



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION  
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SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

UNITED STATES OF AMERICA )

v. )

SHAABAN HAFIZ AHMAD ALI SHAABAN )

a/k/a Shaaban Shaaban Hafed )

a/k/a Joe H. Brown, )

Defendant. )

CAUSE NO: IP 05-34-CR-01 T/F

**SUPERSEDING INDICTMENT**

**COUNT ONE**

*Conspiracy to Commit An Offense Against the United States  
Title 18, United States Code, Section 371*

The GRAND JURY charges:

***I. INTRODUCTORY ALLEGATIONS***

At all times material to this Indictment:

**A. The Defendant**

1. Defendant SHAABAN HAFIZ AHMAD ALI SHAABAN [hereinafter also referred to as SHAABAN] was a resident of Indianapolis or Greenfield, Indiana, both locations within the Southern District of Indiana.

2. Defendant SHAABAN HAFIZ AHMAD ALI SHAABAN is known by, and has used a variety of names and variations of his name, including the following: Shaban Shaban Hafed; Joe H. Brown; Shaban Hafiz Ahmad; Shaban

Hafiz Ahmad Ali Shaban; Shaban Ahmad Shaban; Shaban Hafez Shaban; Shaban Hafiz Shaban; Shaban Hafiz Ahmad Shaban; Shaban Hafiz Ahmed; Shaban Hafez; Shaban Hafiz; Shaban Hafed; and Chaaban Hafiz Ahmad Chaaban.

3. Defendant SHAABAN HAFIZ AHMAD ALI SHAABAN maintains two separate and distinct identities, a SHAABAN/BROWN identity and a SHAABAN/HAFED identity.

4. Under the SHAABAN/BROWN identity, defendant SHAABAN HAFIZ AHMAD ALI SHAABAN uses the alias JOE H. BROWN and was born in Dzhariko, Jordan on March 15, 1952. SHAABAN/BROWN was married to Svetlana Anatolevna Shaban. A marriage certificate between SHAABAN/BROWN and Svetlana Anatolevna shows that they were married on June 27, 1972 in Moscow, U.S.S.R. Under Immigration Alien File # A XXX XXX 945, SHAABAN/BROWN has Legal Permanent Resident status in the United States. Using this identity, SHAABAN/BROWN obtained social security number XXX-XX-5009. In May 1997, SHAABAN/BROWN changed his name to Joe H. Brown in the Circuit Court of Cook County, Illinois.

5. Under the SHAABAN/HAFED identity, SHAABAN HAFIZ AHMAD ALI SHAABAN uses the aliases SHAABAN SHAABAN HAFED and SHAABAN HAFED and purports to be born in Lebanon on March 15, 1956. Using this identity, SHAABAN/HAFED obtained social security number XXX-XX-2420.

SHAABAN/HAFED married a United States citizen named Hanan M. Zayed in Cook County, Illinois on June 19, 1994. In or about 1999, SHAABAN/HAFED moved to Indianapolis, Indiana and has resided in Indianapolis, Indiana or Greenfield, Indiana, within the Southern District of Indiana since then. Under Immigration Alien file # A XXX XXX 789, SHAABAN/HAFED sought to become a naturalized United States citizen. In or about 2000, SHAABAN/HAFED notified Immigration officials that his residence changed from Illinois to Indianapolis, Indiana and all notifications and correspondence to and from Immigration officials was sent to the Indiana address. SHAABAN/HAFED was naturalized as a United States citizen in November 2000.

**B. The Government of Iraq**

6. The Government of Iraq (hereinafter also referred to as GOI) is a foreign government. From 1979 to 2003, Iraq was ruled by Saddam Hussein and his regime.

7. Beginning in or about 1990 and continuing until in or about July 2004, the United States of America viewed the GOI as a threat to its national security and declared a national emergency with regard to the GOI. As a result, the United States severed diplomatic relations with the GOI and imposed severe restrictions with respect to conducting transactions with Iraq.

8. The Iraqi Mission to the United Nations (hereinafter also referred to as IMUN) was an Iraqi diplomatic establishment in New York assigned to the

United Nations and represented Iraqi interests at the United Nations. The IMUN was the principal establishment to which Iraqi government officials—including Iraqi Intelligence Service officers – were assigned in the United States. Iraqi Diplomats assigned to the IMUN were allowed to travel only within New York City proper.

