

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 UNITED STATES OF AMERICA

4 v. S(7)98CR1023

5 USAMA BIN LADEN, et al.,  
6 Defendants.

7 -----x

8  
9 New York, N.Y.  
10 February 14, 2001  
11 10:30 a.m.

12 Before:

13 HON. LEONARD B. SAND,  
14 District Judge  
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1 (In open court; jury not present)

2 THE COURT: All right. All be seated. I think the  
3 jury is about to come in.

4 (Jury present)

5 THE COURT: Good morning, ladies and gentlemen.  
6 You've inquired as to more precise dates for vacations as we  
7 call it, and I'll respond to that question later. The witness  
8 al Fadl has not yet been cross-examined on behalf of the  
9 defendant El Hage, and Mr. Schmidt, who is the attorney who  
10 had prepared to do that, is still out with the flu. So what  
11 we will do is we will ask the government to call its next  
12 witness, and we'll proceed understanding that Mr. Al Fadl will  
13 return to the stand on Tuesday for cross-examination on behalf  
14 of the defendant El Hage, and, then, if it wishes, redirect  
15 examination by the government.

16 So I'd ask that the government call its next witness.

17 MR. FITZGERALD: Yes, sir. I believe that there was  
18 an agreement that your Honor would read a stipulation at the  
19 start of the day.

20 THE COURT: Ladies and gentlemen, you recall I told  
21 you that a stipulation was an agreement among the parties that  
22 if called a certain witness would testify in a certain fashion  
23 or that certain facts were true, and this is the stipulation  
24 with respect to certain facts being true. And that's evidence  
25 that is before you. Those are undisputed facts, and you may

1 treat that as evidence.

2 This is a stipulation agreed by and between the  
3 United States of America and the defendants by and with the  
4 consent of their attorneys as follows.

5 1. On December 27, 1979 the Soviet Union invaded  
6 Afghanistan, a country with a predominantly Muslim population.

7 2. In response to the Soviet invasion of Afghanistan  
8 groups of Muslims formed an armed force that became known as  
9 the Afghan Mujahadeen. The Afghan Mujahadeen fought the  
10 invading Soviet force and the Soviet-supported Afghan  
11 government.

12 3. In 1986 during its occupation of Afghanistan, the  
13 Soviet Union installed Mohammed Najibullah as president of  
14 Afghanistan.

15 4. On February 15, 1989, the last Soviet troops  
16 departed from Afghanistan.

17 5. From the time of the departure of Soviet troops  
18 from Afghanistan in February 1989, through the dissolution of  
19 the Soviet Union in 1991, the Soviet Union provided economic  
20 and military support to the Najibullah government in  
21 Afghanistan.

22 6. From shortly after the start of the Soviet  
23 invasion in Afghanistan in 1979, through September 1991, the  
24 United States, through one of its intelligence agencies,  
25 provided economic and military support to the Afghan

1 mujahideen through a third country intermediary.

2 7. Beginning in 1987 the American military support  
3 to the Afghan mujahideen included stinger antiaircraft  
4 missiles.

5 The parties have so stipulated, and, as I said, those  
6 are facts which are not disputed and are in evidence before  
7 you.

8 MR. FITZGERALD: The government now calls Essam al  
9 Ridi.

10 ESSAM AL RIDI,

11 called as a witness by the government,

12 having been duly sworn, testified as follows:

13 THE DEPUTY CLERK: Please be seated. Please state  
14 your full name.

15 THE WITNESS: Essam al Ridi.

16 DIRECT EXAMINATION

17 BY MR. FITZGERALD:

18 Q. Can you spell your first name for the record as well.

19 A. Certainly. E double S A M.

20 Q. You have a loud voice, so if you could keep your loud  
21 voice and just make sure you look at the microphone because  
22 it's directional.

23 Sir, could you tell the jury where you were born?

24 A. I was born in Cairo, Egypt, 1958.

25 Q. And for how long did you live in Egypt?

1 A. Five years.

2 Q. After those five years, where did you move?

3 A. I moved to Kuwait and stayed there for the next 23 years.

4 Q. And can you tell the jury how far you went in school in  
5 Kuwait?

6 A. High school.

7 Q. And what did you do after graduating high school in  
8 Kuwait?

9 A. I went to Karachi Pakistan, study engineering.

10 Q. And can you tell the jury that you moved to Karachi  
11 Pakistan to study engineering?

12 A. Yes.

13 Q. What year was that?

14 A. 196 -- excuse me, 1976.

15 Q. For how long did you stay in Karachi Pakistan studying?

16 A. Approximately three to four years.

17 Q. Did you actually complete your studies?

18 A. No.

19 Q. Can you tell the jury why not?

20 A. Actually there was a civil unrest in Pakistan due to the  
21 conflict between Ali Batu and martial laws of that time, so  
22 they closed the universities for a month. I could not stay  
23 any longer.

24 Q. If you could speak a bit slower to make sure, and a little  
25 bit closer to the microphone.

1                   And once the school in Karachi was closed, what did  
2 you do?

3 A. I resolved to come to the States and finish my aviation,  
4 which was always my desires.

5 Q. So what did you study in Karachi Pakistan?

6 A. Electronic engineering.

7 Q. And where did you go to in the United States?

8 A. I went to Texas, a school by the name of Ed Boardman  
9 Aviation School.

10 Q. And what year was that?

11 A. 1979, the end of 1979.

12 Q. And did you complete your studies at the Boardman aviation  
13 school?

14 A. Yes.

15 Q. When did you do that?

16 A. 1981.

17 Q. And what did you do after graduating?

18 A. Went back to Kuwait.

19 Q. And for what reason?

20 A. Find a job.

21 Q. Did you find one?

22 A. No.

23 Q. So what did you do then?

24 A. I came back to the US and worked as a flight instructor in  
25 the same school.

1 Q. And what year was it that you returned?

2 MR. DRATEL: I didn't hear the last answer.

3 MR. FITZGERALD: Can the court reporter read the last  
4 answer back, and I'll ask the witness if you keep your voice  
5 up and sit up about 12 inches in the chair and look at the  
6 microphone it be easier.

7 A. Not with my knees, no. I'll try.

8 THE COURT: Maybe you can bring that microphone down.

9 Q. Okay. Why don't we try it, if you could try to talk at  
10 the microphone and if you keep your mouth about nine inches  
11 from the microphone I think it works.

12 (Record read)

13 Q. Did there come a time when you were in Karachi Pakistan  
14 studying that you met a person by the name of Sheik Abdallah  
15 Azzam? A-B-D-A-L-L-A-H, Azzam, A-Z-Z-A-M.

16 A. Yes.

17 Q. And can you explain to the jury how you came to meet Sheik  
18 Abdallah Azzam?

19 A. The Egyptian embassy located in Islamabad, which is the  
20 political capital of Pakistan, and Sheik Abdallah used to be  
21 one of the professors at the Islamic school, Islamic  
22 university I should say, in Islamabad. It was customary of  
23 him to invite as guests and give us not really a lecture, just  
24 a casual thing for about maybe half and hour to forty-five  
25 minutes at his house.

1 Q. And you mentioned the Egyptian embassy. What country were  
2 you a citizen of when were you studying in Pakistan?

3 A. Country of Egypt.

4 Q. And when you moved to the United States did there come a  
5 time when you saw Sheik Abdallah Azzam again?

6 A. Yes.

7 Q. Can you tell us when and where that was?

8 A. Must have been 1982 or '83 I'm not sure, but it was the  
9 MAYA convention at the time.

10 Q. You mentioned MAYA. Is that M-A-Y-A?

11 A. Yes, sir.

12 Q. And do you know what the initials MAYA stand for?

13 A. Muslim American Youth Association.

14 Q. What role did you play in this convention in 1982 or 1983?

15 A. I was helping in reorganizing part of the convention since  
16 I resided in Fort Worth where the convention was held, so it  
17 was very normal of me knowing the city to help in the  
18 organizing part of the convention.

19 Q. And what role did Sheik Abdallah Azzam play in that  
20 convention?

21 A. He was one of the guest speakers.

22 Q. And do you recall what Sheik Abdallah Azzam spoke about at  
23 the convention?

24 A. Yes. He spoke about jihad in Afghanistan.

25 Q. So we're clear, who is the jihad in Afghanistan against at

1 that time?

2 A. Of course was against the Russians.

3 Q. And what did Sheik Abdallah Azzam say about the jihad  
4 against the Russians?

5 A. He indicated to Muslims attending the convention, and of  
6 course Muslims worldwide, that it is an obligation upon  
7 Muslims to help in any way they could to help the Afghan  
8 jihad.

9 Q. Did Sheik Abdallah Azzam indicate what type of jihad the  
10 war in Afghanistan was?

11 A. You're referring to?

12 Q. What type of jihad?

13 A. It's, we have fardh al ein and fardh al khafiya. Fardh al  
14 ein means if it's an obligation upon all Muslims if the  
15 immediate circuit of the immediate country that have been  
16 oppressed cannot really defend itself.

17 Q. So that was the F-A-R-D-H-A-L-E-I-N, that's the obligation  
18 to fight jihad, correct?

19 A. Yes.

20 Q. And the other one you mentioned, fardh al khafiya.

21 F-A-R-D-H-A-L-K-H-A-F-I-Y-A, what type of jihad is that?

22 A. That's similarly the same type of jihad except --

23 MR. WILFORD: Your Honor, I have an objection. Is  
24 this witness' own personal opinion?

25 THE COURT: Clarify.

1 Q. Yes. If you can just tell us your personal understanding  
2 what you understand jihad fardhalkafya to mean?

3 A. Of course. It means that if a group of people are helping  
4 the oppressed country and they are covering enough ground and  
5 giving enough help, then it become only obligatory on this  
6 group of people, not of the rest of the Muslims.

7 Q. What do you recall that Sheik Abdallah Azzam said about  
8 the jihad in Afghanistan during the time of the convention in  
9 Fort Worth, Texas?

10 A. That it's fardh al ein.

11 Q. Following that speech that you heard by Sheik Abdallah  
12 Azzam did you do anything immediately?

13 A. No.

14 Q. What were you doing at the time for work, and were you  
15 married?

16 A. Yes, I was married, and I had one daughter and my wife was  
17 pregnant with the second child.

18 Q. Did there come a time when you spoke to Sheik Abdallah  
19 again?

20 A. Yes.

21 Q. When was that?

22 A. After he left Texas, left the convention, there were quite  
23 a few phone calls between us asking certain people who would  
24 be interested to help in Afghanistan.

25 Q. And did there come a time when you left the United States?

1 A. Yes.

2 Q. And when was that?

3 A. The early part of 1983.

4 Q. What year? Sorry. Early part you mentioned, I didn't  
5 hear it.

6 A. 1983.

7 Q. '83. Where did you go?

8 A. I went to Peshawar Pakistan, Islamabad specifically.

9 Q. Now, during, do you know a person by the name of Wadia El  
10 Hage?

11 A. Yes.

12 Q. Can you tell us about how long you know him?

13 A. Must have been since 1983 onwards.

14 Q. Do you recall where it was you first met him?

15 A. Not really I'm not sure if I met him first in the States  
16 or not during that time.

17 Q. Met him in both places?

18 A. Yes.

19 Q. Now, can you tell us what happened when you got to  
20 Peshawar Pakistan in 1983?

21 A. We met Sheik Abdallah, spent the night at his house. The  
22 following morning we went to Peshawar to meet Abdul Rasool  
23 Sayyaf who is at the time was the leader of the Afghanis.

24 Q. I believe we're spelling that as A-B-D-U-L R-A-S-O-O-L  
25 S-A-Y-Y-A-F. Can you tell us did you bring your family when

1 you moved to Pakistan?

