 A. No, sir.

15 Q. How about Lara? Did she tell you anything?

16 A. No, sir.

17 Q. But every time they lie -- you lied -- and they caught
18 you, they didn't stop dealing with you, right?

19 A. No, no, but they cautioned me that, "Mohamed, you are
20 lying."

21 Q. I see.

22 So, you would lie and they would say, "Don't lie,"
23 right?

24 A. No, no.

25 Q. And you would continue to lie and they would say, "Don't

1 lie," right?

2 A. No, no, not like in that exactly scenario.

3 But, like, they will take my words; they will record
4 them down; and, then, they will ask me another -- about
5 another -- issue; I would lie, again; and, then, few days
6 later they will go back to the first issue and, then, they
7 will -- I mean, I will -- say probably different thing or so.
8 Then I'll be proven to be lying.

9 So, finally, I decide to say the truth about the
10 whole thing.

11 Q. I see.

12 So, you waited until somebody could prove that you
13 were lying to change what you said, correct?

14 A. I was lying, thinking that I could go away lying and,
15 then, the FBI will not call me, again, for interview.

16 Q. I understand, sir, but I'm asking you my question.

17 A. Right.

18 Q. You would lie, right?

19 A. Right.

20 Q. A few days would pass, right?

21 A. Uh-huh.

22 Q. And they would come back to you and they would tell you
23 that you were lying, correct?

24 A. Correct.

25 Q. And, then, you'd change your story, right?

1 A. (No response.)

2 Q. Right?

3 A. Well, not changing the story, but they will tell me, "You
4 are lying about this and that."

5 Q. All right.

6 And, then, you would say something different?

7 A. Then I would say the truth, sir.

8 Q. Then you would say the truth.

9 And the only person we have to rely on that is you,
10 correct?

11 A. Correct. Yes, sir.

12 Q. All right.

13 But let me see if I got it right.

14 A. Right.

15 Q. You would lie, they would catch you, right?

16 A. Right.

17 Q. And they would continue to deal with you, and then you
18 would lie, again?

19 A. No, no, that's not true, sir. That's -- that's -- not
20 what I said. I said --

21 Q. I don't care what you said.

22 You lied, right?

23 A. Right.

24 Q. The FBI would catch you in a lie --

25 A. Right.

1 Q. -- right?

2 A. Right.

3 Q. Then you'd find something else to lie about, correct?

4 A. No.

5 Q. Oh, you only lied one time?

6 A. No, no, no.

7 MR. SCHAR: I'm going to object. I think he's made
8 it clear. Asked and answered.

9 THE COURT: Overruled.

10 You can answer.

11 BY THE WITNESS:

12 A. I'm sorry, say your question, again.

13 BY MR. MOFFITT:

14 Q. You lied many times, correct?

15 A. Correct, yes, uh-huh.

16 Q. And each time you lied, you'd get caught, correct?

17 A. Now, the first --

18 Q. Answer my question: Each time you lied, you'd get caught?

19 A. I'll answer your question if you give me a time.

20 My --

21 Q. That requires just "Yes" or "No."

22 Each time you lied, you'd get caught?

23 A. The answer is "Yes," but there is an explanation, sir.

24 Q. Well, there's an explanation of why you lied?

25 A. No, sir, not that explanation.

1 Q. There's an explanation why you got caught?

2 A. No. If you want to give me a minute, then I can tell you
3 what is it.

4 Q. Well, I'm not sure I want to know.

5 A. Well, it's up to you.

6 Q. Okay?

7 A. Okay.

8 Q. Let me see if we can get this right.

9 A. Right.

10 Q. You were being interviewed by the FBI --

11 A. Right.

12 Q. -- right?

13 A. Uh-huh.

14 Q. The FBI told you from the very beginning that the thing
15 that was most important was the truth, right?

16 A. Correct.

17 Q. That they were willing to deal with you as a potential
18 witness if you would tell them the truth, correct?

19 A. No, no, no, no. No, no, no. That's not correct.

20 Q. Okay.

21 A. The cor- -- no, no.

22 Q. Let me see if this is right.

23 A. Okay.

24 Q. Let me try, again.

25 A. Okay.

1 Q. You certainly got the belief from the FBI that it was
2 important for you to tell the truth, correct?

3 A. It was every time that saying the truth is the right thing
4 to do.

5 Q. No, let me -- again, answer my question.

6 The FBI told you it was important for you to tell the
7 truth?

8 A. That is correct.

9 Q. Right.

10 And you were trying to get your sentence reduced,
11 correct?

12 A. Sir, we were not talking about sentencing that time, just
13 like --

14 Q. Listen to me for a second.

15 A. All right, uh-huh.

16 MR. SCHAR: Judge, I object.

17 THE COURT: Mr. Moffitt, let him finish his --

18 MR. MOFFITT: Well, I --

19 THE COURT: -- response.

20 MR. MOFFITT: I didn't say --

21 THE COURT: Wait, wait.

22 MR. MOFFITT: -- that he was --

23 THE COURT: Mr. Moffitt --

24 MR. MOFFITT: -- talking about sentence, ma'am.

25 THE COURT: Mr. Moffitt, do not talk at the same time

1 that I talk. We have been through this before. Joe cannot
2 take it down. You get to ask your questions, but he gets to
3 answer. If you both talk at the same time, Joe cannot take it
4 down, I cannot hear and the jury cannot hear.

5 MR. MOFFITT: Well, let me change the question, then.

6 THE COURT: Okay.

7 MR. MOFFITT: I'm sorry. Please forgive me.

8 THE COURT: Ask your question.

9 BY MR. MOFFITT:

10 Q. From the very beginning, you were asking the FBI questions
11 about what your sentence was going to be, correct?

12 A. I don't remember, sir.

13 Q. You were interested in what your sentence was going to be,
14 right?

15 A. Right.

16 Q. You wanted it to be as low as possible, correct?

17 A. Correct, uh-huh.

18 Q. And one of the things you were told was that if you told
19 the truth, you could keep your sentence from being too high,
20 correct?

21 A. No, no, no, sir. That's not correct.

22 Q. Okay.

23 So, they said that you could lie and they would make
24 your sentence lower?

25 A. No, sir. If you give me a minute now, I'll explain it to

1 you.

2 Q. I'm not sure I want you to explain it to me.

3 A. I mean, I will say what I said, sir.

4 Q. All right.

5 Did you have a concern about your sentence?

6 A. Yes, I was.

7 Q. And your concern was that your sentence was to be as low
8 as possible, correct?

9 A. But they were kept telling me that they are the
10 investigation and they have to turn the report to the
11 prosecutor; and, then, there is decision made by the
12 prosecution and --

13 Q. I'm not --

14 A. -- by the --

15 Q. -- asking you about the prosecutor's decision. I'm asking
16 you about in your mind --

17 A. Yes, sir.

18 Q. -- you wanted your sentence to be as low as possible?

19 A. Yeah, because I did not know what is the prosecution, the
20 FBI. I thought they're just, like, the same thing.

21 Q. Okay.

22 A. And they said they are investigation, not prosecution.

23 Q. And the prosecution, they -- the FBI -- told you that they
24 were going to talk to the prosecutor about your performance in
25 these interviews, didn't they?

1 A. They said that, "We will turn the reports to the
2 prosecution." They --

3 Q. Right.

4 And, so, you knew if you lied, the FBI would tell the
5 prosecutor that you lied, correct?

6 A. Correct, yes.

7 Q. But you continued to lie, anyway?

8 A. Yeah, for the first few days, right.

9 Q. First few days?

10 We had -- we just discussed May 17th and you told me
11 you lied on that day?

12 A. No, I --

13 Q. That wasn't the first few days, was it?

14 A. No, I lied on a specific certain thing because I was
15 confused. See, that package there, it's been ten years that I
16 saw it before that.

17 Q. So, when you get confused --

18 A. Uh-huh.

19 Q. -- your first response to anything is to lie?

20 A. Wrong.

21 Q. Well, that's what you did that time, right? You were
22 confused, so you lied?

23 A. Sir --

24 Q. Your excuse for that lie is because you were confused --

25 A. No, sir.

1 Q. -- correct?

2 A. That is a very specific thing that I did not even
3 recognize that there was a package there. Be specific, sir.

4 THE COURT: Mr. Moffitt, let me know when you are at
5 a good breaking point.

6 MR. MOFFITT: I'm at a good breaking point.

7 THE COURT: Okay.

8 We will pick up at 2:00 o'clock.

9 (Jury out.)

10 (Whereupon, a recess was taken at 12:50 o'clock p.m.,
11 until 2:00 o'clock p.m., of the same afternoon.)