9. The Iraqi Intelligence Service (hereinafter also referred to as IIS), known in Arabic as the *Da'irat al-Mukhabbarat al-'Amma*, or the *Mukhabbarat*, was the foreign intelligence arm of the GOI. The missions of the IIS included foreign intelligence collection (the gathering of information regarding the intentions of foreign governments), counterintelligence (the detecting of efforts by foreign governments to gather intelligence about the GOI), and the collection of information regarding individuals and groups considered hostile to the GOI.

10. At no time material to this Indictment was Defendant SHAABAN:
- a. a duly accredited diplomatic or consular officer of a foreign government, recognized by the United States Department of State;
  - b. an officially and publicly acknowledged and sponsored official or representative of a foreign government; or
  - c. an officially and publicly acknowledged and sponsored member of the staff of, or employee of, any such officer, official, or representative of a foreign government.

11. By in or about June 2003, all Iraqi diplomats and other officials assigned to the IMUN by the GOI were ordered to leave the United States.

## **II. THE CONSPIRACY**

12. Beginning no later than Spring 2002, and continuing through 2003, at Indianapolis, Greenfield, and elsewhere in the Southern District of Indiana, as well as various locations outside the Southern District of Indiana, the defendant:

SHAABAN HAFIZ AHMAD ALI SHAABAN

conspired and agreed with others known and unknown to the Grand Jury, to commit an offense against the United States, namely, to knowingly act in the United States as an agent of a foreign government, namely, the Government of Iraq, without prior notification to the Attorney General of the United States as required by law, in violation of Title 18, United States Code, Section 951(a).

### **A. MANNER, AND MEANS OF THE CONSPIRACY**

13. It was part of the conspiracy that defendant SHAABAN communicated with intelligence officers of the IIS at the IMUN and in Iraq.

14. It was further part of the conspiracy that defendant SHAABAN received direction from and acted under the control of co-conspirators who were officers of the IIS.

15. It was further part of the conspiracy that the IIS paid for defendant SHAABAN's travel expenses to Iraq.

16. It was further part of the conspiracy that defendant SHAABAN agreed to acquire names of intelligence operatives who were working with the United States from a third party in another foreign country to sell to the IIS.

**B. OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

17. In furtherance of the conspiracy, and for the purpose of effecting its unlawful objectives, defendant SHAABAN and other unindicted co-conspirators did commit overt acts, in the Southern District of Indiana and elsewhere, including, but not limited to, the following:

- a. At various times throughout the conspiracy, defendant SHAABAN telephonically communicated with IIS Officers located at the IMUN.
- b. At various times throughout the conspiracy, defendant SHAABAN communicated via facsimile with IIS Officers located at the IMUN.
- c. At various times throughout the conspiracy, defendant SHAABAN communicated with Iraqi government officials in Iraq.
- d. On or about October 26, 2002, defendant SHAABAN began a trip to Baghdad, Iraq by taking Air France Flight 55 from Chicago O'Hare airport to Paris, France and then Air France Flight 610 to Damascus, Syria using the name Shaaban Hafed. From Syria, defendant SHAABAN traveled into Iraq.

- e. Between on or about November 1 and November 4, 2002, defendant SHAABAN was in Baghdad, Iraq and stayed at the Al Rashid Hotel where he met with IIS Officers.
- f. In November 2002 while in Iraq, defendant SHAABAN offered to sell IIS Officers the names of approximately 60 intelligence agents and operatives working with the United States who were currently in Iraq or who would be entering Iraq for the sum of \$5 million U.S. dollars. Defendant SHAABAN agreed to acquire names of intelligence operatives who were working with the United States from a third party in another foreign country to sell to the IIS.
- g. In November 2002 while in Iraq, during discussions with IIS officers, SHAABAN lowered his asking price to the sum of \$3 million U.S. dollars for the intelligence information, however, the IIS officers required that defendant SHAABAN provide a sample of the information before determining the final amount for the information.
- h. In November 2002 while in Iraq, defendant SHAABAN met with Iraqi officials to promote his proposal for Iraqi assistance and support in establishing an American Arabic television station, ARBC, to be run by defendant SHAABAN.
- i. On or about November 5, 2002, defendant SHAABAN left Iraq and traveled to Syria.