2 A. Yes.

3 Q. And what happened when you met Sheik Abdul Rasool Sayyaf?

4 A. It was very important to me to make sure from my  
5 understanding Sheik Abdallah my understanding would be Islamic  
6 religion to make sure that I'm needed specifically to reside,  
7 that my help will be actually needed to the extent of residing  
8 in Peshawar, however, rather than just giving them some help  
9 from the States. So I had the liberty to ask Sayyaf himself  
10 in a meeting and ask him if my help will be very important to  
11 them or needed.

12 Q. And what were you told?

13 A. I was told, yes, I'm needed there.

14 Q. And did you offer any particular skill that you could give  
15 them to help them in their effort?

16 A. The only two skills that I know is flying and I know how  
17 to travel around the world.

18 Q. And what did they say?

19 A. They said, well, there is no flying of course, but I could  
20 be needed in traveling and shipping few things for them.

21 Q. And did you do that?

22 A. Yes.

23 Q. And for how long did you do that while residing in  
24 Pakistan?

25 A. 18 months.

1 Q. And where did you yourself reside in Pakistan?

2 A. In Peshawar.

3 Q. And where did your family reside?

4 A. At first must have been maybe six to eight months my  
5 family resided in Karachi, because there were no flat or house  
6 allocated to us, so I left my wife and kids in Karachi with my  
7 brothers, and I myself resided in Peshawar.

8 Q. And can you tell the jury what you did to aid the cause  
9 during those 18 months?

10 A. As I said earlier, basically traveling and getting them  
11 items that they need.

12 Q. Can you describe what those items were?

13 A. Well, some of which were was like scuba diving equipment,  
14 range finders, night vision goggles and night vision scopes.

15 Q. Can you briefly explain?

16 A. Sometimes video equipment, batteries, it was so sometimes  
17 and so used sometimes.

18 Q. Can you briefly explain what a night vision goggle is?

19 A. Yes. It's a technology that if you, if you wore those  
20 goggles you would be able to be, to see individuals and  
21 vehicles at night.

22 Q. What's a range finder?

23 A. It's an equipment where you'll measure range with.

24 Q. Does it tell you how far a certain object is?

25 A. Yes.

1 Q. Can you tell the jury where you bought this various  
2 equipment?

3 A. I bought the range finders from England. The scuba diving  
4 equipment also from England. The night vision scopes were  
5 from the US. Later on the night vision goggles were also from  
6 the US.

7 Q. Can you tell us roughly how much scuba equipment you  
8 bought?

9 A. Two sets.

10 Q. And how many range finders did you buy?

11 A. Six.

12 Q. Do you recall how many night scopes you bought?

13 A. Six.

14 Q. And did you travel to any countries other than the United  
15 States and to England?

16 A. Yes.

17 Q. What other countries did you travel to buy things?

18 A. Japan, Kuwait, Saudi.

19 Q. And did there come a time when you, while you were in  
20 Pakistan that you met a person by the name of Usama Bin Laden?

21 A. Yes.

22 Q. Can you tell the jury how that came about?

23 A. The first actual visit to Peshawar was with his other  
24 brothers, and two gentlemen who supposed to be from somewhere  
25 in Europe, they spoke English with an accent. And I was

1 invited to that meeting to interpret between English and  
2 Arabic to Sheik Sayyaf and Sheik Abdallah.

3 Q. And did you actually do that at the meeting?

4 A. Yes.

5 Q. And did you meet Usama Bin Laden on any other occasions  
6 while you were then living in Pakistan?

7 A. Yes.

8 Q. Approximately how many times?

9 A. Well, at that time he was not living in Pakistan. He came  
10 another time when we had a camp for the --

11 MR. DRATEL: Your Honor, when the witness says "we,"  
12 just if he could be more precise.

13 Q. You said "we" had a camp. Could you --

14 A. Yes, I'm relating to, I'm referring to Sheik Abdallah  
15 office having some activities to the Afghan I leaders, the  
16 small ones like if he's a leader of twenty to fifty troops he  
17 was invited to that camp to be taught in the proper way of  
18 worshipping because most of them have a lot of sympathy to  
19 Islam, they pray, of course they do their own duties, but not  
20 necessarily to the standard of the scholars of Sheik Abdallah,  
21 so he wanted to really teach them those ways and methods of  
22 how to worship God, how to come closer to God, and of course  
23 that will be also beneficial for them in the front.

24 Q. And when you say Sheik Abdallah, are you referring to  
25 Sheik Abdallah Azzam?

1 A. Yes, I am.

2 Q. And did Azzam Bin Laden appear at that camp?

3 A. Yes.

4 Q. Did there come a time when you yourself decided to leave  
5 Pakistan and move back to the United States?

6 A. Yes.

7 Q. Can you tell us when that was?

8 A. 1985.

9 Q. And can you tell us why you decided to leave Pakistan and  
10 come back to the States?

11 A. Actually, I had some reasons related to the cause itself.  
12 Other related to personal reasons.

13 Q. Can you tell us both?

14 A. Yes. Reasons related to the cause were the fact that my  
15 passport was about to expire. This is the main tool for me to  
16 travel. I was almost the only one who have had a valid  
17 passport. The Egyptian passport is very difficult to come  
18 about, especially if you have selective service which is the  
19 military service. My passport at the time had only about  
20 three months duration and perhaps maybe one or two pages left.

21 I was traveling extensively almost every 15 days to  
22 20 days. I was so many stamps I really could not sustain a  
23 new passport. I have approached Sheik Abdallah and the people  
24 in charge asking them to put somebody with me doing the same  
25 job or perhaps I could show him where I go, and you know

1 people that I know. I was not successful. Other reasons  
2 were --

3 Q. Let me stop you there for a moment.

4 A. Sure.

5 Q. You mentioned selective service. Can you explain to the  
6 jury why the selective service issue would make it hard for  
7 you to renew your Egyptian passport?

8 A. If you are Egyptian citizen you have to serve in the  
9 military. It's an obligation on you upon graduation from  
10 college, which the assumption was that I was already by then  
11 graduated, age 26. 27 is the final age where you have to  
12 submit yourself to the military service.

13 Q. So we're clear, had you ever served in the Egyptian  
14 military?

15 A. No.

16 Q. If you can continue with the other reasons?

17 A. So then the other internal reasons were things really  
18 between us. I was one of the people invited to special  
19 meetings with Sheik Abdallah to organize the work of the Arabs  
20 and the visitors in Peshawar, and things of, you know,  
21 important nature to Afghani, how are we helping them,  
22 including donations and things.

23 One of the main sticking issue was I was totally  
24 opposing the fact that any rich individual who comes to  
25 Afghanistan would control the decision making. I think they

1 have, you know, pure, I mean pure feeling to the code, but I  
2 don't think he have the experience to be involved in the  
3 day-to-day running of the business in Afghanistan. I was very  
4 much opposed to that and I, my voice was very well heard out,  
5 but nobody really acted on it. I have asked other scholars,  
6 I've asked other colleagues. I think I was right and I took a  
7 stand on that.

8 Q. Now, at the time you came back to the States what was the  
9 status of your aviation license?

10 A. It was expired.

11 Q. And what were the prospects of your renewing the license  
12 while in Pakistan?

13 A. Almost impossible.

14 Q. And why was that?

15 A. Well, first of all, I can't fly in Pakistan. I can't fly  
16 anywhere else. I have to come to the States since it's an FAA  
17 license, and of course it's very expensive to renew. I've  
18 been offered help from Sheik Abdallah on few occasions, but it  
19 was not really enough to renew the license.

20 Q. And what was the status of your personal financial  
21 situation supporting your family in Pakistan?

22 A. I only had what I needed actually, and most of the time,  
23 well, sometimes I lived with less than what I needed.

24 Q. And when you came back to the United States where did you  
25 move?

1 A. I moved back to Arlington, Texas.

2 Q. In what year was this?

3 A. 1985.

4 Q. And what did you do for work when you came back to the  
5 United States?

6 A. Work as a flight instructor again.

7 THE COURT: What was that?

8 THE WITNESS: Flight instructor.

9 Q. When you were back beginning in 1985 did you ever render  
10 any further assistance to the cause of the jihad in  
11 Afghanistan?

12 A. Yes. That was one of the things that I have proposed to  
13 them, I'm not needed. We are not in line together when it  
14 comes to the ideology. It will be best that I move back and  
15 I'll still provide the help that you all need.

16 Q. Can you give us examples of what it is that you did to  
17 help from the United States?

18 A. The second set of night vision goggles were actually  
19 shipped at that time I resided back in the US.

20 Q. And how many night vision goggles were they?

21 A. Eleven.

22 Q. How did you ship them from the United States to  
23 Afghanistan?

24 A. Just as a passenger luggage.

25 Q. And who was the passenger that you gave them to?

1 A. Wadia.

2 Q. Is that Wadih El Hage?

3 A. Yes.

4 Q. Is it your understanding -- what year was this?

5 A. Must have been 1987 or '88, I'm not sure.

6 Q. What was your understanding of what the night vision  
7 goggles were to be used for?

8 A. You mean -- well, they use it actually to use it at night  
9 because most of the mujahadeen movement is at night.

10 Q. Was it for the jihad against the Russians?

11 A. Yes, of course.

12 Q. Did you ship any other equipment from the United States to  
13 Pakistan or Afghanistan?

14 A. You mean in that capacity passenger or --

15 Q. No, in any capacity during the time from 1985 to 1990?

16 A. Yes, I did.

17 Q. What else did you ship?

18 A. I shipped Barrett rifles, 50 calibers.

19 Q. B-A-R-R-E-T-T. How many of those did you ship?

20 A. 25.

21 Q. And so we're clear, did Wadih El Hage have anything to do  
22 with that transaction?

23 A. No.

24 Q. And can you tell us what a 50 caliber rifle is?

25 A. This is supposed to be a heavy caliber, but the advantage

1 of it is carried by individuals so it's made in such a way  
2 where you could have a heavy cannon, but mobile by an  
3 individual. That's basically it. And it's very compatible to  
4 the Russian caliber 12.7.

5 Q. And, again, was it your understanding that these weapons  
6 were to be used in the jihad against the Russians in  
7 Afghanistan?

8 A. Yes, of course.

9 Q. Now, did you ever see the rifles in Afghanistan yourself?

10 A. Yes.

11 Q. Can you tell us how it came to be that you saw the rifles  
12 in Afghanistan?

13 A. How what, sir?

14 Q. How did it happen that you were in Afghanistan and you saw  
15 these rifles?

16 A. I received a fax of them having difficulty sighting the  
17 scopes on the rifles, so I was asked --

18 Q. Can you explain what "sighting the scopes" means?

19 A. It's lining the scope with the rifle barrel so whatever  
20 you see you'd have a hit. That's as simple as I can put it.

21 Q. So what did you do after you received the fax?

22 A. I planned a trip and I went to Peshawar and sighted the  
23 scopes for them.

24 Q. Do you recall approximately what year this was?

25 A. It's the year of it must have been 1989 because that's the

1 same year where Sheik Abdallah was assassinated.

2 Q. Now, did there come a time when you obtained a green card  
3 in the United States?

4 A. Yes.

5 Q. Do you know what year that was?

6 A. '86, '87.

7 Q. And did you ever obtain American citizenship?

8 A. Yes.

9 Q. Do you know what year that was?

10 A. 1994.

11 Q. And are you known --

12 MR. COHN: That was that last answer?

13 Q. Can you just repeat the last date?

14 A. 1994.

15 THE WITNESS: Thank you.

16 Q. And are you known by any name that begins with Abu?

17 A. Yes.

18 Q. What's the name that you're known by that begins with Abu?

19 A. Abu Tareq.

20 Q. T-A-R-E-Q?

21 A. Yes, sir.

22 Q. Did there come a time when you became involved in  
23 purchasing an airplane for Usama Bin Laden?

24 A. Yes.

25 Q. Can you tell us what year that was that you first became

1 involved?

2 A. 1993.

3 Q. And can you tell us how it came about that you became  
4 involved in buying an airplane?

5 A. There was quite a few communications between me and Wadih  
6 El Hage about the interests of Usama acquiring an airplane used  
7 in Khartoum.