12 * * * * *

13

14 I certify that the foregoing is a correct excerpt from the
15 record of proceedings in the above-entitled matter.

16

17 _____, 2007
Official Court Reporter

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 03 CR 978
)
Plaintiff,)
)
vs.)
)
MUHAMMAD HAMID KHALIL SALAH AND)
ABDELHALEEM HASAN ABDELRAZIQ ASHQAR,) Chicago, Illinois
) November 30, 2006
Defendants.) 2:00 o'clock p.m.

E X C E R P T
TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE AMY J. ST. EVE, AND A JURY

APPEARANCES:

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APPEARANCES (Cont'd):

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Also Present: S/A BRADLEY BENAVIDES, FBI
S/A JILL PETTORELLI, FBI

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* * * * *

PROCEEDINGS RECORDED BY
MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED BY COMPUTER

1 (Proceedings heard in open court:)

2 THE COURT: Mr. Schar, is your witness here?

3 MR. SCHAR: Yes, Judge, he's here.

4 THE COURT: Okay. Bring him in, and then we'll bring
5 in the jury.

6 Before the jury comes in, the latest weather forecast
7 is it's supposed to start snowing around rush hour time, and
8 they're predicting between 8 and 12 inches between midnight
9 tonight and 12:00 tomorrow.

10 Now, as soon as I do this, it's not going to snow,
11 but I'm inclined just to cancel court tomorrow. It was going
12 to be a half day anyway. You've represented, Mr. Ferguson,
13 you think you're going to rest next Friday regardless, and
14 even if it's the following Monday, we're still ahead of
15 schedule.

16 The other thing I could do is see what the weather is
17 and start calling people at 5:30 in the morning, but --

18 MR. MOFFITT: It's not going to help me very much.

19 THE COURT: I know that doesn't help you.

20 MR. DEUTSCH: That's fine, Judge.

21 MR. FERGUSON: We would have no objection to you
22 putting in a wake-up call to Mr. Moffitt at 5:30.

23 MR. MOFFITT: Thank you, Mr. Ferguson. Appreciate
24 you looking out for me.

25 THE COURT: I'll call you first, Mr. Ferguson.

1 Is that acceptable?

2 MR. DEUTSCH: Fine with us.

3 THE COURT: All right. I'll let the jury know that
4 we won't have court, but, Mr. Deutsch, you're not off
5 completely because let's have a hearing on the expert issue at
6 10:00 tomorrow. That will give you time even if there is
7 snow.

8 MR. DEUTSCH: Okay.

9 (Jury enters courtroom.)

10 THE COURT: You may be seated.

11 Mr. Moffitt, you may continue.

12 MOHAMED SHORBAGI, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN,

13 CROSS-EXAMINATION (RESUMED)

14 BY MR. MOFFITT:

15 Q. Let me change for a moment Mr. Shorbagi. On your
16 direct-examination, you spoke about the Hebron massacre. When
17 was that?

18 A. It was February '94.

19 Q. February 1994?

20 A. That is correct.

21 Q. All right. What was the Hebron massacre?

22 A. It happened in the city of Hebron, West Bank. People were
23 praying, that was during Ramadan time, praying the early dawn
24 prayer before sunrise. Dr. Baruch Goldstein got inside the
25 mosque and start shooting at the worshipers while they were

1 prostrate on the ground, going down, and I think he killed,
2 according to the reports came from there, 29 and injured about
3 50.

4 Q. This Mr. Goldstein, he was a settler, a Jewish settler?

5 A. He was an Israeli settler, Jewish settler in the -- yes,
6 in a settlement in Hebron, right.

7 Q. And he shot people while they were praying?

8 A. Correct.

9 Q. Was that one of the reasons that you supported Hamas?

10 A. Supporting the Palestinians, yes, sir.

11 Q. Now, we were -- we were talking about your agreement with
12 the government, correct? You have an agreement with the
13 government.

14 A. Plea agreement, yes, sir.

15 Q. Plea bargain. You made a plea bargain, right?

16 A. Plea bargain, uh-huh.

17 Q. And when you first started meeting with the government --
18 just answer this one yes or no -- did the government tell you
19 that it was important for you to tell the truth?

20 A. Yes.

21 Q. And despite the fact that the government told you that it
22 was important for you to tell the truth, you lied and
23 continued to lie.

24 A. Correct. But, again, like the statement is wrong and
25 right. I lied, but not continued to lied.

1 Q. Well, you had more than one meeting with the government.

2 A. Correct.

3 Q. And in -- in those several meetings that you had with the
4 government, you lied more than one time, correct?

5 A. Correct, but not continued to lie.

6 Q. The first time you went in was on March 6th, am I right?

7 A. 9th, I think.

8 Q. March 9th, correct?

9 A. Correct.

10 Q. You lied in that meeting.

11 A. Correct.

12 Q. Then you went back after that.

13 A. Correct.

14 Q. You met with the government, correct?

15 A. Correct.

16 Q. And you lied in meetings after March 9th, correct?

17 A. Now, some lie, some true.

18 Q. But you did lie, right?

19 A. Correct.

20 Q. And we discussed it earlier. You lied on -- on May 17th,
21 correct?

22 A. And that is specific thing, the package, correct.

23 Q. Okay. So you didn't just lie one time. You lied several
24 times.

25 A. Correct.

1 Q. And each time you lied, you got caught, correct?

2 A. Correct.

3 Q. And after you got caught on each time, the government
4 continued to seek information from you, correct?

5 A. Correct, telling me say the truth.

6 MR. MOFFITT: Now, bear with me again for a second,
7 please.

8 (Pause.)

9 BY MR. MOFFITT:

10 Q. Now, you entered a plea of guilty, correct?

11 A. Correct.

12 Q. Now, your plea of guilty was not a plea of guilty to
13 everything that you did, was it?

14 A. Correct.

15 Q. Now, you were told when you were talking to the government
16 and creating the statements that you talked about today that
17 lying to an FBI agent was a crime, correct?

18 A. Correct.

19 Q. But you lied to an FBI agent, correct?

20 A. Correct.

21 Q. You were not charged with lying to an FBI agent, right?

22 A. Yes, but they said if you say the truth, that's something
23 else.

24 Q. You were not charged with lying to an FBI agent, were you?

25 A. Correct.

1 Q. Okay. Now, also you, when you were taking the money from
2 your employer, in several of those years, you did not file any
3 tax returns on that money, did you?

4 A. For one year.

5 Q. You were not charged with that either, were you?

6 A. Correct.

7 Q. And you were not charged at all with the embezzlement
8 crime, were you?

9 A. What is that?

10 Q. Stealing from your employer.

11 A. Correct.

12 Q. The only thing you were charged with was the conspiracy to
13 provide material support, right?

14 A. Right.

15 Q. You were not charged with RICO.

16 A. What is RICO?

17 Q. Racketeering.

18 A. No.

19 Q. And as you told us today, you were providing money to
20 Hamas almost up to a year and a half ago, correct?

21 A. Correct.

22 Q. Now, in your plea agreement, you agreed that the
23 government could prove certain facts, correct?

24 A. Um -- I don't understand question, sir.

25 MR. MOFFITT: May I approach, your Honor?

1 THE COURT: You may.

2 BY MR. MOFFITT:

3 Q. Would you take a look at that, sir? Just read it to
4 yourself.

5 A. Just the first page or just --

6 Q. No, sir, I want you to look at the whole document because
7 I'm going to ask you about it.

8 A. The whole thing?

9 Q. The whole thing.

10 A. I mean we went over it with my lawyer before, so --

11 Q. I don't have a question in front of you. I just want you
12 to look at the document. I want to ask you a question about
13 the document.

14 A. Okay.

15 Okay. I'm through.

16 Q. Have you seen this document before?

17 A. Yeah, I've seen this before.

18 Q. That document is your plea agreement, is it not?

19 A. Correct, yes.

20 Q. Or it's a copy of it, am I right?

21 A. It's a copy, you're right, uh-huh.

22 Q. And you signed this agreement, correct?

23 A. Correct, yes, uh-huh.

24 Q. And you understood everything that was in it, correct?

25 A. Correct.

1 Q. And, in fact, you were asked by a judge under oath whether
2 you understood everything that was in it.

3 A. Correct, yes, uh-huh.

4 Q. And you told the judge that you did understand everything
5 that was in it, right?

6 A. Correct, yes.

7 Q. Okay.

8 MR. MOFFITT: Excuse me, Judge.

9 BY MR. MOFFITT:

10 Q. I want you to look at Item Number 14. Is that your plea
11 agreement?

12 A. Correct, yes.

13 Q. Item Number 14 says that you waived the statute of
14 limitations, correct?

15 A. Correct, yes, uh-huh.

16 Q. Can you tell me what that means?

17 A. Yeah, it was explained to me by my lawyer that I think
18 there is something in the law called the five years or the six
19 years limitation, and if this thing happened after -- this
20 being like five or six years, then there is some count in the
21 law that you will not be charged for or so.