- j. On or about November 11, 2002, defendant SHAABAN traveled from Syria to the United States on Air France Flight 613 to Paris, France and then on Air France Flight 50 to Chicago O'Hare airport.
- k. In or about 2002, defendant SHAABAN sought to enter into a cooperation agreement with the GOI for the purpose of coordinating volunteer human shields to protect the infrastructure of Iraq during the expected military action in Iraq by United States led-Coalition Forces.
- l. On or about March 25, 2003, defendant SHAABAN provided a message to be broadcast through Iraqi media that advocated support to the GOI and encouraged others to forcibly resist the United States and others who opposed the GOI.

All in violation of Title 18, United States Code, Section 371.



**COUNT TWO**

*Acting as a Foreign Agent Without Notification to the Attorney General  
Title 18, United States Code, Section 951(a)*

The GRAND JURY further charge:

1. The Grand Jurors reallege and incorporate by reference as if fully restated herein, paragraphs 1 through 16 of Count One of this Indictment.

2. Beginning no later than Spring 2002, and continuing through the Summer 2004, at Indianapolis and Greenfield, Indiana, within the Southern District of Indiana, and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

knowingly, and without prior notification to the Attorney General as required by law, acted in the United States as an agent of a foreign government, specifically, the Government of Iraq, as set out in Count One.

All of which is in violation of Title 18, United States Code, Section 951(a)

**COUNT THREE**

*Violation of the International Emergency Economic Powers Act  
Title 50, United States Code, Section 1701 et seq.*

The GRAND JURY further charges that:

1. The Grand Jurors reallege and incorporate by reference as if fully restated herein, paragraphs 1 through 16 of Count One of this Indictment.

2. Title 50, United States Code, Section 1701, *et seq.*, known as the International Emergency Economic Powers Act (hereinafter also referred to as IEEPA), grants the President the authority to, among other things, “investigate, . . . prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation, or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States . . .” 50 U.S.C. § 1702(a)(1)(B). Section 1701 grants the President the power to exercise this authority upon declaration of a national emergency.

3. In Executive Order Number 12722, signed on August 2, 1990, President George H. W. Bush declared that “the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States,” and declared “a national emergency to deal with that threat.” Following the August 6, 1990

passage of United Nations Security Council Resolution Number 661, which dealt, in part, with sanctions placed on Iraq, on August 9, 1990, the President issued Executive Order Number 12724. Executive Order Number 12724 takes “additional steps with respect to Iraq’s invasion of Kuwait and the national emergency declared in Executive Order Number 12722.”

4. Executive Orders Numbers 12722 and 12724, which remained in effect in whole or in part through July 2004, prohibited certain trade-related activities with Iraq with United States persons. The Executive Orders define the term “United States person” as any United States citizen, permanent resident alien, judicial person organized under the laws of the United States (including foreign branches), or any person in the United States, and vessels of U.S. registration.” 31 C.F.R. § 575.321.

5. Executive Orders Numbers 12722 and 12724 (the “Executive Orders”) impose economic sanctions on Iraq. The Executive Orders prohibited, among other things, the export to Iraq of any goods, technology, or services from the United States and the performance by any United States person of any contract in support of an industrial, commercial, public utility, or government project in Iraq. The Executive Orders also prohibited other activities relating to Iraq, including “any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Iraq, after the date of the Order, other than transactions necessary to effect (i)

such person's departure from Iraq, (ii) travel and activities for the conduct of the official business of the Federal Government or the United Nations, or (iii) travel for journalistic activity by persons regularly employed in such capacity by a news-gathering organization." In addition, the Executive Orders specifically prohibited "[a]ny transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this order."

6. From 1990 through in or about July 2004, the President continued, on an annual basis, the national emergency with respect to Iraq. These successive Executive Orders have authorized the Secretary of the Treasury, in consultation with the Secretary of State, "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes" of the Executive Orders.