8 Q. When you had these conversations where were you?

9 A. In the States.

10 Q. And where did you understand Wadih to be?

11 A. Khartoum Sudan.

12 Q. Do you know when it was that he moved to Khartoum Sudan?

13 A. I can't really recall the specific year, but it must have  
14 been maybe 1998.

15 MR. DRATEL: Your Honor, the basis of his knowing.

16 MR. FITZGERALD: I'll withdraw the question, your  
17 Honor.

18 Q. When you spoke to him about the airplane transaction where  
19 did you understand him to be?

20 A. Say again, please?

21 Q. When you spoke to Wadih El Hage about the airplane where  
22 did you understand that Wadih was?

23 A. In Khartoum.

24 Q. Did you ever call him directly from the States?

25 A. Yes.

1 Q. And did you dial a number for the Sudan?

2 A. Yes.

3 Q. Can you tell us what Wadih El Hage told you when he first  
4 contacted you?

5 A. The interests of Usama Bin Laden in acquiring an airplane  
6 for Khartoum.

7 Q. And did you, did he tell you where Usama Bin Laden was  
8 living at the time?

9 A. Yes.

10 Q. Where was he living?

11 A. In Khartoum, Sudan.

12 Q. And what did he tell you about the airplane that he wished  
13 you to purchase for Usama Bin Laden?

14 A. The price range within 350,000 US, and that is a range of  
15 about a little bit over two thousand miles.

16 Q. And did you have any further discussions with him about  
17 the financial arrangements for purchasing this airplane?

18 A. Yes.

19 Q. What was that discussion?

20 A. Once I located an airplane with that price and that range,  
21 I've called Wadih and specifically told him, it's 350,000 and  
22 I'll be offered 9 percent from the dealer, the owner of the  
23 airplane.

24 Q. And what did you mean, you'll be offered 9 percent?

25 A. This is a customary commission when you buy or sell an

1 aircraft in the US.

2 Q. And who would the commission go to?

3 A. To me.

4 Q. And did you have any discussions with anyone as to whether  
5 or not it was proper for you to receive a commission on this  
6 airplane transaction?

7 A. Yes.

8 Q. Who did you discuss this with?

9 A. I discussed it with my best friend Moataz al Hallak.

10 MR. FITZGERALD: We'll spell that M-O-A-T-A-Z A-L  
11 H-A-L-L-A-K.

12 Q. What was your understanding of what was a proper way to  
13 obtain a commission?

14 A. I have what I say knowledge about our religion and how to  
15 go about these things, but I wanted to make sure because  
16 Moataz in fact is much more knowledgeable than me. So I asked  
17 him what will be the best way for me to get any commission out  
18 of that sale without of course compromising our rules as  
19 Muslims. He suggested that, first of all, I have to become an  
20 owner of the entity, and, thereafter, I could be, since I'm an  
21 owner, I could resell it to a price that I choose to the new  
22 owner.

23 Q. And did you discuss this at all with Wadih El Hage?

24 A. No.

25 Q. And what did you tell Wadih El Hage about how the

1 financial arrangements would work regarding the airplane?

2 A. Well, actually this part did not really go through. They  
3 came later with a different price. Instead of 350, anything  
4 less than 250.

5 Q. You say "they came." Can you explain who?

6 A. I'm indicating Wadih El Hage and you know representing of  
7 course Usama in Khartoum.

8 Q. And what did he tell you about the changed price?

9 A. They wanted something within the 250,000 or less, and my  
10 response was, you'll never get a used jet aircraft for that  
11 price that will do the range that you want.

12 Q. And what happened then?

13 A. Actually, they came with that final decision, it doesn't  
14 matter. This is the budget and let's try to work with that  
15 budget.

16 Q. Was there any discussion of the reason why the range for  
17 the plane had to be two thousand miles?

18 A. Yes.

19 Q. Can you tell us what was said?

20 A. They have some goods of their own they want to ship from  
21 Peshawar to Khartoum.

22 Q. And first of all, who is "they"?

23 A. Again, I'm referring to Wadih and Usama.

24 Q. And did he tell you what the goods were that he wanted to  
25 ship from Peshawar to Khartoum?

1 A. Yes.

2 Q. What were they?

3 A. Stinger missiles.

4 Q. And when he told you they wanted to ship Stinger missiles  
5 from Peshawar to Khartoum, what did you say?

6 A. I said it's possible as long as we have arrangements from  
7 the departing country to the arriving country.

8 Q. And what do you mean by that?

9 A. I meant the legality, because it's clearly air policy.

10 Q. Did you discuss this with Wadih?

11 A. Yes.

12 Q. Tell us what you told him about the legality of shipping  
13 the Stingers from Peshawar to Khartoum?

14 A. That we have to have a legal permit to depart Peshawar  
15 with that equipment on board, and the legal permit to land in  
16 Khartoum, which is not a problem because they could ally  
17 people in Peshawar and also in Khartoum. However, the problem  
18 with allies, once we have to divert or land for any fuel or  
19 any emergency in the countries in between, then it will be  
20 definitely exposed and then it will be absolutely a chaos.

21 Q. And what, if anything, did he say in response?

22 A. Nothing in particular. I was just explaining to them  
23 technicalities.

24 Q. And did you have a further discussion after that  
25 conversation about shipping stinger missiles?

1 A. I don't think so, no.

2 Q. Did you ever actually transport yourself stinger missiles  
3 from Peshawar to Khartoum?

4 A. No.

5 Q. Did you find a plane for the price of less than \$250,000?

6 A. Yes.

7 Q. And what type of plane was it?

8 A. Again, with the reduction in the price and the range I had  
9 limited options, one of which was a military aircraft under  
10 the designation of T389 which is the equivalent of a civilian  
11 aircraft called Saber-40.

12 Q. And did you find one?

13 A. Yes.

14 Q. And what was the price?

15 A. 210,000 after I finished all the modifications that I  
16 needed to do.

17 Q. What kind of modifications did you do on the plane?

18 A. Well, the airplane were in a storage what we call boneyard  
19 in Tucson, Arizona.

20 Q. Is that boneyard? B-O-N-E like bones, boneyard?

21 A. Yes.

22 Q. Can you explain what happened then?

23 A. So we pulled the aircraft out of the storage and we had to  
24 go through certain checks mechanically and officially of  
25 course to certify again and make it acceptable by the FAA to

1 fly the civilian aircraft.

2 Q. Did you do all those things?

3 A. Yes, sir.

4 Q. And where did the money come from to acquire the plane?

5 A. From Khartoum.

6 Q. And approximately how much money came from Khartoum if you  
7 recall?

8 A. About a total of 230, 230, around that figure.

9 Q. 230 dollars or 230,000 dollars?

10 A. Thousand dollars.

11 Q. Did you put any of your money toward the purchase of the  
12 airplane?

13 A. Well, that initial part of the plan actually. I put up,  
14 me and Moataz and another friend a sum of \$10,000 where we  
15 acquire the airplane and started the process.

16 Q. Now, once you acquired the plane did you have any  
17 discussions with Wadih El Hage in the Sudan about the  
18 acquisition?

19 A. No.

20 Q. What did you do with the plane?

21 A. I bought it as I said, I finished the, I reconditioned --  
22 well, actually I refurbished it completely, and the avionic  
23 equipment, updated the version of avionics and also new paint.  
24 And we took off from Dallas-Fort Worth to Khartoum.

25 Q. Did you actually fly the plane yourself from the United

1 States to Khartoum?

2 A. Yes, I did.

3 Q. Can you tell us the route just generally the route that  
4 you took?

5 A. The airplane had a range of about 1500 miles. You cannot  
6 really cross the Atlantic with that range. So we had to go up  
7 north almost to the Pole and cross down to mainland. So we  
8 took the first one was Dallas-Fort Worth, Slte. St. Marie at  
9 the Canadian borders. From there on to a place 67 lat north,  
10 I think it's Furbisher Bay, Canada and then from Fervershaw  
11 Bay, Canada to Iceland to Lucan, Rome, Cairo, Cairo, Khartoum.

12 Q. How long did it take you to fly the plane from Dallas  
13 through the various stops to Khartoum, Sudan?

14 A. It should have taken two days at the most but actually we  
15 had some technical problems due to the bad weather in  
16 Fervershaw Bay. It was minus 65, so we lost hydraulics and we  
17 had a crack in all the window.

18 Q. How long did it actually take you to get there?

19 A. About a week.

20 Q. Do you recall approximately when was that you flew the  
21 plane from the United States to Sudan?

22 A. The early part of 1993.

23 Q. And what happened when you arrived in Khartoum with the  
24 plane?

25 A. In the sense of if you can explain the question please.

1 Q. You land the at Khartoum with the plane. What do you do?

2 A. Nothing. I just parked the airplane, took permission in  
3 the civil aviation authorities there and I was met with Wadih  
4 and I'm not sure maybe another driver or so.

5 Q. And where did you go with Wadih and the driver?

6 A. We went to Wadih's house.

7 Q. And what did you do there?

8 A. Had lunch with him.

9 Q. Did there come a time when you met Usama Bin Laden on that  
10 trip?

11 A. Yes.

12 Q. When was that?

13 A. It must have been the same day, at night, we were offered  
14 dinners on his behalf.

15 Q. And where was the dinner held?

16 A. At his guest house.

17 Q. And who was present for the dinner?

18 A. Quite a few people, but people that I could identify were  
19 me, Wadih, Usama, a guy by the name of Abu Jaffer. I think  
20 also another guy by the name of Loay, and, yes, that's the  
21 names I could recall.

22 Q. We're spelling L-O-A-Y and J-A-F-F-E-R. Do you know what  
23 nationality Abu Jaffer was?

24 A. Yes, he's from Iraq.

25 Q. What role did Abu Jaffer play at the dinner?

1 A. This was my first time to be introduced to him and he led  
2 the prayers at the night.

3 Q. And let me show you what has been previously received in  
4 evidence a number of photographs beginning with Government  
5 Exhibit 100 in evidence. If we could display that on the  
6 screens.

7 Do you recognize the person depicted in Government  
8 Exhibit 100?

9 A. Yes.

10 Q. Who is that?

11 A. Usama Bin Laden.

12 Q. If we could display Government Exhibit 101 in evidence.  
13 Do you recognize the person depicted in Government Exhibit  
14 101?

15 A. Yes.

16 Q. Who is that?

17 A. Abu Hafs.

18 Q. How do you know Abu Hafs?

19 A. I met him briefly in Peshawar, and thereafter I think he  
20 must have been over the dinner, too, with Usama.

21 Q. Do you know what nationality he is?

22 A. Egyptian.

23 Q. Let me show you Government Exhibit in evidence 103. Do  
24 you recognize the person depicted in Government Exhibit 103 in  
25 evidence?

- 1 A. Yes, Abu Ubadda.
- 2 Q. How do you know this person, Abu Ubadda?
- 3 A. At the same dinner, too.
- 4 Q. And had you ever met him before that day?
- 5 A. No.
- 6 Q. Did you ever meet him after that day?
- 7 A. Yes.
- 8 Q. Where was that?
- 9 A. Well, around the office the next morning.
- 10 Q. Let me show you Government Exhibit 106 in evidence. Do
- 11 you recognize the person depicted in Government Exhibit 106 in
- 12 evidence?
- 13 A. Yes.
- 14 Q. Who is that?
- 15 A. Abu Jaffer.
- 16 Q. Is that the Abu Jaffer who was at the dinner that evening?
- 17 A. Yes.
- 18 Q. What happened at the dinner?
- 19 A. Nothing actually. We just had dinner and chatted and just
- 20 had a customary thing I gave the keys of the airplane to Usama
- 21 Bin Laden.
- 22 Q. And you gave him the keys to what?
- 23 A. The keys to the airplane.
- 24 Q. And did you see any weapons at the dinner?
- 25 A. Yes.