22 And based on some of those things are going back to
23 the early '90s, so I'm waiving the statute of limitation based
24 on that.

25 Q. But you didn't plead to a crime that began in the early

1 '90s, did you?

2 A. I'm sorry?

3 Q. Your crime, the crime that you pled to, began in,
4 according to your statement here -- hold on --

5 A. Yes, in --

6 Q. -- in 19 --

7 A. '97.

8 Q. -- '97, correct?

9 A. Correct, yes, uh-huh.

10 Q. In fact, the crime that they claim that you did began on
11 October 8th, 1997, correct?

12 A. Correct, uh-huh.

13 Q. So you didn't plead to a crime that began before 1997,
14 right?

15 A. No, was not -- the subject was not brought in as a crime.

16 Q. So but you waived the statute of limitations anyway?

17 A. Yes, sir.

18 Q. Okay. In fact, the date that your crime began on was
19 October 8th, 1997, correct?

20 A. I'm sorry, the question again?

21 Q. The crime that you pled guilty to began on October 8th,
22 1997.

23 A. Correct, uh-huh.

24 Q. Now, October 8th, 1997 was the day of the designation by
25 the Treasury Department of Hamas, correct?

1 A. I did not know the exact, but I know it was '96, '97.

2 Q. All right. You didn't plead to a crime that began in
3 1995, did you?

4 A. No.

5 Q. And that was a day that you also know that Hamas was
6 designated, correct?

7 A. Correct, uh-huh.

8 Q. Who chose 1997?

9 A. I think the pros -- I mean the agreement between my lawyer
10 and the prosecution.

11 Q. The agreement between your lawyer and Ms. Dammers?

12 A. I think so, yes.

13 Q. Okay.

14 A. I mean in my presence, I'm sorry, my lawyer also.

15 Q. Your lawyer and Ms. Dammers, correct?

16 A. Myself and the lawyer and Ms. Dammers, yes, sir.

17 Q. Okay. But you were giving money to Hamas post the
18 designation in 1995, correct?

19 A. You mean both before or after?

20 Q. After the designation in 1995, you were giving money to
21 Hamas.

22 A. Correct, yes, sir, uh-huh.

23 Q. But you weren't charged with that either.

24 A. Yes, I mean according to the plea agreement.

25 Q. Well, wait a minute, sir. You just told me that the plea

1 agreement started in 1997, right?

2 A. That's what I'm saying. I was not charged for the '95
3 according to the plea agreement.

4 Q. All right. Okay. I just want to be clear.

5 A. Good.

6 Q. This is, in fact, what you pled guilty to, correct?

7 THE COURT: Is that part of the plea agreement?

8 MR. MOFFITT: It's part of the plea agreement.

9 I'll show it to you.

10 THE WITNESS: Yes, it is.

11 MR. MOFFITT: It's what you gave me.

12 MR. SCHAR: Again, that's not the plea agreement.

13 It's the information.

14 (Counsel conferring.)

15 BY MR. MOFFITT:

16 Q. I want to talk to you about another section of the plea
17 agreement for a second.

18 Now, the government didn't accuse you of any violent
19 criminal activity, did they?

20 A. I'm sorry?

21 Q. The government didn't accuse you of any violent criminal
22 activity, correct?

23 A. No, no violence, no.

24 Q. And, in fact, they said they could change your deal if it
25 was found out that you were involved in any violent criminal

1 activity, correct?

2 A. I mean if they found out that I'm involved in any
3 violence, yes, I mean, they could be bringing me to trial
4 again.

5 MR. MOFFITT: Excuse me, your Honor. It's taking me
6 a little longer to find what I'm looking for.

7 THE COURT: Take your time. That's fine.

8 BY MR. MOFFITT:

9 Q. Now, in your discussion with Mr. Schar, you said that you
10 were hopeful for a reduction, correct?

11 A. The government would recommend to the judge and the judge
12 would make the decision.

13 Q. Yeah, but you're hopeful that that happens, correct?

14 A. Correct, yes, uh-huh.

15 Q. All right. And so you want to please the government,
16 don't you?

17 A. No, sir. I want to say the truth.

18 Q. Just like you wanted to say the truth during the course of
19 the interviews that you had, correct?

20 A. Wrong.

21 Q. All right. So you changed your mind about that now.

22 A. Saying the truth, sir.

23 Q. Okay. Now, it is the government that will determine
24 whether or not you get the reduction, is it not?

25 A. No, sir.

1 Q. Okay. It's not?

2 A. No, sir.

3 Q. Look at paragraph number 11, sir, of your plea agreement.

4 A. Number 11?

5 Q. Number 11.

6 A. Okay, I'm reading it.

7 Okay. There's a continuation on the second page
8 also?

9 Q. Did you read it?

10 A. I thought you said read the highlights. Is it the whole
11 paragraph?

12 Q. No, I said read 11.

13 A. Oh, okay. I'm sorry.

14 MR. SCHAR: I don't understand. If his recollection
15 needs to be refreshed, I don't believe that paragraph is
16 impeaching to what his answer just was.

17 MR. MOFFITT: I believe it's impeaching.

18 MR. SCHAR: Not based on the question that was asked.

19 MR. MOFFITT: I believe it's impeaching.

20 THE COURT: I will wait for the next question, and
21 then if there's another objection, you can make it. Overruled
22 for now.

23 THE WITNESS: Okay.

24 MR. MOFFITT: May I stay here for a second?

25 THE COURT: You may.

1 BY MR. MOFFITT:

2 Q. Does it say, sir, "In addition, if the cooperation is
3 completed before sentencing, the government determines that
4 such cooperation qualifies as substantial assistance, the
5 government will consider whether to file a motion at
6 sentencing recommending a downward departure"?

7 A. Right.

8 MR. SCHAR: Judge, I object. It's not impeaching.

9 MR. MOFFITT: It is impeaching. He said the judge
10 reduces the sentence.

11 MR. SCHAR: The judge does reduce the sentence.

12 THE COURT: Yes, sustained. The question wasn't who
13 makes the recommendation. The question was who --

14 BY MR. MOFFITT:

15 Q. Well, who makes the recommendation?

16 THE COURT: There you go.

17 BY THE WITNESS:

18 A. The government will make the recommendation.

19 BY MR. MOFFITT:

20 Q. You mean those people sitting in the front row that came
21 to see you testify?

22 A. The prosecution.

23 Q. Sitting in the front row right there, right? They're the
24 people that are going to make the recommendation, correct?

25 A. Only one woman right there, Ms. Kim Dammers, the

1 prosecutor.

2 Q. Sitting in the front row, right?

3 A. Correct, yes, uh-huh.

4 Q. Now, the government also agreed to help you in some other
5 ways, did it not?

6 A. Correct, uh-huh.

7 Q. It agreed to help your wife with an immigration problem,
8 correct?

9 A. No, not that regard.

10 Q. They didn't agree to help your wife with an immigration
11 problem?

12 A. To come back to the country. She was going to visit and
13 come back.

14 Q. So they did agree to help you get your wife back in the
15 country, right?

16 A. Correct, uh-huh.

17 Q. What other ways did the government agree to help you?

18 A. In residing legally here in the States.

19 Q. Oh, you know that if you commit a felony in the United
20 States, you can be deported, right?

21 A. It's up to the judge.

22 Q. It's not up to the judge. It's up to Immigration. You
23 know that, don't you?

24 A. No.

25 Q. You didn't know that? Nobody told you that?

1 A. You know, this is a long procedure. It's not an easy
2 thing like if you commit a felony, then you'll be deported.

3 Q. Nobody told you that?

4 A. Told me what?

5 Q. That you would be deported if you were convicted of a
6 felony?

7 A. If you break the law in this country and the government
8 decided that you are to be deported, I think that is an issue
9 there.

10 Q. But you're not going to be deported, correct?

11 A. If I am going to -- yes, sir, uh-huh.

12 Q. You're not going to be deported. And you broke the law in
13 this country, correct?

14 A. I broke the law in this country, yes, sir.

15 Q. And you broke the law in this country not with respect to
16 just material support, you broke the law in this country when
17 you lied to the government, correct?

18 A. Correct, uh-huh.

19 Q. You broke the law in this country when you embezzled
20 money, correct?

21 A. Correct.

22 Q. And then you broke the law in this country when you
23 continued to give material support to Hamas post-1995,
24 correct?

25 A. Correct, uh-huh.

1 Q. But you're not going to be deported.

2 A. Correct.

3 Q. The government's going to help you with that.

4 A. Correct.

5 Q. You can't go back to home, can you?

6 A. I can.

7 Q. You can go back to home? You're not afraid that the
8 Israelis would prosecute you?

9 A. I -- I don't know, sir.

10 Q. You don't know.

11 A. No.

12 Q. But you know that the Israelis have -- you've talked about
13 it in your direct-examination, that there's a relationship
14 between the Israelis and the United States, correct?