7. Pursuant to this authority, the Office of Foreign Asset Control (hereinafter also referred to as OFAC), the office within the Department of Treasury charged with the responsibility of administering sanctions against foreign entities, promulgated regulations to implement the Executive Orders. Under the Iraqi Sanctions Regulations, Title 31 C.F.R.:

- a. Section 575.208(a) prohibited any transaction by a U.S. person relating to transportation to or from Iraq without a license from OFAC;

- b. Section 575.207 provided that no U.S. person may engage in any transaction relating to travel to Iraq or activities within Iraq by any U.S. citizen or permanent resident alien without a license from OFAC;
- c. Section 575.205 prohibited the export of goods, technology, or services from the United States to Iraq without a license from OFAC;
- d. Section 575.201 provided, among other things, that no property or interests in property of the Government of Iraq that come within the possession or control of U.S. persons may be transferred, paid, exported, withdrawn or otherwise dealt in without a license from OFAC and that the transfer, endorsement, guaranty, or any other dealing in any security registered or inscribed in the name of the Government of Iraq and held within the possession or control of a U.S. person is prohibited without a license from OFAC. By virtue of these prohibitions against dealing with Iraqi government property, securities, or interests therein, “[a] U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is an Iraqi Government entity unless the entity

is licensed by the Office of Foreign Asset Control to conduct such transactions with U.S. persons. 31 C.F.R. § 575.408(c)(2).

- e. Section 575.211 provided that any transaction that had the purpose of, or that had the effect of, evading or avoiding, or which facilitates the evading or avoiding of, any of the prohibitions set forth in the subpart [Iraqi Sanctions Regulations] was prohibited. This section further provided that any attempt or conspiracy to violate the prohibitions contained in the subpart was also prohibited.
- f. Beginning in May 2003, the United States lifted certain economic sanctions imposed on Iraq and in July 2004 the President declared the national emergency with regard to Iraq to be over.

8. Between on or about October 26, 2002 and continuing through on or about November 11, 2002, within the Southern District of Indiana and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

being a United States person, unlawfully, willfully, and knowingly violated IEEPA, and the regulations promulgated thereunder, as described above; specifically, SHAABAN HAFIZ AHMAD ALI SHAABAN acquired and used Air France airline tickets to travel between the United States and Syria so that

SHAABAN could and did travel from Syria into and out of Iraq in violation of 31 C.F.R. §§ 575.207 and 575.208.

All of which is in violation of Title 50, United States Code, Section 1701 *et seq.*

**COUNT FOUR**

*Violation of the International Emergency Economic Powers Act  
Title 50, United States Code, Section 1701 et seq.*

The GRAND JURY further charge that:

1. The Grand Jurors reallege and incorporate by reference as if fully restated herein, paragraphs 1 through 16 of Count One and paragraphs 1 through 7 of Count Three of this Indictment.

In or about October and November 2002, within the Southern District of Indiana and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

being a United States person, unlawfully, willfully, and knowingly violated IEEPA, and the regulations promulgated thereunder, as described above; specifically, SHAABAN HAFIZ AHMAD ALI SHAABAN attempted to sell the names of intelligence operatives and agents working with the United States to the Government of Iraq in violation of 31 C.F.R. § 575.205.

All of which is in violation of Title 50, United States Code, Section 1701 *et seq.*



**COUNT FIVE**

*Unlawful Procurement of an Identification Document  
Title 18, United States Code, Section 1028*

The GRAND JURY further charge that:

1. The Grand Jurors reallege and incorporate by reference as if fully restated herein, paragraphs 1 through 5 of Count One.

2. On or about March 12, 2004, within the Southern District of Indiana and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

did knowingly and without lawful authority produced an identification document, the possession and use of which affected interstate commerce, specifically an Indiana commercial drivers license in the name of Shaaban Shaaban Hafed.

All of which is in violation of Title 18, United States Code, Section 1028(a)(1), (b) (1)(A)(ii), and (c)(3)(A) and Section 2.

**COUNT SIX**  
*Unlawful Procurement of Naturalization*  
*Title 18, United States Code, Section 1425(a)*

The GRAND JURY further charge that:

1. The Grand Jurors reallege and incorporate by reference as if fully restated herein, paragraphs 1 through 5 of Count One.