- 1 Q. What kind of weapons were there?
- 2 A. The AK-47.
- 3 Q. And how many did you see?
- 4 A. I really can't count, but there was quite a few.
- 5 Q. And did you see any people in uniform at the dinner?
- 6 A. Yes.
- 7 Q. And what kind of uniform were they wearing?
- 8 A. It's a military uniform and of course from their  
9 complexions they are Sudanese.
- 10 Q. And did you have any agreements or arrangements to meet  
11 with Usama Bin Laden after the dinner?
- 12 A. We collectively agreed on to come to the airport the next  
13 morning to look at the airplane.
- 14 Q. And what happened the next morning?
- 15 A. I went early morning to the airplane, got it ready,  
16 cleaned it from the previous flight, and waited for Usama.
- 17 Q. And did he show up at the airport?
- 18 A. No.
- 19 Q. What happened then?
- 20 A. Then I was told to go to the office. I had few other  
21 receipts and balance thing to finish with the accountant, and  
22 to meet with Usama.
- 23 Q. And did you go to the office?
- 24 A. Yes, I did.
- 25 Q. Can you describe the area in which the office is located?

1 A. I can't really recall the name, but due to Khartoum  
2 standard it's a good area.

3 Q. Was it in an area with residences or office buildings, if  
4 you remember?

5 A. Residences.

6 Q. When you got to the building can you tell us how you got  
7 to Usama Bin Laden's office once you entered the building?

8 A. Yes. As you enter from the main door you go through a  
9 small hallway, then thereafter to another hallway where  
10 there's a tight staircase, under which would be the office of  
11 the accountant, then you go upstairs to Usama's office.

12 Q. And once you go up the stairs to the second floor, how do  
13 you get from the stop of the stairs to Usama Bin Laden's  
14 office?

15 A. There's another hallway with a small desk. Then one room  
16 leading to another room.

17 Q. And do you know who was sitting behind the small desk?

18 A. That would be the office of Wadih.

19 Q. And you said there was one room leading to another room.

20 Did you go through the first room to get to the second room?

21 A. Yes.

22 Q. And what was in the first room?

23 A. That would be the office of Abu Jaffer, the general  
24 manager.

25 Q. And what was in the second room?

1 A. The office of Usama Bin Laden, the chairman.

2 Q. And do you know what the name of the company was for which  
3 this office was maintained?

4 A. Yes, it's called Wadi al Aqiq.

5 Q. What happened once you got into the office with Usama Bin  
6 Laden?

7 A. We were supposed to discuss an offer for me to work with  
8 them.

9 Q. And, first of all, can you tell us who was present for  
10 this meeting?

11 A. Only me and him.

12 Q. And can you tell us what the discussion was about this  
13 offer of employment?

14 A. The offer was the earlier discussed over the phone with  
15 Wadih, and I said we will delay those things until I come  
16 there and see Khartoum itself. So Usama wanted to continue on  
17 that offer.

18 Q. And tell us what the offer was?

19 A. The offer was to work with him to fly that particular  
20 airplane and to also set up and operation of crop dusting  
21 because he's into the agriculture business. Thereafter, if we  
22 have any produce, we will have a cargo shipping company that  
23 will ship the produce to the other countries.

24 MR. FITZGERALD: Could we have the court reporter  
25 read back the last answer.

1 (Record read)

2 Q. And to be clear, was there any discussion with Bin Laden  
3 at that time about whether he wanted you to fly the plane for  
4 business or for jihad?

5 A. It was very, well, let me just go back one step if you  
6 allow me. Before we start discussing the offer I had few  
7 things to discuss with Usama on a personal level relating to  
8 the days in Peshawar, and relating to my stand that led me to  
9 leave Peshawar. I told him regardless what you think I want  
10 you to hear it from me. I do oppose the fact that you are a  
11 rich man and trying to be a military leader. At the time I  
12 did not think that you have any military background, nor did  
13 you have any military experience. Thus, I think that what you  
14 have done to some of the guys is flat killing, not jihad.

15 Now, perhaps after so many years you have gained so  
16 much experience, and now it's a different situation. He said,  
17 well, thank you very much. He was very acceptable of the  
18 critiques. And later he said, this is not jihad. This is  
19 strictly business, and this is an official certified company  
20 in Khartoum.

21 Q. And what did he say you would be paid for your work as a  
22 pilot?

23 A. Say again, please?

24 Q. Did he tell you how much you would be paid to work as a  
25 pilot for this business?

- 1 A. Yes, one thousand two hundred US dollars.
- 2 Q. And what did you say to the offer?
- 3 A. I said this is to do what exactly of the three jobs?
- 4 Q. And when you're referring to the three jobs, what do you  
5 mean?
- 6 A. I mean flying the airplane, doing the crop dusting and the  
7 cargo.
- 8 Q. And what did he say?
- 9 A. He said no, that's the offer. This is the highest that  
10 I'm paying around the company for my highest officers.
- 11 Q. Did he indicate who his highest officers were?
- 12 A. Yes.
- 13 Q. Who did he say?
- 14 A. Abu Jaffer.
- 15 Q. And what did you say after his response?
- 16 A. I said, that's fine. I have heard enough about Khartoum.  
17 There is a high inflation in the country, schools are very  
18 expensive for expatriates. The furniture also is very  
19 expensive. It is not healthy environment at all, so I guess  
20 it's going to cost me much more than that. So if you are  
21 paying this price for your highest officers that does not mean  
22 that I should be paid equivalently because I do a different  
23 job.
- 24 Q. And did you take the job during that meeting?
- 25 A. No.

1 Q. Did you discuss the possibility of taking the job with  
2 anyone else while you were in Khartoum?

3 A. No.

4 Q. And did you discuss the salaries being paid by Bin Laden  
5 to his employees with anyone else in Khartoum?

6 A. Yes.

7 Q. And who did you discuss that with?

8 A. With Wadih.

9 Q. Where did you discuss that?

10 A. At his home.

11 Q. And can you tell us what you said and what he said?

12 A. Of course being a friend and being therefore maybe a year  
13 or so would have more experience about the living conditions  
14 and having to go about it and also he would have more  
15 experience about how they run their business and what are the  
16 salary scales. So I was trying to get that information from  
17 him.

18 Q. And what did he tell you?

19 A. I did not get any specific number from him. All he  
20 mentioned that one thousand two hundred US dollars is the  
21 highest paid salary at the company.

22 THE COURT: That's one thousand two hundred dollars  
23 per?

24 THE WITNESS: Per month, sir.

25 Q. Did he indicate anyone who received that salary at the

1 Wadi al Aquiq company?

2 A. I'm not sure.

3 Q. Did he tell you what he himself made?

4 A. No.

5 Q. Did you ask him that?

6 A. Delicately, yes.

7 Q. What did he say in response to your delicate question?

8 A. I have received no answer.

9 Q. Did you get paid -- you mentioned before that you needed  
10 to get reimbursed for other billings outstanding for the  
11 airplane. Did you accomplish that when you were in Khartoum?

12 A. Yes.

13 Q. How did you do that?

14 A. I took the authorization of Usama. I was then sent to Abu  
15 Jaffer to revise the items, got another authorization from Abu  
16 Jaffer, and then took it to the accountant to do a complete,  
17 well, actually a receipt including all the items, signed it  
18 again from Usama, and took a check to the bank where I had  
19 money.

20 Q. Did you leave Khartoum at that time?

21 A. Yes.

22 Q. Approximately how long had you stayed there?

23 A. It must have been maybe three or four days. I'm not  
24 really sure.

25 Q. How did you get back to America once you left the plane

1 there?

2 A. I used KLM as my company.

3 Q. Did there come a time when you saw the airplane again?

4 A. Yes.

5 (Continued on next page)

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1 Q. Can you tell us when that happened and how?

2 A. I was asked later to come and do a trip to them from  
3 Khartoum to Nairobi.

4 Q. Who asked you to do that?

5 A. Wadia.

6 Q. When he asked you to do it, where were you and where was  
7 he?

8 A. I was in the U.S. and he was in Khartoum.

9 Q. And how long after you returned from delivering the  
10 airplane was it before you received this call from Wadia  
11 asking you to come back?

12 A. It must have been few months because the aircraft was  
13 still in good condition.

14 Q. Was still in what kind of condition?

15 A. Good condition, good flying condition.

16 Q. Did you go back?

17 A. Yes, I did.

18 Q. What happened when you got back to Khartoum?

19 A. Nothing. I just prepared the aircraft and flew between  
20 Khartoum and Nairobi with a loan first officer from Sudan  
21 Airs.

22 Q. Can you explain what a loaner first officer is?

23 A. It's somebody you loan just for the flight, not on your  
24 pay, not paid, you know, on a salary thing. It's, you just  
25 loan him on the -- for the flight.

1 Q. Is there a requirement that you have two pilots on a  
2 flight?

3 A. Yes, for most jet aircraft there is a requirement.

4 Q. Who or what did you fly from Khartoum to Nairobi?

5 A. I flew five gentlemen.

6 Q. Do you know the names of the people you flew?

7 A. No.

8 Q. Can you describe what they look like?

9 A. They're all Arabs, dressed differently.

10 Q. Could you describe their dress?

11 A. Yes. A few were dressed in the Saudi outfit, some are  
12 dressed in Western and dressed in Yemeni outfit.

13 Q. And what happened when you flew these five people down to  
14 Nairobi?

15 A. Nothing. Actually, we landed, they were escorted inside  
16 the terminal. Me and my first officer stayed at the tarmac  
17 for about maybe an hour and 15, an hour and a half to secure  
18 the aircraft and to have the Customs check the aircraft.

19 Q. How long did you stay in Nairobi?

20 A. About maybe two nights.

21 Q. Where did you go then?

22 A. We went back to Khartoum.

23 Q. When you went back, did you take the same five people back  
24 to Khartoum?

25 A. No.

1 Q. Did anyone tell you where they went?

2 A. No.

3 Q. Do you know what they were doing after they got off the  
4 airplane?

5 A. No.

6 Q. Do you know if they were taking any other aircraft  
7 anyplace else?

8 A. Yes, that was hinted to me by the --

9 MR. DRATEL: Objection, your Honor, basis.

10 THE COURT: Do you know?

11 Q. Answer this question yes or no: Do you know if they took  
12 another airplane or were planning to take another airplane  
13 once they arrived in Nairobi, yes or no?

14 A. Yes.

15 Q. Can you just tell us, without telling us what you were  
16 told, how you learned that information?

17 A. From the guy who was escorting us.

18 Q. And the guy who was escorting you, what was his name and  
19 who did you understand him to be working for?

20 A. I can't recall his name. He was one of the people working  
21 to the same company and facilitating our arrival into Nairobi.

22 Q. Which company is this?

23 A. Wadi al Aqiq.

24 Q. So the person from Wadi al Aqiq told you where the other  
25 people were going?

1 A. Yes.

2 MR. FITZGERALD: I would now renew the question as to  
3 what he was told as to where they were going.

4 MR. DRATEL: I still have an objection.

5 THE COURT: Excuse me?

6 MR. DRATEL: I still have the same objection.

7 THE COURT: It has some relevance, going someplace  
8 else?

9 MR. FITZGERALD: Yes, just the type of aircraft,  
10 without the location.

11 THE COURT: Very well.

12 BY MR. FITZGERALD:

13 Q. Can you just tell us what you were told about -- let me  
14 ask this: Do you know the exact location they were going to,  
15 yes or no?

16 A. No.

17 Q. Do you know the type of plane they were taking, yes or no?

18 A. Yes.

19 Q. Can you tell us what you were told about the type of  
20 aircraft they were taking?

21 MR. DRATEL: Your Honor, same objection.

22 THE COURT: No. It's not -- is it being offered for  
23 the truth?

24 MR. FITZGERALD: Yes, Judge, under 801(d)(2)(4) --  
25 (d)(2)(E).

1 Thank you, Mr. Karas.

2 THE COURT: I'll allow it.

3 BY MR. FITZGERALD:

4 Q. What were you told about what other aircraft these five  
5 people were taking?

6 A. I was told they were taking a King Air aircraft.

7 Q. Can you explain what a King aircraft is?

8 A. It's in the class of private airplanes, it's a propeller  
9 airplane that you carry about five passengers, five to six  
10 passengers.