15 A. It's very well known, yes, sir.

16 Q. Very well known. And you know that all the information
17 that you gave to the United States would probably be given to
18 the Israelis, correct?

19 A. I don't know about that, sir.

20 Q. Well, you're concerned about it, aren't you?

21 A. I am concerned, but I don't know for a fact.

22 Q. But you are concerned about it, right?

23 A. Yes, sir.

24 Q. And if you go home to the occupied territories, you could
25 be prosecuted, correct?

1 A. But now Gaza is not under the occupation, the Israeli
2 occupation.

3 Q. Okay. That's a recent phenomenon, correct?

4 A. One year, yes, sir.

5 Q. All right. So you're not worried about it because Gaza is
6 not under the occupation anymore?

7 A. Correct.

8 Q. But when Gaza was under the occupation, you would be
9 worried about it.

10 A. I think so.

11 Q. And if you were from the West Bank, you'd still be worried
12 about it, correct?

13 A. Correct.

14 MR. MOFFITT: Let me check.

15 THE COURT: Okay.

16 MR. MOFFITT: I have no further questions.

17 THE COURT: Mr. Deutsch?

18 MR. DEUTSCH: Yes.

19 CROSS-EXAMINATION

20 BY MR. DEUTSCH:

21 Q. Mr. Shorbagi --

22 A. Yes, sir.

23 Q. -- I represent Muhammad Salah.

24 A. Yes, sir.

25 Q. You've never met Mr. Salah, have you?

1 A. No, sir.

2 Q. Now, I want to discuss with you some of the interviews
3 that you gave to the FBI concerning this envelope that was
4 allegedly found in your house, okay?

5 A. Okay.

6 Q. Now, the first time you were confronted with it was on
7 April 28th, 2006, is that right?

8 A. I think so, yes, sir.

9 Q. Okay. And at that time, you were being interviewed by an
10 agent by the name of Rotti, R-O-T-T-I, right?

11 A. Rotti, uh-huh, yes, sir.

12 Q. And he's sitting right here in the courtroom today, right?

13 A. Correct, yes, sir.

14 Q. Did you know he was going to accompany you up here to
15 watch your testimony?

16 A. He got to be because I'm under the -- yes, sir. Uh-huh,
17 yes, sir.

18 Q. Now, Mr. Rotti, Agent Rotti actually showed you an open
19 manila envelope, right? Golden envelope, right?

20 A. Yeah, with a little tape, very old tape on it, yes.

21 Q. Okay. In fact, he actually took a document out of that
22 envelope and showed it to you, right?

23 A. Not that day.

24 Q. Well --

25 A. No, I'm sorry. I'm sorry. I mean when he showed me the

1 envelope, I was surprised, and then I said, no, this is not my
2 envelope. Then I looked on the back, and there I saw my
3 handwriting, private, and I was -- I was not happy to see that
4 package.

5 And then, yes, I think either he got the documents
6 from the package or I got the documents and was reading the
7 first page, yes, sir.

8 Q. You don't remember exactly, right?

9 A. I don't remember if he, like, pulled those documents from
10 inside or I got -- or he was telling me see what is inside.

11 Q. Well, if I showed you the report that Agent Rotti wrote on
12 April 28th, might that refresh your recollection?

13 A. Yes, sir, uh-huh.

14 MR. DEUTSCH: Okay. Can I approach the witness,
15 Judge?

16 THE COURT: You may.

17 BY MR. DEUTSCH:

18 Q. Just read this first --

19 A. Line?

20 Q. -- first paragraph, read it to yourself.

21 Just read it to yourself, and then I'll ask you a
22 question.

23 A. Yeah, that's what I'm doing now.

24 Q. All right.

25 A. Okay.

1 Q. Okay. Is it not true, sir, that you viewed a document
2 written in Arabic which was contained in a gold manila
3 envelope?

4 A. Correct, uh-huh.

5 Q. And that document was written in Arabic, right?

6 A. Correct, yes, sir.

7 Q. And it was handed to you by Agent Rotti, right?

8 A. What happened is --

9 Q. Just yes or no, was it handed to you by Agent Rotti?

10 A. Yes, uh-huh.

11 Q. Okay. And you looked at the document, and then you looked
12 at the envelope, right?

13 A. No, no, no. I looked at the envelope first and then I
14 looked at the documents.

15 Q. Okay. And they said that the document was found in a
16 briefcase, right?

17 A. Correct, uh-huh.

18 Q. And you said that you didn't know how it got into -- it
19 was your briefcase, but you said you didn't know how it got
20 into your briefcase, right?

21 A. Exactly, yes, uh-huh.

22 Q. And at that point, you were denying that that document
23 belonged -- someone -- you were implying that someone put it
24 in your briefcase, right?

25 A. Yes, uh-huh.

1 Q. Okay.

2 A. I'm sorry, that was -- the last line you said, what was
3 it?

4 Q. The implication was that you don't know how it got into
5 your briefcase, you didn't put it in your briefcase.

6 A. Exactly. I was so surprised to see it -- to see that
7 document there, right, that envelope.

8 Q. And you told him this is not my document. I don't know
9 how it got in my briefcase, right?

10 A. Yes, uh-huh.

11 Q. Okay. And then -- you were shocked by it, though, right?

12 A. Exactly, yes.

13 Q. Okay. And then this was on April 28th, right?

14 A. Right, uh-huh.

15 Q. Then on May 17th, you had another interview with Agent
16 Rotti, correct?

17 A. Correct, uh-huh.

18 Q. And he again showed you the envelope, did he not?

19 A. Correct, uh-huh.

20 Q. And you told him that you don't believe that the
21 envelope -- you ever opened that envelope, correct?

22 A. True.

23 Q. And you also told him that you do not recall reading
24 anything in the envelope, right?

25 A. True.

1 Q. And then you stated that you did not read any of the
2 documents from the envelope, absolutely not, right?

3 A. True, true.

4 Q. So first you told him in April that you don't know how the
5 envelope got into your briefcase.

6 A. Uh-huh.

7 Q. And then in May 17th, you told him that you -- the
8 envelope was never opened and that you absolutely not read any
9 document in there, correct?

10 A. Correct.

11 MR. DEUTSCH: Okay. Just one second.

12 (Pause.)

13 BY MR. DEUTSCH:

14 Q. Then on five days later on May 22nd, you were interviewed
15 again. This time you were interviewed by Mr. Benavides,
16 right? He's the agent that's sitting at the table here with
17 the yellow tie.

18 Do you remember being interviewed by him? He came
19 down to Atlanta and interviewed you?

20 A. No, I don't --

21 Q. You don't remember seeing Mr. Benavides ever?

22 A. Is he here?

23 Q. Yeah. He's right here with the yellow tie right at the
24 end of the table?

25 A. Oh, oh, I'm sorry. Oh, yes, yes. I'm sorry, yeah, right.

1 I'm sorry, I know him -- fine, yes, uh-huh.

2 Q. And he was an agent from Chicago, correct?

3 A. Correct, yes, sir.

4 Q. Okay. And you told Agent Benavides that the first time
5 you saw the opened package, the opened envelope and its
6 contents was when Agent Rotti showed them to you after they
7 had been seized from the briefcase, right?

8 A. Yes, uh-huh -- no, no, okay, if I said the statement based
9 on that after such a long years, that was the first time I saw
10 the package, yes.

11 Q. And you were saying that the package that -- the first
12 time you saw that package opened was when the FBI had opened
13 it and showed it to you, right?

14 A. No, the FBI did not open it, sir.

15 Q. I'm sorry, I didn't understand your answer.

16 A. The FBI did not open the package. The package was opened.

17 Q. Well, did you tell Agent Benavides that the first time you
18 saw the opened package and its contents was when Special Agent
19 Rotti showed them to you after they had been seized from your
20 briefcase by the FBI?

21 A. Correct, uh-huh.

22 Q. Okay.

23 A. That's what I'm saying. When Mr. Rotti, the FBI, showed
24 me the package, the package was already opened. I did not
25 open the package.

1 Q. You didn't open it, though, right?

2 A. No, I did open it, sir.

3 Q. But you didn't tell Agent Benavides you opened it, right?

4 A. I mean, listen, this thing happened in '96. Then we're
5 talking about 2006.

6 Q. Well, sir, you're testifying about things that happened in
7 1990, in 1992 and '94 to this jury. You want them to believe
8 you about that, right?