2. Beginning on or about December 1997 and continuing until on or about November 30, 2000, within the Southern District of Indiana and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

did knowingly procure his own naturalization contrary to law. Specifically, while living in the Southern District of Indiana under the assumed identity of Shaaban Shaaban Hafed, SHAABAN HAFIZ AHMAD ALI SHAABAN did knowingly procure his naturalization contrary to law in that SHAABAN HAFIZ AHMAD ALI SHAABAN submitted an Application for Naturalization (Form N-400) on or about December 5, 1997 and swore to the information contained therein on or about February 5, 1999, wherein SHAABAN HAFIZ AHMAD ALI SHAABAN using the identity of Shaaban Shaaban Hafed, made the following false statements under oath in violation of Title 18, United States Code, Sections 1001(a) and 1015(a), specifically:

- a. At Part 1 (Information about you) of the Application for Naturalization, under the heading
- (i) "Social Security Number," the defendant stated that his social security number was XXX-XX-2420, when in fact, as the defendant then well knew, he also had been assigned social security number XXX-XX-5009 under the name Shaaban Hafiz Ahmad Ali Shaaban a/k/a Joe H. Brown; and
  - (ii) "Date of Birth," the defendant stated that his date of birth was 3-15-56, when in fact, as the defendant then well knew, his date of birth was 3-15-1952; and
  - (iii) "A #," also known as an Alien File Number, the defendant stated that his Alien File number was A XXX XX 789, when in fact, as the defendant well knew, he also had been assigned Alien File Number A XXX XX 945 under the name Shaaban Hafiz Ahmad Ali Shaaban a/k/a Joe H. Brown; and
  - (iv) "Country of Birth," the defendant stated that his country of birth was Lebanon, when in fact, as the defendant then well knew, his country of birth was Palestine/Jordan; and
- b. At Part 3 (Additional information about you) of the Application for Naturalization, under the heading
- (i) "Name on alien registration card," the defendant stated that he had been issued an alien registration card in the name of "Hafed, Shaaban," when in fact, as the defendant then well knew, he also had been issued an alien registration card in the name of Shaban Hafiz Ahmad Shaban a/k/a Joe H. Brown; and
  - (ii) "Other names used since you became a permanent resident," the defendant provided no information, when in fact as the defendant then well knew, he also had used the names Shaaban Hafiz Ahmad Ali Shaaban a/k/a Joe H. Brown; and
- c. At Part 5 (Information about your marital history) of the Application for Naturalization, the defendant stated that he had been married one time, to Hanan Hafed, when in fact, as the defendant then well knew, he also had been married in Moscow,

Russia in 1972 and he also had been married in Tuscan, Arizona in 1987; and

- d. At Part 6 (Information about your children) of the Application for Naturalization, the defendant stated that he had one child who was born in 1997, when in fact, as the defendant then well knew, he also had three other children all of whom were born in the U.S.S.R. in 1972, 1973 and 1976;

All of which is in violation of Title 18, United States Code, Section 1425(a).

**COUNT SEVEN**

*Tampering with a Witness*

*Title 18, United States Code, Section 1512(b)(1)*

The GRAND JURY further charge that:

On or about October 3, 2005, within the Southern District of Indiana and elsewhere, the defendant,

SHAABAN HAFIZ AHMAD ALI SHAABAN

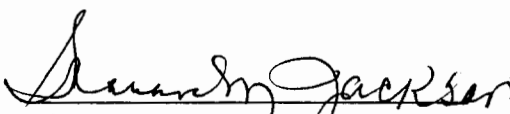
did knowingly intimidate, threaten, attempt to intimidate, and attempt to threaten, the defendant's brother, with the intent to influence and prevent the testimony of the defendant's brother in an official proceeding, specifically, the criminal case entitled *United States v. Shaaban Hafiz Ahmad Ali Shaaban*, Cause number IP 05-34-CR-01 T/F, by sending the defendant's brother a letter which states in relevant part that if the defendant's brother tells the truth, the defendant's brother will be considered a traitor and sentenced to death by the organization the defendant belongs to, and his head will be cut off and hung from a tree; no one will pray for him and he will be an unbeliever and ostracized in the eyes of everyone.

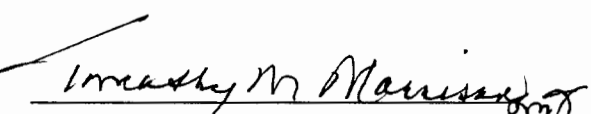
All of which is in violation of Title 18, United States Code, Section 1512(b)(1).

A TRUE BILL:

  
\_\_\_\_\_  
FOREPERSON

SUSAN W. BROOKS  
United States Attorney

By:   
Sharon M. Jackson  
Assistant United States Attorney

By:   
Timothy M. Morrison  
Assistant United States Attorney