11 Q. What is the range of the King Air, approximately?

12 A. Perhaps maybe 1,000 mile.

13 Q. Just so we're clear, at the time that you flew this plane  
14 from Khartoum to Nairobi, where was Wadia El Hage living at  
15 the time?

16 A. In Khartoum.

17 Q. Did there come a time -- by the way, if I could just ask  
18 you to look around the courtroom and tell us if you see Wadia  
19 El Hage in the courtroom.

20 A. You want me to see if he's present?

21 Q. Yes.

22 A. Yes, he is, right there.

23 Q. If you can just describe what he's wearing.

24 A. A gray dress.

25 Q. Can you describe where he is from say the end of the

1 table, right to left?

2 A. From the right, he's the third on the right.

3 THE COURT: The record will show the witness has  
4 identified the defendant El Hage.

5 BY MR. FITZGERALD:

6 Q. After you took this jet from Khartoum to Nairobi and  
7 Nairobi back to Khartoum, what did you do once you arrived  
8 back in Khartoum?

9 A. I flew back to the U.S.

10 Q. And did there come a time when you saw the same airplane  
11 again?

12 A. Yes.

13 Q. Can you tell us what the circumstances were under which  
14 you saw the airplane again?

15 A. Sometime had elapsed and I went back to Cairo and worked  
16 with the Egyptian airline there. I had a call from Wadia  
17 stating that the airplane is still parked outside for the last  
18 maybe, must have been maybe a year and a half by then and  
19 Usama would like me to take it and try to do some business  
20 with it instead of just parking it there.

21 Q. Do you know the year it was that you moved to Egypt?

22 A. 1993, November.

23 Q. So this happened sometime after November 1993?

24 A. Yes.

25 Q. And at the time you received the phone call from Wadia El

1 Hage, do you know where he was living at the time?

2 A. He was living in Nairobi.

3 Q. And what did you do in response to this request?

4 A. I said, you know, I will try to check the market near  
5 Cairo and if there is any possibility that we could generate  
6 any business with it, I will call you back, but there is only  
7 one other security matter here: The fact by then Usama Bin  
8 Laden was very much exposed in the Egyptian media. He was  
9 not, of course, accepted by the Egyptian government, and it  
10 would be a high concern to me to go to Khartoum because also  
11 Sudan had its own conflict with the Egyptian government at the  
12 time. So I indicated my concern to Wadia and it would take me  
13 some planning to perhaps come through some other countries to  
14 be away from the Egyptian intelligence.

15 Q. Did you eventually check out the market in Egypt for the  
16 use of the airplane for business?

17 A. Yes.

18 Q. Did you eventually go to see the airplane in Khartoum?

19 A. Yes.

20 Q. Do you recall the route you took to go from Cairo to  
21 Khartoum?

22 A. Yes, I took a flight to Nairobi and --

23               Shall I continue?

24 Q. Yes.

25 A. And from Nairobi I took a flight to Khartoum.

1           MR. COHN: Your Honor, we're having an interpreter  
2 problem that I think is generated back there. There is no  
3 interpretation going on. I'm sorry.

4           (Pause)

5           MR. COHN: Okay, it seems to be solved.

6           MR. FITZGERALD: Do we need the last answer read  
7 back?

8           MR. COHN: I don't know how far it goes back. Why  
9 don't we just proceed.

10          THE COURT: Why don't you read the last answer.

11          (Record read)

12 BY MR. FITZGERALD:

13 Q. While you were in Nairobi, did you stop for any length of  
14 time there?

15 A. Must have been only one night, perhaps.

16 Q. And did you see anyone in Nairobi?

17 A. I saw Wadia.

18 Q. Where did you stay?

19 A. At his house.

20 Q. Is this the first time that you saw Wadia in Nairobi?

21 A. Yes.

22 Q. Did you have any discussion with him about what it was  
23 that he was doing in Nairobi?

24 A. Of course, it just came instantly because I had to wonder  
25 why did he leave Khartoum since we had our different opinions

1 about living in Khartoum and working in Khartoum with Usama.

2 So I was in a way pleased to see him out of Khartoum.

3 Q. And did he tell you why he left Khartoum?

4 A. Yes.

5 Q. What did he say?

6 A. He said he doesn't work any longer with Usama, he's  
7 working with the German Relief Agency, I believe.

8 Q. Did you have any further discussion about his work in  
9 Nairobi beyond that?

10 A. No.

11 Q. And what happened when you got -- let me ask you this.

12 Did you have an officer, a second officer with you to fly the  
13 airplane when you went from Cairo to Nairobi?

14 A. You mean when I went to Cairo -- to Nairobi as a  
15 passenger?

16 Q. Yes. Did you have a person with you who could help you  
17 fly the plane?

18 A. No. No.

19 Q. Did you have any discussion with Wadia El Hage about that  
20 fact?

21 A. Yes.

22 Q. And what did you say to him and what did he say to you?

23 A. He said that there is a new guy in Khartoum, his name is  
24 Nawawi, who is a pilot.

25 Q. And what did he tell you about Nawawi?

1 A. He would be meeting me. He knows all things about the  
2 aircraft. He's just a graduate, actually, he doesn't have any  
3 experience. That's it.

4 Q. What happened when you landed in Khartoum after you left  
5 Nairobi?

6 A. I had Nawawi waiting for me.

7 Q. What did you do then?

8 A. We went to the Hilton and we start discussing about, you  
9 know, the plans and things to do.

10 THE COURT: Who started, who entered --

11 THE WITNESS: Me and Nawawi, about how to go  
12 around -- about the aircraft and checking it and make sure  
13 that it is in a flyable condition.

14 BY MR. FITZGERALD:

15 Q. And did you have any discussion with Nawawi about where he  
16 received his flight instruction and training?

17 A. Yes.

18 Q. What did he tell you?

19 A. He said he received his education from the U.S. and he  
20 just barely a graduate.

21 Q. And did you actually go see the airplane?

22 A. Yes.

23 Q. In what condition was the airplane in at the time you  
24 first saw it?

25 A. I would say in a very terrible condition because we had

1 flat tires, we had melted tires from rubber from the heat and  
2 standing in the same spot for a long time, the engine intakes  
3 and outtakes were full of sand due to sand storms in Khartoum,  
4 no batteries. We had a problem finding the keys initially.

5 Q. Who eventually found the keys?

6 A. Nawawi did.

7 Q. And what did you do with the airplane?

8 A. We also needed to locate where are the batteries and  
9 charge them and then we cleaned the engine's intake and  
10 outlets. We tried to -- we inflated the tires. We just did  
11 general check. We checked the hydraulic systems. We asked  
12 the mechanic to charge the hydraulic systems. He did charge  
13 it only with hydraulic fluid, without any nitrogen, which is  
14 part of the charging process of the hydraulic system. The  
15 fact is that they don't really operate such an aircraft there.  
16 They just operate general aviation propeller aircraft.

17 Q. Did there come a time when you took the plane and started  
18 the engines and started to fly the plane?

19 A. Yes.

20 Q. Who was in the plane who did that?

21 A. Nawawi.

22 Q. And just the two of you?

23 A. Yes.

24 Q. Why don't you tell the jury what happened once you started  
25 the engines and started to fly the plane?

1 A. We had the first engine start with a lot of fire coming  
2 out of the engine. It must have been due to some left over  
3 sand. But anyway, I checked the hydraulic systems to make  
4 sure that we do have hydraulic, and of course the only thing I  
5 could see is the red hydraulic fluid in the manifold. But  
6 there was no way I could check if it had been positively  
7 charged with nitrogen on top of the hydraulic fluid just  
8 because of the compressure since we do different maneuvers in  
9 the aircraft and because of the compression change.

10 But anyway, after we managed to have a start, I  
11 decided to fly the aircraft from maybe one take off and  
12 landing, and then thereafter we do some other extensive checks  
13 relating to the avionics equipment.

14 Q. So what did you do?

15 A. We took off. It flew fine. We had some problem with the  
16 power setting. I decided to make a touch and go, which is a  
17 land without a first stop, again took off again for another  
18 circuit, made another touch, took off for the number third --  
19 number three circuit, and we decided to stop. I was satisfied  
20 then by the engine parameters that it would be flyable so I  
21 decided to stop.

22 To my surprise, of course, coming to a stop, I could  
23 not really stop the aircraft. We lost the main hydraulic or  
24 the main brake system. I tried the alternate brake system and  
25 I was actually talking to my first officer, who doesn't know

1 anything about the aircraft, that "I'm doing this now" and  
2 "I'm doing this now" as a way of making sure that I'm doing  
3 the act and also making him up to speed with what's going on  
4 with me.

5           So I said, we've lost the main brakes, I'm using the  
6 alternate. We've lost the alternate brakes, I'm using the  
7 hand brakes. We basically lost all kind of brakes. We could  
8 not really stop the aircraft. The last option would be, of  
9 course, to turn off the engines to reduce the propulsion of  
10 the aircraft forward, and I did, which is also very important  
11 to secure the fluid flow into the engines.

12           So we shut down the engines. We were still going on  
13 the runway, running out of runway. The speed we were about 60  
14 knots when we hit a sandpile off the runway.

15 Q. And what happened when you hit the sandpile?

16 A. The first two things that came to my mind is, of course,  
17 the safety of the first officer, because he had no knowledge  
18 of such equipment. Secondly is how to leave Khartoum as soon  
19 as I can.

20 Q. Focusing on the first concern first, how did you get out  
21 of the airplane?

22 A. I actually, as I said, I was briefing the first officer as  
23 I progressed on the runway, and knowing for sure now that we  
24 are getting towards the end, I have instructed him to unbuckle  
25 his seat belt just in case we have an explosion, he would have

1 run out of the aircraft immediately after we stopped.

2 Apparently he didn't. So he was trying to get out of the seat  
3 with his seat belt. So I unbuckled him. I went out of the  
4 door. I shut down the hydraulic and the electric system and  
5 left the aircraft.

6 Q. And what did you do once you got immediately outside of  
7 the aircraft?

8 A. By then, of course, the tower and everybody else could see  
9 where the aircraft going. We are -- this aircraft was very  
10 unique to Khartoum. There is no such private jet aircraft at  
11 Khartoum International Airport. So because of our take-off  
12 after a year and a half, everybody was really focusing on what  
13 we are doing.

14 So by the time I left the aircraft, there was a Jeep  
15 or maybe a Toyota truck, don't quote me there, with a guard,  
16 and out of respect to me as a pilot, he did not really ask any  
17 legal questions. He said, are you okay? I said, yes, but  
18 could you drop me to the terminal, again because of my concern  
19 to leave the country. Indeed, he did.

20 Q. Can you explain the reasons for your concern, why you  
21 wanted to leave the country so fast?

22 A. Well, this is a very, it's a very explosive situation.  
23 It's an aircraft accident. I'm the only one who flew this  
24 aircraft. Everybody knows that it is Usama Bin Laden's  
25 aircraft. Everybody knew then that I'm Egyptian. The

1 Egyptians are heavily available in Khartoum and I wouldn't  
2 like to be seen in association with Usama at the time. So I  
3 was very concerned to leave.

4 Q. So what did you do?

5 A. Went back to the Hilton, packed, and Nawawi followed me  
6 and I told him I need any flight, any destination out of  
7 Khartoum.

8 Q. Do you recall where you went?

9 A. I went to Addis Abbaba.

10 Q. What did you do when you got there?

11 A. It was a transit period in the airport and then I left  
12 from Addis Abbaba to Cairo.

13 Q. To this day are you still concerned about the Egyptian  
14 government finding out that you were flying Bin Laden's plane  
15 when it crashed?