9 A. Right.

10 Q. So you're telling me that what happened in '96 you don't
11 remember anymore?

12 A. No, I remember, sir. That's what happened later on.

13 Q. All right. So let me ask you this then.

14 A. All right.

15 Q. Did you state to Agent Benavides that you never opened the
16 package and never reviewed its contents?

17 A. If I said that, that was wrong, sir.

18 Q. Well, you weren't wrong. You were lying, right?

19 A. Or -- I'm not actually sure that I said the statement,
20 sir.

21 Q. Well, on 4-28 you told one story, that you don't know how
22 the package got in your briefcase.

23 A. Uh-huh.

24 Q. On 5-17, you said you absolutely not saw any documents or
25 never read any documents in that envelope, right?

1 A. Right, uh-huh.

2 Q. And then on 5-22 to this agent here, you said that you
3 never saw the opened package and that you never reviewed its
4 contents.

5 A. Correct.

6 Q. So is it fair to say -- and then you said to Agent
7 Benavides that you thought it was possible that Mr. Hindi
8 opened the package at your house to review its contents, but
9 since Hindi was in the middle of moving may have left the
10 package with you for safe keeping.

11 A. Correct, yes, uh-huh. I remember saying that, right.

12 Q. That was a lie?

13 A. That was a lie, yes, sir.

14 Q. So you lied on April 28th one lie, on May 17th, you told a
15 different lie, and then to this agent here in Chicago, you
16 told yet another lie, right?

17 A. No. You've got to understand one thing that when I opened
18 the package --

19 Q. Just answer my question.

20 A. Okay.

21 Q. Is it false what you told Agent Benavides on May 22nd?

22 A. Based on few seconds in 1996, I did not recollect what
23 happened on those seconds in 1996. That's why I made those
24 statements, sir.

25 Q. Okay, but that's what I'm trying to understand. On

1 April 28th, you were first confronted with the package.

2 A. Correct, yes.

3 Q. And you're saying you were taken by surprise, and it
4 happened so long ago that you just said I don't know how it
5 got there, okay?

6 A. Correct, correct.

7 Q. But then you had three weeks almost to think about it when
8 Agent Rotti again confronted you with it, and you still lied,
9 right?

10 A. True -- no, no, no. The thing is I still did not remember
11 exactly what happened to that package because it took only
12 probably a minute to open, close it, put it back. So that
13 minute, among all this time 1996, I did not remember that
14 exactly what happened in that exact minute.

15 Q. Okay, here's my question.

16 A. All right.

17 Q. That happened on April 28th, correct?

18 A. Correct.

19 Q. That was the first time he showed you the package and
20 opened it, right?

21 A. Uh-huh.

22 Q. And you're saying that you were so surprised by it, you
23 didn't remember it, you were taken by surprise.

24 A. Correct.

25 Q. Now it's May 17th, okay? It's like 20 days later, and now

1 he's showing you the package again and it's opened and you've
2 had time to think about it now for 20 days, right?

3 A. Well, not exactly.

4 Q. Well, not exactly.

5 Okay. But then you told him you didn't read any
6 documents in there, absolutely not, right?

7 A. True.

8 Q. You weren't surprised then on May 17th, were you?

9 A. I'm sorry?

10 Q. Were you surprised by the fact that Agent Rotti showed you
11 this package and these documents on May 17th?

12 A. No, I was not.

13 Q. Okay. And then five days later, another agent comes from
14 Chicago, and you're not surprised then when he's asking you
15 about the package, are you?

16 A. No.

17 Q. And you tell that agent that you never opened the package
18 and you never read its contents.

19 A. Exactly.

20 Q. You weren't surprised when you told him that.

21 A. No.

22 Q. That was a calculated lie, right?

23 A. That was based on loss of a memory for one minute in
24 these -- all these years, sir.

25 Q. What -- what minute was it that you lost your memory?

1 A. The minute that opening the package, looking at it, put it
2 back. I did not remember exactly what happened in that minute
3 ten years ago.

4 Q. Okay. But I think we're having a communication
5 difficulty.

6 A. Okay.

7 Q. I can understand on April 28th, the first time you're
8 confronted with that package and you see it, you could forget
9 it. It happened long ago, and you could be surprised by it.

10 But what I don't understand is why you're still
11 surprised on May 17th and still surprised on May 22nd. Do you
12 have an answer for that?

13 A. The same answer, sir.

14 Q. You're just surprised, surprised over and over again.

15 A. No, it's not surprise. Losing the memory for that one
16 minute.

17 Q. So you lost your memory three different times for one
18 minute each time.

19 A. Trying to remember exactly what happened, sir.

20 Q. And when you created this story about Mr. Hindi actually
21 coming to open the package, that was as a result of you losing
22 your memory, too?

23 A. Wrong, sir.

24 Q. What was that about?

25 A. That was the truth, sir, about it.

1 Q. That's the truth?

2 A. Exactly.

3 Q. So that when you told Mr. Benevides on May 22nd that you
4 never opened the package and never reviewed its contents,
5 that's true?

6 A. What I'm saying, sir --

7 Q. Answer my question.

8 A. Uh-huh.

9 Q. When you told Agent Benavides that you never opened the
10 package and never reviewed its contents, is that true?

11 A. That's not true.

12 Q. Okay. So you lied to Agent Benavides, too, right?

13 A. I mean you can call it lie, but I call it loss of memory
14 for that one moment.

15 Q. So let me see if we're straight on terms.

16 A. Uh-huh.

17 Q. When you say something that's not true, you can refer to
18 it as a loss of memory.

19 A. No, no, sir. What I'm saying is one minute in those all
20 years, so that is a problem to remember that exactly one
21 minute what happened in that one minute.

22 Q. Sir, it's not one minute. It's three different occasions
23 separated by one 20 days and another five days. You had a
24 chance to reflect on it, didn't you?

25 A. Sir, you have a lot of things in your life to worry about

1 rather than one minute.

2 Q. All right. Here's what I want to find out. When you came
3 on to this witness stand and raised your hand and said you're
4 going to tell the truth --

5 A. Right.

6 Q. -- you told this jury that you had actually opened the
7 package and read some of the documents, right?

8 A. Correct.

9 Q. Now, I want to find out after May 22nd, when was the next
10 time you talked to an FBI agent, if you remember?

11 A. After May 22nd?

12 Q. Yeah, after you told Mr. Benavides that you never opened
13 the package and never read its contents, when's the next time
14 you talked to an FBI agent?

15 A. I think two weeks after that, sir.

16 Q. And that would have been sometime in June, June 6th?

17 A. Correct.

18 Q. And who did you speak to then?

19 A. I think Mike Rotti.

20 Q. Okay. And at that time did you tell Mr. Rotti, hey, I
21 lost my memory. I now have it back. I did open the package,
22 and I did review some of the contents?

23 A. No, that did not happen like this.

24 Q. Okay. When was the first time you told -- well, strike
25 that.

1 After you met with Mr. Rotti in June of 2006, when
2 was the next time you met with anyone from the government?

3 A. After June?

4 Q. Yeah, after June 6th.

5 A. Maybe --

6 Q. I won't hold you to a specific date, but more or less.

7 How much -- how many days after June 6th?

8 A. Maybe a week.

9 Q. And was that Mr. Rotti, too?

10 A. One minute, please. I think so, yes, uh-huh.

11 Q. And did there come a time when Mr. Schar came down to
12 Atlanta and spoke to you?

13 A. The same time as the FBI, yes, sir.

14 Q. The same time as Mr. Benavides did.

15 A. Correct, yes, sir.

16 Q. So you were lying to Mr. Schar as well. But apparently
17 Mr. Schar at some point in order to put you on direct found
18 out some other story that you told because you told this jury
19 that you did open the package and review the documents, right?

20 A. That is --

21 Q. When did you first tell anybody from the government that
22 you opened the package and reviewed the documents?

23 A. It could be in the same -- within that same time.

24 Q. What time?

25 A. May, June.

1 Q. Well, do you have a specific recollection of sitting in a
2 room with agents of the U.S. Government and telling them,
3 look, I lied on April 28th, I lied on May 17th, I lied on May
4 22nd, but now I'm going to tell you the truth.

5 A. Sir, I just said --

6 Q. Just answer my question. Do you have a specific
7 recollection?

8 A. No, I don't have a specific recollection, sir.

9 Q. Do you know when you finally told the truth?

10 A. Yeah, I kept --

11 Q. It wasn't just here in this courtroom for the first time,
12 was it?

13 MR. SCHAR: It's compound, there are multiple
14 questions.

15 MR. DEUTSCH: I'm sorry. Let me rephrase the
16 question.

17 THE COURT: Okay.

18 BY MR. DEUTSCH:

19 Q. You're not saying that the first time you told anyone from
20 the government that you reviewed those documents in that
21 envelope --

22 A. I'm sorry, I lost you for a second there. I was thinking
23 of another thing.

24 Go ahead, I'm sorry.

25 Q. What are you thinking of?

1 A. I'm sorry.

2 Q. You'd rather not be here, is that what you're thinking of?

3 A. No, no, I was thinking of you, sir. Go ahead, what was
4 the question?

5 Q. My question is I'm trying to find out you testified --
6 strike that.

7 You testified in this court before this jury that you
8 opened that envelope.

9 A. Correct, yes, uh-huh.

10 Q. And looked at the -- and skimmed the papers inside, right?

11 A. Correct, correct.

12 Q. And I'm trying to find out when you first told somebody
13 that version of the facts?

14 A. That's what I'm saying, sir. I kept working it in my mind
15 until I knew what exactly happened.

16 Q. Okay. But my question is when did you finally recall
17 that?

18 A. That's a tough question when because I don't know exactly
19 when, but once I knew exactly what happened, I remember
20 exactly what happened, then I said what happened.