16 A. Yes.

17 Q. Has the United States Government promised to do anything  
18 for you as a result of your testimony?

19 A. Yes.

20 Q. Can you tell the jury what that is?

21 A. It's the typical protection for a U.S. citizen, because  
22 for some reason the Egyptian government still think I'm  
23 Egyptian, though I go inside the country with my U.S.  
24 passport, and anybody who been around Usama Bin Laden's arena  
25 or in direct relation or in not direct, they would like to

1 hear from him, and it's annoying the way they do it.

2 Q. What is it that the United States Government promised to  
3 do for you to aid in your situation?

4 A. To communicate with them and relay to them that I'm not  
5 involved directly with Usama in any of his acts.

6 Q. Let me show you a picture on the screen.

7 MR. FITZGERALD: For the moment, Judge, we'll just  
8 display it to counsel and the witness, not yet the audience.  
9 For the record, it's Government Exhibit 108 for  
10 identification.

11 Q. Mr. al Ridi, if you could look at that picture and tell us  
12 if you recognize the person in that photograph.

13 A. Yes, that's the first officer, Nawawi.

14 Q. Is that picture, Government Exhibit 108, a fair and  
15 accurate depiction of what Nawawi looks like?

16 A. Yes, it is.

17 MR. FITZGERALD: Your Honor, I would offer Government  
18 Exhibit 108 in evidence.

19 MR. DRATEL: No objection.

20 THE COURT: You say no objection?

21 MR. DRATEL: No objection.

22 THE COURT: Received.

23 (Government Exhibit 108 received in evidence)

24 MR. FITZGERALD: Can we just display it briefly to  
25 the jury and to the public?

1 (Pause)

2 MR. FITZGERALD: Your Honor, if I could approach the  
3 witness with Exhibits 601A through 601AD, Adam, David, just  
4 show some photographs to the witness.

5 Q. If I could ask the witness to open that binder, and there  
6 are approximately 30 pictures in that book. If you could look  
7 at each of the pictures, page through it, and then we'll ask  
8 you some questions at the end.

9 (Pause)

10 Q. Do you recognize what's depicted in photographs 601A  
11 through 601AD?

12 A. Yes.

13 Q. What is it that's in those various pictures?

14 A. It's the aircraft that I flew to Khartoum and I crashed,  
15 unfortunately.

16 Q. Is that a picture of the airplane before or after the  
17 crash?

18 A. After the crash.

19 Q. Do those photographs 601A through AD fairly and accurately  
20 depict what it is that the plane looked like and the general  
21 condition it was in after you crashed it?

22 A. It must be. I have to tell you, I did not really check it  
23 thoroughly once I left.

24 Q. But it appears to be the same airplane you flew?

25 A. Indeed.

1           MR. FITZGERALD: Your Honor, I would offer 601A  
2 through AD.

3           MR. DRATEL: No objection.

4           THE COURT: Received.

5           (Government Exhibits 601A through 601AD received in  
6 evidence)

7           MR. FITZGERALD: If I could ask the witness to keep  
8 the binder in front of him and we could now display 601A  
9 through AD in sequence on the screens, and I'll ask a few  
10 brief questions of the witness.

11 Q. Can you tell the jury what is depicted in the one that's  
12 marked 601?

13 A. Yes, this is the nose gear of the aircraft.

14 Q. What happened to the nose gear when you hit the sand dune?

15 A. Again, as I said earlier, I did not really check what kind  
16 of damage it left on the aircraft.

17 Q. Next photograph. Looking at 601B, what is that?

18 A. It's the same piece, the nose landing gear of the  
19 aircraft.

20 Q. Moving on to C, what is that piece?

21 A. The same piece.

22 Q. Do you see a triangular red piece in the middle of the  
23 picture?

24 A. Yes.

25 Q. What is that?

- 1 A. That must be part of the wing or the tail area.
- 2 Q. Moving on to D, is that the same piece?
- 3 A. Yes, it is.
- 4 Q. Moving on to E, same piece?
- 5 A. Yes.
- 6 Q. F, what are those two pieces?
- 7 A. Again, they must be part of the flaps or the tail area. I  
8 cannot really tell you which part it is, but it's part of the  
9 aircraft.
- 10 Q. Moving on to G, do you recall what that is?
- 11 A. No.
- 12 Q. H. Anything you particularly recall there?
- 13 A. Again, pieces of the wing and the tail.
- 14 Q. I, moving on to I, do you recall what that piece is?
- 15 A. Yes, either the door or the nose of the aircraft.
- 16 Q. Moving on to J, do you know that piece?
- 17 A. No.
- 18 Q. K, moving on to K, do you know what pieces are depicted in  
19 601K?
- 20 A. Yes, that would be the nose cone and the one at the  
21 further back part of the picture. The first piece, I don't  
22 know what it is.
- 23 Q. Moving on to L.
- 24 A. Yes, that's the entire aircraft, if that's the right way  
25 to put it.

- 1 Q. Moving on to M.
- 2 A. The same aircraft, forward picture.
- 3 Q. Can you tell from this picture what airport the plane is  
4 being photographed in, if you know?
- 5 A. I can see some crop dusting aircraft in the back. It must  
6 have been Khartoum airport.
- 7 Q. Moving on to N, as in Nancy.
- 8 A. Again, it's the same aircraft.
- 9 Q. And O, do you know what piece that is?
- 10 A. That must be inside the landing gear bay or the nose bay.
- 11 Q. And P?
- 12 A. That's the same.
- 13 Q. Q?
- 14 A. The left wing of the aircraft.
- 15 Q. R, do you recognize what is depicted in R?
- 16 A. Yes, that must be the pipit tube, the equipment for the  
17 speed.
- 18 Q. How to you spell that?
- 19 A. P-I-P-I-T.
- 20 Q. And S, moving to S, same aircraft?
- 21 A. Same.
- 22 Q. T?
- 23 A. The main landing gear of the aircraft.
- 24 Q. U, same thing?
- 25 A. The same thing.

- 1 Q. V?
- 2 A. That's the whole aircraft from the belly part.
- 3 Q. W?
- 4 A. The same.
- 5 Q. X?
- 6 A. Yes, the same aircraft from the tail side.
- 7 Q. Y?
- 8 A. The nose side of the aircraft.
- 9 Q. Z, same piece of equipment?
- 10 A. Same piece of equipment, yes.
- 11 Q. AA, do you recall what that is?
- 12 A. It must be a part of the aircraft, but I can't really tell
- 13 you much.
- 14 Q. And AB?
- 15 A. Again, some hydraulic manifolds and lines.
- 16 Q. AC?
- 17 A. The same.
- 18 Q. And finally, AD?
- 19 A. It's the same.
- 20 Q. Okay. Just so we're clear, other than seeing pictures,
- 21 these particular pictures, did you ever see the aircraft after
- 22 you ran out of the Khartoum airport after you crashed?
- 23 A. No.
- 24 MR. FITZGERALD: Thank you.
- 25 Nothing further, Judge.

1 THE COURT: We'll take our midmorning recess at this  
2 point.

3 (Recess)

4 THE COURT: Let's resume. Let's bring in the jury.

5 (Jury present)

6 THE COURT: You are being handed a looseleaf page  
7 with the witness's name and his photograph. In the future  
8 we'll try and get them to you earlier so that if you want to  
9 take notes on the page with the photograph of the witness,  
10 that may be helpful to you during your deliberations.

11 With respect to the inquiry concerning vacation, our  
12 present thought is not to sit on Friday, August 17th. We  
13 won't sit on Friday. We'll adjourn on August 16 and resume on  
14 August 27th. So that we'll sit on the 27th, we'll sit on the  
15 16th, but not in between. It seems like a long way away, but  
16 it will be fast upon us.

17 All right, government's direct is concluded.  
18 Cross-examination on behalf of defendant El Hage, Mr. Dratel.

19 MR. DRATEL: Thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. DRATEL:

22 Q. Good afternoon, Mr. al Ridi.

23 A. Good afternoon to you.

24 Q. You were first contacted by the United States Government  
25 in October of 1998; is that correct?

1 A. I can't recall the specific date. It must be '98, yes.

2 Q. It was after the indictment had been returned and made  
3 public in this case; isn't that correct?

4 A. It is.

5 Q. And you were out of the country at the time?

6 A. Yes.

7 Q. And you were concerned if you came back to the United  
8 States that you might be arrested upon your return upon  
9 meeting with the government officials; isn't that correct?

10 A. Correct.

11 Q. And you expressed that concern to the government, correct?

12 A. Yes.

13 Q. And the government, in effect, did not give you any  
14 guarantees with respect to your coming back and not being  
15 arrested; is that correct?

16 A. That's correct.

17 Q. But the government informed you that there were no pending  
18 charges against you and they did not know of any other charges  
19 that were going to be brought against you at the time?

20 A. That's correct.

21 Q. And you were told you were a subject of the investigation;  
22 is that correct?

23 A. Yes.

24 Q. Do you remember the definition of "subject"?

25 A. That my name had surfaced somewhere during the

1 investigation and they would like to hear from me.

2 Q. At the time that you had these concerns, you didn't think  
3 that you had done anything illegal; isn't that correct?

4 A. I have done nothing illegal.

5 Q. So at the time your concern was purely based on the nature  
6 of the case and the publicity and the fact that your name had  
7 come up in relation to an investigation of a bombing that cost  
8 a lot of lives?

9 A. Yes.

10 Q. In fact, you didn't bring a lawyer with you to the  
11 meeting?

12 A. No.

13 THE COURT: To the meeting with, with whom?

14 THE WITNESS: To the meeting with Pat --

15 MR. DRATEL: With the government.

16 THE WITNESS: With the government, yes.

17 BY MR. DRATEL:

18 Q. Your relationship with Mr. El Hage dates back to 1981,  
19 doesn't it?

20 A. I'm not sure of the date, but it goes back long times.

21 Q. Now, you met him originally in Lafayette Louisiana; isn't  
22 that correct?

23 A. Yes.

24 Q. And he was a student?

25 A. Yes.

1 Q. He was a student at Southwest Louisiana -- University of  
2 Southwest Louisiana?

3 A. I can't recall the name, but must be, yes, one of the  
4 universities in Louisiana, Lafayette.

5 Q. Did you meet him in connection with MAYA, which you had  
6 discussed before, the Muslim Youth Association?

7 A. Perhaps so. I'm not sure.

8 Q. And in fact, by 1990 you were friendly enough with Mr. El  
9 Hage and found him responsible enough that you were one of the  
10 two persons who certified him for a telephone in Arlington  
11 with the phone company?

12 A. Yes.

13 Q. And the other person was Moataz al Hallak, who you  
14 mentioned before, correct?

15 A. Yes, that's correct.

16 Q. You also stated that you met Mr. El Hage in Peshawar in  
17 1982, correct?

18 A. Yes.

19 Q. In between --

20 A. If I may just -- 1983 and beyond.

21 Q. Might you have said 1982 at another time to the  
22 government?

23 A. I'm not sure.

24 MR. DRATEL: If I may approach, your Honor?

25 THE COURT: Yes.

1 BY MR. DRATEL:

2 Q. I would like you to read to yourself what is marked for  
3 identification purposes as 3503-1. Just read to yourself,  
4 please, the first sentence of the second paragraph.

5 THE COURT: Ladies and gentlemen, we have references  
6 to documents that are marked 35 and then some number. Those  
7 are references to documents which the government makes  
8 available to defense counsel pursuant to its obligations under  
9 the law. That's what 3500 indicates.

10 BY MR. DRATEL:

11 Q. Does that refresh your recollection whether you may have  
12 said it at another time?

13 A. Absolutely, it could be anyone here, but what I'm certain  
14 of is 1983.

15 Q. Thank you.

16 In between your first meeting Mr. El Hage and meeting  
17 him in Peshawar in 1983, you also discussed during your direct  
18 testimony a convention held in the United States where Sheik  
19 Azzam spoke?

20 A. Yes.

21 Q. And Mr. El Hage attended that conference as well, isn't  
22 that correct?

23 A. I'm not sure.

24 MR. DRATEL: If I may approach again, your Honor.

25 If you read the first paragraph of 3503-1 at page 2

1 to yourself. Let me know when you're finished.