21 Q. Do you remember who was present when you finally said
22 that -- gave that version?

23 A. The agents, the FBI agents.

24 Q. Do you know if the agents were taking down notes when you
25 gave that version?

1 A. I think they were taking notes. I'm not sure.

2 MR. DEUTSCH: Judge, we do not have any document that
3 reflects Mr. Shorbagi changing his story yet again, and so I'm
4 wondering about that.

5 MR. SCHAR: Judge, that is an inaccurate statement.
6 There's a motion in limine on discovery requests. I have it
7 right here. It's been provided to the defense.

8 THE COURT: Why don't you show that to Mr. Deutsch so
9 he sees what you're referring to.

10 (Tendered.)

11 MR. MOFFITT: Can I see it?

12 MR. DEUTSCH: Yeah, apparently neither of us received
13 this.

14 THE COURT: If there's an issue for the Court,
15 Mr. Deutsch, let's take it at side bar.

16 MR. DEUTSCH: Okay. Let's -- Judge, we do need a
17 side bar.

18 (Proceedings heard at side bar:)

19 THE COURT: Can I see?

20 MR. DEUTSCH: Yes, sure.

21 There's a lot of documents in this case, so I'm not
22 accusing anyone of -- but I've never seen this document, and I
23 don't know if Mr. Moffitt has seen it or not.

24 THE COURT: This is a one -- a 302, just for the
25 record, a page and a quarter from --

1 MR. DEUTSCH: 8-28.

2 THE COURT: -- 8-28, 2006.

3 MR. SCHAR: And Bates stamped, Judge --

4 THE COURT: Bates stamped --

5 MR. SCHAR: -- pursuant to the protective order that
6 you entered.

7 THE COURT: The Bates stamp is 03 CR 978 021484
8 through 85.

9 MR. DEUTSCH: I have never seen it. If Mr. Moffitt
10 doesn't have it, then there's a problem. If he has it, then
11 it's my --

12 MR. MOFFITT: I'm just checking, your Honor, but last
13 document I have, these were the documents that were sent to me
14 over the break because I had gotten a series of documents, as
15 you remember, that I could not read. The last one I have is
16 815.

17 THE COURT: Okay. I know a handful --

18 MR. SPIELFOGEL: Are you saying they were in the 3500
19 material?

20 MR. SCHAR: Not the original 3500 material because
21 this is a later dated --

22 THE COURT: A handful of things were turned over in
23 court yesterday, too, where there were redactions --

24 MR. SCHAR: There was a cover letter as well that
25 talked about everything, including all the Bates-stamped

1 numbers, so if there was some issue in them not getting it,
2 which I don't understand there to be, all they had to do was
3 ask.

4 My understanding it was the full Bates stamp that was
5 under the protective order, which is actually why we've
6 actually Bates stamped it ahead of time to cover the
7 protective order, was all turned over. If they need
8 additional copies, I have additional copies.

9 THE COURT: Even if you didn't get it, you have it
10 now, and it's short.

11 MR. DEUTSCH: Yes. I'm prepared to go forward.

12 THE COURT: Okay. You can go forward. If you feel
13 like you want to look at it and reopen your cross --

14 MR. MOFFITT: I'd like to look at it, but --

15 THE COURT: But if you want to reopen your cross for
16 any reason, you can do it, or you can ask Mr. Deutsch to ask
17 the question.

18 MR. MOFFITT: I'm sure Mr. Deutsch will handle it
19 well.

20 THE COURT: I'm sure he will.

21 MR. MOFFITT: I would just like to read it.

22 THE COURT: Okay. Just so you know, I'm going to go
23 until about 25 after 3:00. I have a conference call I have to
24 take at 3:30, so keep going until about 25 after.

25 (Proceedings heard in open court:)

1 THE COURT: You may continue when you're ready,
2 Mr. Deutsch.

3 MR. DEUTSCH: Thank you, Judge.

4 BY MR. DEUTSCH:

5 Q. Mr. Schar was kind enough to give me a copy of the
6 document, and do you remember being interviewed by Mr. Rotti
7 in August 28th of 2006?

8 A. August 28th, 2006?

9 Q. Yes, sir.

10 A. That's after the plea agreement, yes, sir.

11 Q. Okay. And do you recall telling Mr. Rotti that you
12 received the envelope 11 years ago and you did not recall what
13 you glanced at and you were allowed to view the first page of
14 the enclosure and you still did not recall or remember
15 specifically reading the enclosed documents?

16 A. Correct.

17 Q. Now, you testified here, and correct me if I'm wrong, that
18 you did, in fact, read some of the documents enclosed, right?

19 A. I did, sir.

20 Q. So this was yet another lapse of memory?

21 A. Correct, yes, sir.

22 Q. Okay. So this is the fourth time you've told a different
23 story about this envelope, correct?

24 A. Correct.

25 Q. Okay. When did you finally tell the story that you told

1 to this jury on direct-examination? When was the first time
2 you told -- you told that story?

3 A. Probably on that day, August 28th, when I said I flipped
4 through the pages. I remembered some of the things.

5 Q. Well, Agent Rotti wrote a report of his interview with you
6 on August 28th.

7 A. Okay.

8 Q. You want to look at it just --

9 A. No, I remember the interview. I remember it was after the
10 court date.

11 Q. And you told him then that you didn't recall reading any
12 of the enclosed documents.

13 A. No, no, no. Sir, what happened is I was reading the first
14 page, and then there is like 40 pages in there. In one
15 minute, I was reading like one word here, one word there, one
16 word there and got it back into the package. So that was the
17 loss of one minute there, sir.

18 Q. That was another lapse of your mind for one minute.

19 A. That was another time that I did not remember exact what
20 happened in that one moment, sir.

21 Q. And but when did you -- when did your memory come to the
22 point where you were able to now testify under oath that you
23 read the first couple of pages of the document?

24 A. That's what I'm saying, sir. I was able to retrieve my
25 memory into reading the first page, but even those pages I did

1 not remember on these pages just like a few words here and
2 there, sir.

3 Q. Well, you read to this jury, did you not, the cover letter
4 that was sent with the documents?

5 A. That's what I'm saying, the first page, the cover letter,
6 right, uh-huh.

7 Q. And you told Agent Rotti on August 28th that you -- you
8 had no memory of reading the enclosed document -- you do not
9 recall or remember specifically reading the enclosed
10 documents.

11 A. Yes, sir. I did not have any memory of what's the inside
12 the package there.

13 Q. Do you -- and you're saying that that very day, you then
14 remembered what you testified to here on direct-examination?

15 A. I'm sorry?

16 Q. Well, I'm trying to find out when your memory got to the
17 point where you remembered as you testified here on
18 direct-examination?

19 A. I really can't tell you when exactly, sir.

20 Q. Well, was it yesterday?

21 A. It sure wasn't yesterday.

22 Q. Well, I take it before you got on the witness stand, you
23 sat down with Mr. Schar, and he went over the questions that
24 he was going to ask you, right?

25 A. Correct.

1 Q. And you did like a role play. He asked you the question,
2 and you'd give the answer, right?

3 A. Correct.

4 Q. And when was that?

5 A. It was I think back in September and two days ago.

6 Q. So you did it once in September. Was that in Atlanta?

7 A. No, it was here.

8 Q. You came up to Chicago and did it in his office?

9 A. Correct.

10 Q. And how long -- for how long did you spend doing that?

11 A. I think one day.

12 Q. Okay. How many hours did you spend?

13 A. Hmm, I would imagine probably maybe four, five hours.

14 Q. Okay. And do you recall whether was it that time you said
15 to Mr. Schar what you testified to on direct?

16 A. No, sir, it was before that.

17 Q. It was before that.

18 A. Correct, sir.

19 Q. So it was sometime after the August 28th interview with
20 Mr. Rotti and your September rehearsal with Mr. Schar?

21 A. As I said, sir, on September 28th, I recognized seeing the
22 first page. After that, I also recognized seeing some of the
23 names inside that package.

24 Q. You may have misspoke. You said September 28th.

25 A. I'm sorry, August 28th.

1 Q. But did you say that all to Mr. Rotti on August 28th?

2 A. That's what I'm saying, sir. That's the statement right
3 there. That I remember -- I did not remember exactly the
4 content of the package because I went through it very quickly,
5 sir.

6 Q. But you testified here on direct that you now recall
7 reading the cover letter and some pages of the enclosed
8 documents, right?

9 A. I recall that before August the 28th, yes, sir.

10 Q. You recall that before August 28th.

11 A. That's what I'm saying, August 28th.

12 Q. On August 28th.

13 A. And it could be before that also. That's when I said the
14 statement on August 28th.

15 Q. But his report doesn't say that.

16 A. I'm saying myself, sir, not to Rotti.

17 Q. Oh, in your mind. You didn't tell him that, but you
18 realized that in your mind.

19 A. Yeah, after this question, I start -- keep thinking about
20 this thing, and then on 28th, the question came back. That's
21 what I said, sir.

22 Q. Did you actually go home and think about it, or were you
23 with Mr. Rotti when you realized it?

24 A. No, I was driving thinking about it, sir.

25 Q. Okay. Did you call up Mr. Rotti and tell him look, hey,

1 now I realize what the truth is?

2 A. No, I did not call him and tell him.

3 Q. When did you tell Mr. Rotti this?

4 A. That's what I'm saying, sir, when the question came back
5 on August 28th, I said that, sir.

6 Q. Sir, this is Mr. Rotti's 302 interview. Just read this to
7 yourself and see if this indicates that you told him that now
8 you remember reading the cover letter and other documents?

9 MR. SCHAR: Judge, he hasn't indicated he needs his
10 recollection refreshed. He shouldn't be impeached with
11 someone else's document.

12 MR. DEUTSCH: I'm not impeaching him. I'm just
13 trying to get him to --

14 MR. SCHAR: He's asking him to read Agent Rotti's
15 report.

16 THE COURT: I think he said read it to himself.

17 MR. DEUTSCH: Right.

18 THE COURT: Overruled.

19 BY THE WITNESS:

20 A. That's what I am saying, sir. The statement says that he
21 does not -- if you don't mind to keep it for me a second.

22 BY MR. DEUTSCH:

23 Q. Read it to yourself.

24 A. I read it, but I want to explain that.

25 Q. Okay. But I'm going to take it from you. Then I'll ask

1 you about it.

2 A. Okay, good.

3 Q. All right. Did you tell him that now you recall -- on
4 August 28th, now you recall reading the cover letter and some
5 pages of the enclosed documents?

6 A. That's what I'm saying, sir. When I was thinking before
7 that, true.

8 Q. Did you tell him that?

9 A. Yes, uh-huh.

10 Q. But it's not in his report, correct?

11 A. I don't see.

12 Q. Pardon?

13 A. On August 28th, I still was saying that I did not really
14 remember exactly what happened --

15 Q. Okay.

16 A. -- but --

17 Q. When? When did you remember? That's all I'm asking you
18 right now. When did you finally remember?

19 A. See, that's the question I'm trying even to remember when
20 did this happen, but I remember reading that cover letter,
21 sir.

22 Q. When did you first remember reading the cover letter?

23 A. As I'm saying, it could be sometime in July, sometime in
24 August, around those dates.

25 Q. Now, you mentioned that -- July and August, but then you

1 had an interview with Rotti at the end of August, and you
2 still were telling him you don't recall reading the documents.

3 A. That's what I'm saying, sir. I was still working on my
4 memory for that.

5 Q. Okay. When did your memory finally reach the point where
6 you could say under oath, hey, I read those documents?

7 A. That's what I'm saying. Starting sometime in August and
8 going back August 28th and so on, sir.

9 Q. You did say that you met with Mr. Schar in September for
10 five hours, is that right?

11 A. Yes, could be, uh-huh.

12 Q. And then you met with him again?

13 A. Yeah, two days ago, yes, sir.

14 Q. And for how many hours did you meet with him again?

15 A. Two days, what, Thursday -- probably two, three -- two,
16 three hours maybe.

17 Q. And in the September meeting you had with Mr. Schar, did
18 you tell him then that you read the cover letter and some
19 pages of the other documents?

20 A. Correct.

21 Q. Okay. And -- but you're saying -- did you tell anyone
22 prior to that, any government official, agent of the
23 government?

24 A. I don't recall, sir.

25 Q. Okay. Now, part of your plea bargain in this case is you

1 have to come in here and testify, right?

2 A. Part of the plea agreement, to --

3 Q. Testify in this case, right?

4 A. Not part of the plea agreement. Part of the agreement to
5 cooperate with the government, yes, sir.

6 Q. And the government, part of that cooperation is to come in
7 here and testify, right?

8 A. Correct, yes, uh-huh.

9 Q. And it's been pointed out that your testimony has to be,
10 in the eyes of the government, truthful, right?

11 A. In the eyes of myself, sir, before the government.

12 Q. Well, but regardless of what you think about your
13 testimony, if the government thinks it's not truthful, then
14 they're not going to make a recommendation to the judge,
15 right?

16 A. Well, I don't know about that, but I'm talking about
17 myself, sir.

18 Q. Yeah, I'm asking you whether or not your understanding is
19 is that if the government doesn't think that you're testifying
20 truthfully, that they will not make a recommendation to the
21 judge as to your sentence.

22 A. It's up to the government. I'm saying up to me I have to
23 say the truth, sir.

24 Q. And did you know that the prosecutor from Georgia would be
25 sitting here in the front row judging your testimony?

1 A. I don't know that.

2 Q. Well, do you feel like she's evaluating the truthfulness
3 of your testimony as you sit here?

4 A. I know my lawyer will, sir.

5 Q. Well, your lawyer doesn't make the recommendation to the
6 judge, does he?

7 A. The lawyer along with the prosecution will, sir.

8 Q. Now, you testified that one of the things that you agreed
9 to do was be on some kind of media committee after a MAYA
10 conference, right?

11 A. For Hamas, yes, sir.

12 Q. And one of the things that you'd do as part of the media
13 committee is to monitor the television as to information about
14 Hamas, correct?

15 A. Correct, yes, sir.

16 Q. There's nothing illegal about that, right?

17 MR. SCHAR: Judge, I simply object to that in terms
18 of a legal conclusion.

19 THE COURT: Sustained.

20 BY MR. DEUTSCH:

21 Q. Well, did you think you were doing anything illegal when
22 you were watching television and writing reports about what
23 was being said about Hamas?

24 A. Not watching TV, but making the report something else.

25 Q. The reports you thought were illegal.

1 A. No, no, no, not making the report, but what is adding this
2 report with others for decision makers in Hamas.

3 Q. Now -- and as part of that legal committee work, you
4 testified that what people may have said, what Palestinians
5 may have said under detention in the occupied territories may
6 be of some interest to you.

7 A. I'm sorry, I don't really understand the question.

8 Q. Okay. I'll rephrase it.

9 The government asked you whether or not it was
10 important or relevant to your media work to know what
11 Palestinians might have said under detention and interrogation
12 in the occupied territories, correct?

13 A. No, I don't -- I don't really understand your question,
14 but my answer could be no, sir.

15 Q. Well, didn't you testify that there was a document that
16 you may have read or did read or skimmed or didn't skim that
17 had to do with a confession, alleged confession that Mr. Salah
18 gave to the Israelis?

19 A. Yeah, but that was not part of my job, sir.

20 Q. Okay. So it wasn't part of your job to follow what was
21 going on with people who were under interrogation in the
22 occupied territories.

23 A. No, I'm saying from that package, sir.

24 Q. From that package, but you did say that it was something
25 of interest to you what happened in the occupied territories

1 when people were arrested, right?

2 A. Well, yeah, absolutely, yeah.

3 Q. And you know, in fact, that Shaba'k, Shin Bet
4 systematically tortures people to get confessions, don't you?

5 A. No, I don't know about that, sir.

6 Q. You didn't know about that? You never read anything about
7 that?

8 A. Yeah, I read about that, but I'm saying you're asking is
9 just like a fact did I ever, being into that or seeing that,
10 no, sir.

11 Q. Well, I know you never experienced it, right?

12 A. True, yes, sir.

13 Q. You were never arrested by the Israelis?

14 A. No, sir.

15 Q. Okay. But as part of your collecting information,
16 watching the TV, reading the newspapers, going on the
17 Internet, did you ever learn about the systematic use of
18 torture against Palestinians under interrogation?

19 A. Yes, sir.

20 Q. And you knew they routinely have certain methods which
21 they coerced people to give information, right?

22 MR. SCHAR: At this point, just a foundation issue.

23 THE COURT: Sustained.

24 BY MR. DEUTSCH:

25 Q. Well, where did you learn about the Israeli interrogation

1 methods?