2 (Pause)

3 Q. Does that refresh your recollection that Mr. El Hage  
4 attended the conference?

5 A. It refreshes my recollection about the convention, but I  
6 don't recall Wadia being there.

7 Q. Did you not tell the government?

8 A. No.

9 Q. Withdrawn. Withdrawn, your Honor.

10 Did you meet with the government on December 9, 1999,  
11 would that sound about right?

12 A. I met with the government -- yes, it sounds about right.

13 Q. They asked you questions and you answered?

14 A. It was in a form of an interview, yes.

15 Q. Yes. And they took notes?

16 A. Yes.

17 Q. And did you tell the government during that interview that  
18 Mr. El Hage attended the conference?

19 A. I don't recall that, as I said.

20 Q. It's possible?

21 A. It's possible, yes.

22 Q. You first saw Sheik Azzam in Pakistan in 1976, correct?

23 A. It must have been maybe 1978, a little bit later than  
24 that, actually.

25 Q. And it was before the Jihad in Afghanistan, correct?

- 1 A. Yes.
- 2 Q. It was before the Soviet invasion of Afghanistan?
- 3 A. Yes.
- 4 Q. But it was -- you found it to be a beautiful speech,  
5 though, correct?
- 6 A. Which one, sir?
- 7 Q. The first one you saw in 1978?
- 8 A. It was not a speech. It was a casual setting at his  
9 house, having dinner with Sheik Abdallah.
- 10 Q. Did you describe it as a beautiful address, whatever, it  
11 was a lecture?
- 12 A. Yes.
- 13 Q. And you were moved by it?
- 14 A. Yes.
- 15 Q. And you were moved to the extent that you went and sought  
16 out Sheik Azzam afterwards on your own?
- 17 A. Yes.
- 18 Q. And when Sheik Azzam issued the call to Muslims to  
19 participate in Jihad in Afghanistan two years later, that had  
20 an impact on you?
- 21 A. Yes.
- 22 Q. The Jihad that you -- even though it was a Jihad fardh al  
23 ein as you described it, in fact you made your own decisions  
24 during the course of your participation in it, correct?
- 25 A. Yes.

1 Q. So, as you told us, you withdrew at a certain point  
2 because of personal differences that you had with management  
3 issues?

4 A. You could say so.

5 Q. And even though you made that decision, you still also did  
6 other things for Jihad in your own way?

7 A. Of course.

8 Q. That did not violate your own personal principles as to  
9 what you were doing or not doing?

10 A. No.

11 Q. "No," as in you did it so as not to violate your personal  
12 principles?

13 A. Let me clarify. The fact that I left physically from  
14 Peshawar was not in any mean or shape would remove me feeling  
15 a commitment to the cause.

16 Q. Right. But there were just things that were happening in  
17 Peshawar, and this you did not agree with?

18 A. Absolutely.

19 Q. And you did not want to participate?

20 A. Yes.

21 Q. But you still felt dedicated to Jihad?

22 A. Yes.

23 Q. When you went to Peshawar in 1982 there were many groups  
24 of mujahadeen; isn't that correct?

25 A. That's correct.

1 Q. And one was Sheik Sayyaf, who you described?

2 A. Right.

3 Q. And isn't it true that Sheik Sayyaf attracted many of the  
4 Arab mujahadeen because of the language issues? Withdrawn.

5 The Arab mujahadeen who went to Afghanistan spoke  
6 Arabic, correct?

7 A. Of course.

8 Q. The Afghani natives do not speak Arabic necessarily,  
9 correct?

10 A. Not necessarily, no.

11 Q. So there was, to some extent, a language barrier between  
12 the Afghani mujahadeen and the Arab mujahadeen, correct?

13 A. On the public sense, but not the leaders. The leaders,  
14 all of them spoke Arabic to a certain extent.

15 Q. But the people who associated themselves with the leaders  
16 tended to be in groups with which they had something in  
17 common?

18 A. As I said, you know, something in common are -- you are  
19 referring to the language, Rabbani, Hekmatyar and others spoke  
20 Arabic, but there could be a relation of other natures. The  
21 language is not the only reason.

22 Q. But there are also geographic reasons, certain people  
23 attracted people from certain different states?

24 A. Possibly.

25 Q. But there are a multitude of groups?

- 1 A. Yes.
- 2 Q. You mentioned the four yourself?
- 3 A. Yes.
- 4 Q. And ultimately, Mr. Bin Laden had a group at the time?
- 5 A. Not at the time.
- 6 Q. But later?
- 7 A. Yes.
- 8 Q. Initially he was just a financier, correct?
- 9 A. Correct.
- 10 Q. Now, when you met Mr. El Hage -- withdrawn.
- 11 With respect to Sheik Sayyaf, another organization
- 12 that he ran was the Bunyan al Mahrsous; is that correct?
- 13 A. That's correct.
- 14 Q. And that's a magazine?
- 15 A. Yes, that is.
- 16 Q. And that was a magazine that was dedicated to information
- 17 about the Afghan Jihad?
- 18 A. Yes.
- 19 Q. And that had articles in it about mujahadeen leaders and
- 20 battles and information about the Jihad?
- 21 A. Yes.
- 22 Q. And also where to send donations, addresses so people
- 23 could send donations?
- 24 A. Yes.
- 25 Q. Mr. El Hage worked for Bunyan al Mahrsous for a time?

1 A. I don't recall that, no.

2 Q. When you first met Mr. El Hage in Peshawar, he was working  
3 for an aid organization, correct?

4 A. I'm not sure really, because the center was such that we  
5 had so many guesthouses, the definition of which exactly are  
6 you working to, which agent or which group was not really  
7 defined, except on behalf of Sheik Abdallah Azzam because it  
8 was the first guesthouse there. Thereafter, it evolved into  
9 maybe 11 or 10 guesthouses.

10 Q. And but you're aware that he was not fighting on the front  
11 lines or fighting in Afghanistan?

12 A. As a matter of fact, no, I think he was, but I'm not sure  
13 where and when. We spoke about it several times.

14 Q. And you're aware of his problem with his arm?

15 A. Yes, absolutely.

16 Q. And essentially, he can't lift objects, heavy objects with  
17 his right arm, correct?

18 A. That's correct.

19 Q. When you met Mr. El Hage again in the Sudan, when you  
20 visited him in the Sudan the first time, he was already  
21 married; isn't that correct?

22 A. Yes.

23 Q. And he had children?

24 A. Yes.

25 Q. Do you know how many children he had at the time?

1 A. I think there were five at the time.

2 Q. His wife and children were living with him?

3 A. Yes.

4 Q. You spoke on direct about obtaining certain equipment for  
5 the mujahadeen while you were traveling, right?

6 A. Yes, correct.

7 Q. And some of that equipment was obtained in the United  
8 States and some in the United Kingdom, correct?

9 A. Correct.

10 Q. And to your knowledge, you were not doing anything wrong  
11 in doing that?

12 A. No.

13 Q. And to your knowledge, that was consistent with the Jihad  
14 in Afghanistan?

15 A. Yes.

16 Q. With respect to Mr. Bin Laden, you disagreed with Mr. Bin  
17 Laden with respect to his insistence on controlling how his  
18 money was spent?

19 A. Yes.

20 Q. He gave a lot of money, correct?

21 A. He did.

22 Q. But your objection was essentially grounded in your  
23 interpretation of Islam?

24 A. No, actually, in proper management sense. If you don't  
25 have any expertise in certain fields, you should not make

1 decisions because then it will be an ill decision.

2 Q. Does that have to do with the money as well as just in  
3 terms of battlefield management?

4 A. That's what I'm saying. If you are a financier, you could  
5 just pay the money, of course, to get the credit in the sight  
6 of God. However, if you don't have any expertise in certain  
7 areas, it would be best not to give any decision making -- not  
8 to be part of the decision making.

9 Q. And the decision thinking that you are talking about is  
10 essentially military?

11 A. Yes.

12 Q. And you thought that his lack of military experience  
13 was -- withdrawn -- that he lacked enough military experience  
14 to make military decisions?

15 A. To the extent he was dangerous.

16 Q. Yes. To the extent that it may cost the lives of some of  
17 the people working under him following his orders?

18 A. Yes.

19 Q. But when you went back to Peshawar in the late 80s to  
20 sight the scopes on the rifles, in fact that was for Bin  
21 Laden's organization, correct, or his men?

22 A. That was to my surprise. The deal initially was -- well,  
23 again, if you don't mind, I'm just going to take you a step  
24 back.

25 Q. I don't know. I think if you just let me ask the

1 questions.

2 A. Sure.

3 Q. We'll just keep it --

4 A. Sure.

5 Q. -- that way.

6 It was supposed to be split a different way, correct?

7 A. Yes.

8 Q. But then, ultimately, more went to Bin Laden than you had  
9 thought would happen?

10 A. Correct.

11 Q. And but you went back and you, even after you found out  
12 that Mr. Bin Laden had the rifles, you sighted the scopes for  
13 them?

14 A. Because it all happened when I got there, actually.

15 Q. But you did it?

16 A. Yes.

17 Q. And then when you were asked by Mr. El Hage to purchase  
18 the plane, you went forward with that as a commercial, purely  
19 commercial business transaction, correct?

20 A. Absolutely.

21 Q. And the same is true when you returned a month or two  
22 later to make the flight to Nairobi?

23 A. Yes.

24 Q. And the same is true when you came from Cairo to go back  
25 to the Sudan to try to fly the plane again a year and a half

1 later?

2 A. That's correct.

3 Q. And all those were purely commercial transactions, having  
4 nothing to do with anything else?

5 A. No.

6 Q. And this was despite your earlier disagreements and  
7 reservations about Mr. Bin Laden, correct?

8 A. Because then the issue was not in existence anymore. He  
9 is not in Peshawar, he is not in Jihad, I'm not either, so  
10 there is no conflict except we are doing business together.

11 Q. Right. In fact, your rejection of the job offer had  
12 nothing to do really with philosophy with respect to Mr. Bin  
13 Laden, but really a question of what was going to make it  
14 worth your while to move to the Sudan?

15 A. Yes.

16 Q. You testified on direct that the plane, that the purchase  
17 of the plane occurred in '93. Isn't it a fact that it began  
18 earlier, probably August '92?

19 A. Could be, because actually the process of negotiating and  
20 talking about the different types and changing the budget a  
21 few times must have taken some time.

22 Q. And during the course of that few months, money was wired  
23 into your account from the Sudan, correct?

24 A. Yes, that's correct.

25 Q. And about \$250,000?

1 A. Yes.

2 Q. And from the Shamal Bank in the Sudan?

3 A. I can't recall the name.

4 Q. I want to show you what has been marked as defendant El  
5 Hage A for identification, just ask you to read the first line  
6 of that. And when you're done, let me know.

7 A. "Wadia" --

8 Q. Just read it to yourself. I'm sorry.

9 A. Yes, that's correct.

10 Q. Thank you.

11 Does that refresh your recollection that the wire  
12 transfers came from the Shamal Bank in the Sudan?

13 A. Yes, it does. But actually my concern, it wasn't my bank.

14 Q. Yes. And so you were not concerned about having wire  
15 transfers come from the Sudan into your account in Texas?

16 A. No.

17 Q. In fact, for the government, for the United States, being  
18 in the United States, you didn't have that problem, correct?

19 A. That's correct.

20 Q. If you had been in Egypt, that might have been a problem?

21 A. Possibly, yes.

22 Q. And that's because, as you noted before, the Egyptians and  
23 the Sudanese do not get along, correct?

24 A. That's correct.

25 Q. And isn't it also a fact that part of the Egyptian --

1 withdrawn. Isn't it also a fact that the Egyptian government  
2 does not tolerate people who are very religiously Islamic and  
3 want to establish an Islamic government?