2 A. In the web site, in newspapers and my family, friends.

3 Q. You had friends or family that experienced that
4 interrogation?

5 A. Relatives.

6 Q. Relatives. They were tortured by the Shin Bet?

7 A. Yes.

8 Q. And when was that, sir?

9 A. That was --

10 Q. Do you want a drink of water?

11 A. I'm sorry?

12 Q. I just asked if you wanted to take a break.

13 THE COURT: We're going to take one in about
14 15 minutes.

15 MR. DEUTSCH: Okay.

16 THE COURT: If you need one, let me know.

17 THE WITNESS: Okay. No, that's okay.

18 BY MR. DEUTSCH:

19 Q. Can you tell us when that was?

20 A. It was during the first Intifada.

21 Q. And was that sometime after 1987?

22 A. Yes, sir.

23 Q. Was it in the early '90s?

24 A. Yes.

25 Q. And was it a relative of yours?

1 A. Correct.

2 Q. And who -- what kind of relative was it?

3 MR. SCHAR: At this point, just object to the
4 relevance and foundation.

5 MR. DEUTSCH: Judge, I think it's relevant because
6 here's somebody that is allegedly part of this media group
7 that's collecting information, and the government wants to
8 make a big deal about how these statements were found, and I
9 think I'm entitled to show what his job is and what he knew
10 from it.

11 THE COURT: Overruled.

12 You can answer.

13 THE WITNESS: I'm sorry, rephrase the question again,
14 sir.

15 BY MR. DEUTSCH:

16 Q. Can you tell us what you learned from your relative, what
17 happened to your relative?

18 A. I mean I did not know specifics, but I know what they said
19 that they went under -- there was some torture to them.

20 Q. You don't know what the methods of the torture was?

21 A. No, sir.

22 Q. Was this a cousin of yours?

23 A. Correct.

24 Q. Now, you were shown some pictures of Hamas people in your
25 direct testimony.

1 A. Correct.

2 Q. And one of them was a man by the name of Shahada, right?

3 A. Salah Shahada, yes, uh-huh.

4 Q. And I think you -- when his picture was flashed, you said
5 he was killed by Sharon, right, isn't that what you said?

6 A. That was, of course, live from breaking news broadcast.

7 Sharon was the prime minister, but he issued the order to kill
8 Salah Shahada.

9 Q. And I think you told the FBI in the course of one of your
10 interviews that -- who is Sharon, by the way, or who --

11 A. He was the prime minister of Israel.

12 Q. And did you tell the FBI in one of your interviews that
13 Ariel Sharon, the prime minister, kills innocent people?

14 A. Yes, sir.

15 Q. And what was that based on, sir?

16 A. Based on several occasions. I mean he was accused by the
17 -- not accused -- but found convicted by the Israeli
18 government itself -- what I'm saying during 1982, he was found
19 guilty of the massacres of Sabra and Shatila in Lebanon and
20 during also the time of killing Salah Shahada when they
21 dropped the bomb on the building that Shahada was there, there
22 were several -- women and children were killed in that certain
23 accident there.

24 Q. They dropped a two-ton bomb on an apartment building,
25 right?

- 1 A. Exactly.
- 2 Q. Now, you were also shown a picture of Yassin, the
3 spiritual head of Hamas, right?
- 4 A. Correct.
- 5 Q. He's in a wheelchair, right?
- 6 A. Yes, sir, he is in a wheelchair.
- 7 Q. And what happened to him, sir?
- 8 A. The same thing, they drop a bomb on him.
- 9 Q. And were you also shown a picture of Rantisi?
- 10 A. Yes, sir.
- 11 Q. And what happened to Mr. Rantisi, sir?
- 12 A. Same thing, they drop a bomb on the car he was riding.
- 13 Q. Sir, isn't it fair to say that the FBI came and arrested
14 you, confronted you with the fact that you had stole a quarter
15 of a million dollars from your employer, and you were in a bad
16 situation, right?
- 17 A. Uh-huh.
- 18 Q. And they told you that you were looking at 20 years on
19 each one of those fraud, wire fraud or mail fraud counts.
20 They told you that, right?
- 21 A. Correct, uh-huh.
- 22 Q. And they told you if you could provide some information
23 about Dr. Ashqar and other people, that maybe that would help
24 your situation, right?
- 25 A. Wrong.

1 Q. Well, didn't you tell -- didn't you ask them specifically
2 if I testify against certain people, will you drop the charges
3 against me?

4 A. Wrong.

5 Q. You didn't say that to them?

6 A. No. I don't remember saying that.

7 Q. Are you saying you don't remember that you said that?

8 A. Correct.

9 Q. Okay. I'm going to ask you to -- I'm going to show him a
10 document and ask him if it refreshes his recollection.

11 MR. SCHAR: Which --

12 THE COURT: What document?

13 MR. SCHAR: The Bates.

14 MR. DEUTSCH: It's Agent Rotti and Reid's 5-15, 2006,
15 302 report.

16 BY MR. DEUTSCH:

17 Q. Why don't you just read this to yourself, this sentence.
18 Just that. Just starting there and ending where the blue
19 ends.

20 A. Okay. I read the statement.

21 Q. Okay. Does that refresh your recollection that you asked
22 the agents that if you did testify against certain people,
23 would they drop the charges against you?

24 A. No. That was during the course of interrogation.

25 Q. Yeah, you wanted -- you wanted them to drop the charges in

1 return for giving them what they wanted, right?

2 A. No, sir.

3 Q. You testified just before that you can go back to Gaza
4 because Gaza somehow is not under Israeli control, right?

5 A. Correct, yes, uh-huh.

6 Q. The Israelis still come in and can arrest people in Gaza,
7 right?

8 A. For some areas, yes, sir.

9 Q. And they can then take them to an interrogation center and
10 interrogate them, right?

11 A. Correct.

12 Q. And they can put them on trial before a military tribunal,
13 right?

14 A. Correct.

15 Q. With soldiers as judges, right?

16 A. Correct.

17 MR. DEUTSCH: I have no further questions.

18 THE COURT: Mr. Schar, redirect?

19 MR. SCHAR: Judge, if we could have a few minutes --

20 THE COURT: You can have a moment, sure.

21 MR. SCHAR: -- just to determine whether or not there
22 is any redirect.

23 THE COURT: Okay. Let me know when you're ready.

24 (Pause.)

25 MR. SCHAR: Judge, I think this is going to take a

1 little bit longer than I thought. Could we take a quick break
2 now?

3 THE COURT: It's going to end up being a little bit
4 longer. As I told you, I have a conference at 3:30 that's
5 going to take about 10, 15 minutes, but -- so we won't -- it
6 will be about a 25-minute break. If you need it, that's fine.

7 MR. SCHAR: I apologize. I think that would be best.

8 THE COURT: Okay. We're going to take a long
9 afternoon break.

10 (Recess from 3:20 to 4:00 p.m.)

11 MR. DEUTSCH: Judge, just in terms of scheduling, I
12 have -- the next witness is Ms. Thompson's witness for us.

13 THE COURT: Okay.

14 MR. DEUTSCH: I'm going to have to leave at 4:30.

15 THE COURT: Okay.

16 MR. DEUTSCH: So I'm going to just walk out.

17 THE COURT: Okay. That's fine. Ms. Thompson will be
18 here.

19 MR. FERGUSON: The reason that he's raising it is
20 that the next witness I expect is going to be about ten to
21 15 minutes on direct. There will be a cross, and it may leave
22 us in the position of having to go to the next witness before
23 5:00, and we will only just be getting into his direct, which
24 is Steve Landes. I believe Mr. Deutsch has Mr. Landes, and
25 clearly we're going to have a substantial break when we've

1 just started the direct.

2 So I think the preference --

3 THE COURT: Do you want to wait until Thursday?

4 MR. FERGUSON: -- is just to wait until we resume.

5 THE COURT: Fine. Are you done with this witness?

6 No, remember, we don't have Monday, Tuesday, Wednesday.

7 MR. DEUTSCH: Oh, yes.

8 THE COURT: Are you done with this witness?

9 MR. SCHAR: We are. I think he should probably come
10 back up and be excused.

11 THE COURT: We'll bring in the witness, bring in the
12 jury. When you're done with the next witness, let me know.
13 It's starting to snow, so I'm fine having everybody leave a
14 little early.

15 MR. SCHAR: We're going to play one phone call.

16 THE COURT: Okay.

17 (Jury enters courtroom.)

18 THE COURT: You may be seated.

19 Mr. Schar, redirect?

20 MR. SCHAR: I am pleased to report we will not be --
21 there will not be any redirect for Mr. Shorbagi. We would ask
22 that he be excused if he could be.

23 THE COURT: Okay. You are excused, sir.

24 * * * * *

25 (End of excerpt.)

CERTIFICATE

We certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

Joseph Rickhoff
Official Court Reporter

Date

Kathleen M. Fennell
Official Court Reporter

Date

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