4 A. They won't tolerate anybody who have activities or had had  
5 activities in Peshawar. Now, do they have any other views  
6 about other groups, I can't answer you that.

7 Q. When you say in Peshawar, you mean the mujahadeen?

8 A. Yes.

9 Q. And there were a lot of Egyptians who went to Peshawar and  
10 then ultimately Afghanistan who fought as mujahadeen and then  
11 tried to return to Egypt, correct?

12 A. Yes.

13 Q. And isn't it a fact that Egypt made it a crime for them to  
14 have been trained militarily in another country?

15 A. Later, yes.

16 Q. And that affected all of these mujahadeen, correct?

17 A. Of course.

18 Q. And it made them criminals in their own country, correct?

19 A. Yes.

20 Q. And it made it impossible for them to live in their own  
21 country?

22 A. Yes.

23 Q. And if they did try to live there, they would be  
24 imprisoned, correct?

25 A. I can't answer that.

1 Q. Isn't it a fact that thousands of persons are imprisoned  
2 in Egypt based on their Islamic and -- their activity in  
3 Islamic organizations?

4 MR. FITZGERALD: Objection.

5 THE COURT: One minute.

6 MR. FITZGERALD: Objection, 401 and competence.

7 THE COURT: Sustained.

8 You want to establish his knowledge?

9 MR. DRATEL: Yes.

10 BY MR. DRATEL:

11 Q. You grew up in Egypt, correct, and in Kuwait?

12 A. I lived in Egypt only for five years as a child and I grew  
13 up in Kuwait.

14 Q. But you went back to live in Egypt during the 1990s?

15 A. Right.

16 Q. When you were living in Egypt, was there not common  
17 knowledge that persons were imprisoned based on activity in  
18 Islamic organizations?

19 A. Yes.

20 Q. With respect to the person who you mentioned as

21 Al-'Owhali?

22 A. Nawawi.

23 Q. Nawawi, who served as your first officer on that last  
24 flight out of the airport in Khartoum, when you were  
25 interviewed by the government, isn't it a fact that --

1 withdrawn.

2           Didn't you tell the government during the interview  
3 with them that you did not know any connection between Mr. El  
4 Hage or Nawawi other than the fact that you had asked Mr. El  
5 Hage to find a co-pilot and that then Mr. Nawawi met you with  
6 the keys to the aircraft?

7 A. The answer to that, actually Wadia took care of the  
8 arrangements.

9 Q. Did you tell the government that during a previous  
10 interview?

11 A. I'm not sure, no.

12 Q. I show you what has been marked as 3503-2 --

13           MR. DRATEL: Just a moment, your Honor.

14           MR. FITZGERALD: Your Honor, I have an objection to  
15 form. Could I speak to Mr. Dratel for just a moment?

16           THE COURT: Yes.

17           (Pause)

18 BY MR. DRATEL:

19 Q. Isn't it a fact that Mr. El Hage did not tell you the name  
20 of the person who you would be meeting as a co-pilot?

21 A. It's a possibility. You're asking me to recall a lot of  
22 details. I'm sorry.

23 Q. And this is six, seven years ago, correct?

24 A. Yes.

25 Q. And also isn't it a fact that what you had done was ask

1 him to arrange for you to have someone to assist you in flying  
2 the plane?

3 A. Yes, that's correct.

4 Q. And then you went to Khartoum and someone met you with the  
5 keys?

6 A. Yes.

7 Q. And this person turned out to be Nawawi?

8 A. Yes, but initially he did not have the keys.

9 Q. When you met with Usama Bin Laden in the Sudan on your  
10 first trip to the Sudan and after you had dinner and I guess  
11 it was the next day you met with him, correct?

12 A. No, the first night I arrived there early in the morning,  
13 had lunch with Wadia and dinner with Usama.

14 Q. But the next day was your meeting alone with Mr. Bin  
15 Laden?

16 A. Right.

17 Q. And at that meeting you expressed to him that you were not  
18 interested in Jihad but you were interested in purely  
19 business?

20 A. No, that was his indication when I actually told him about  
21 his previous actions in Peshawar and how much I opposed it.  
22 He indicated to me that this is strictly business.

23 Q. And he offered you the position?

24 A. Yes.

25 Q. After that discussion?

1 A. Yes.

2 Q. Now, after your last time flying the plane in the Sudan,  
3 you next met Mr. El Hage in 1998, correct?

4 A. That's correct.

5 Q. And you met in Texas?

6 A. Yes.

7 Q. And you were visiting your family? You were visiting  
8 members of your family?

9 A. Yes.

10 Q. And you had spoken during your direct exam about your  
11 conversations with Moataz al Hallak about making sure that you  
12 could accomplish what you wanted to in the plane transaction  
13 and do it in an Islamically correct way?

14 A. That's correct.

15 Q. And it turned out there was a problem with that, correct?

16 A. At the time, no. The problem came later.

17 Q. Yes. And there was a disagreement between you and Mr. al  
18 Hallak as to whether or not you had followed all the rules you  
19 were supposed to?

20 A. Actually, I followed all the rules. He's the one who  
21 defaulted on the rules.

22 Q. But there was an argument between you and Mr. Al Hallak?

23 A. Yes.

24 Q. And prior to that, he was your best friend, correct?

25 A. Yes.

1 Q. And part of Mr. El Hage seeing you that day, 1998, was an  
2 attempt to mediate the dispute between you and Mr. al Hallak,  
3 correct?

4 A. Yes.

5 Q. And he tried to serve as a way to get you two back  
6 together again as friends?

7 A. That's correct.

8 Q. And in addition, he also told you -- withdrawn.

9 He was living in the United States at the time,  
10 Mr. El Hage, correct?

11 A. Yes.

12 Q. And this was in the early part of 1998?

13 A. It must have been the summertime because that's when I  
14 take the kids to visit the U.S.

15 Q. But it was before the bombings that occurred, correct?

16 A. It must have been after the bombings.

17 Q. Do you know for sure?

18 A. Not for sure, no.

19 Q. Well, he told you that his house in Kenya had been  
20 searched, correct, the year before?

21 A. Yes.

22 Q. And he told you that he had spoken with the FBI?

23 A. Yes.

24 Q. And he told you that your name had come up, correct?

25 A. Yes.

1 Q. And at that time he hadn't been arrested or anything,  
2 correct?

3 A. Say again, sir?

4 Q. Mr. El Hage had not been arrested?

5 A. No.

6 Q. Or charged or anything?

7 A. No, he was only interviewed to what he indicated that he  
8 had been interviewed by the FBI. There was no arrest.

9 Q. And so he was just informing you of the fact that he had  
10 been interviewed, his house had been searched, and that your  
11 name had come up?

12 A. No, actually he had indicated to me that they have seized  
13 few things from his house in Nairobi and the fact that  
14 definitely being friends, his name is there, his security  
15 system is there, my name might be there.

16 Q. The point of that is to let you know that you might be  
17 contacted by the government as well?

18 A. Well, actually that issue did not come. The main issue  
19 was the reconciliation between me and Moataz and the fact that  
20 he was soliciting my advice on the status that he had with the  
21 FBI.

22 Q. But when he had discussions with you that day, nothing  
23 came up about anything illegal, correct?

24 A. Yes, absolutely. Correct, nothing.

25 Q. There was nothing that you should be worried about in

1 terms of anything that you had done, correct?

2 A. Yes, correct.

3 Q. And nothing to be worried about in anything that he had  
4 done, correct?

5 A. What I have indicated to him, if there is anything that he  
6 should be concerned about. He said, no, absolutely. I said,  
7 okay, be very forthcoming and very honest and clear with them  
8 and just carry it out until it's over.

9 Q. Just like you were?

10 A. Sorry?

11 Q. Just like you were with the government?

12 A. Yes.

13 MR. DRATEL: Thank you.

14 I have nothing further, your Honor.

15 THE COURT: Anything further of this witness?

16 MR. RICCO: No, your honor.

17 MR. COHN: Your Honor, I have one thing briefly.

18 THE COURT: Yes. Mr. Cohn, on behalf of defendant

19 Al-'Owhali.

20 CROSS-EXAMINATION

21 BY MR. COHN:

22 Q. Just to avoid confusion, sir, you mentioned the co-pilot's  
23 name was al Nawawi?

24 A. Nawawi.

25 Q. Nawawi. How old was he at the time?

1 A. He must have been in the 25, 26 range.

2 Q. When was this?

3 A. 1994, the end part of 1994.

4 Q. You wouldn't confuse him with Mr. Al-'Owhali, age 24,  
5 sitting over there, would you?

6 A. No, he's not.

7 Q. The name similarity is just similar, is that right?

8 A. No, sir, he's not.

9 MR. COHN: Thank you.

10 THE COURT: Any redirect?

11 MR. FITZGERALD: One question, Judge.

12 REDIRECT EXAMINATION

13 BY MR. FITZGERALD:

14 Q. When you met with Mr. El Hage in 1998, did the fact that  
15 the government had its computer stick in his mind at that  
16 time?

17 A. Stick in whose mind, sir?

18 Q. Did Mr. El Hage -- let me rephrase it. Did Mr. El Hage  
19 specifically tell you that the government had taken his  
20 computer when you met in 1998?

21 A. Yes, he did.

22 MR. FITZGERALD: Thank you. Nothing further.

23 THE COURT: Thank you.

24 RECROSS-EXAMINATION

25 BY MR. DRATEL:

1 Q. Did he also tell you that the government had taken other  
2 things from him in Nairobi?

3 A. Yes, indeed.

4 MR. DRATEL: Thank you.

5 THE COURT: Thank you. You may step down.

6 (Witness excused)

7 THE COURT: The government may call its next witness.

8 MR. BUTLER: The government calls Mr. Ashif Juma,  
9 your Honor, A-S-H-I-F, last name, J-U-M-A.

10 ASHIF MOHAMED JUMA,

11 called as a witness by the government,

12 having been duly sworn, testified as follows:

13 DEPUTY CLERK: Please be seated. Please state your  
14 full name.

15 THE WITNESS: Ashif Mohamed Juma.

16 DEPUTY CLERK: Could you spell your full name, first  
17 and last.

18 MR. HERMAN: We're not able to hear.

19 THE COURT: You have to, sir, you have to speak right  
20 into that microphone.

21 DEPUTY CLERK: Please spell your full name.

22 THE WITNESS: I spell, A-S-H-I-F M-O-H-A-M-E-D  
23 J-U-M-A.

24 DEPUTY CLERK: Thank you.

25 DIRECT EXAMINATION

1 BY MR. BUTLER:

2 Q. Mr. Juma, I just ask that you try to lean a little forward  
3 into the microphone and keep your voice up as best as you can  
4 so that everyone can hear your testimony, okay.

5 Mr. Juma, where were you born?

6 A. I was born in Tanzania, Maswa City.

7 Q. And if you could maybe raise the microphone a little bit  
8 and try to speak right into it so everybody can hear you, and  
9 keep your voice up, okay?

10 Let's try it again. Where were you born, Mr. Juma?

11 A. I was born in Tanzania, Maswa City.

12 Q. And where again in Tanzania?

13 A. Maswa.

14 Q. Could you spell that, please?

15 A. M-A-S-W-A City.

16 Q. When were you born?

17 A. 22nd April 1965.

18 Q. And how long did you originally live in Tanzania?

19 A. Until 1982.

20 Q. Where did you go in 1982?

21 A. I shifted to Kenya, Nairobi.

22 Q. And how long did you live in Nairobi, Kenya after 1982?

23 A. I've been living there since then, and there was a time  
24 when in which I went to Canada. And I went back to Kenya  
25 again, from Kenya I shifted to Tanzania.

1 Q. Do you have any brothers and sisters, Mr. Juma?

2 A. Yes, we are totally eight in the family.

3 Q. Who are your brothers and sisters?

4 A. We are three brothers. First brother is -- I'll start  
5 from the top, is our sister, Fatima, the second one is my  
6 brother Mohamed Ashrif, the third one is my sister Setuna, the  
7 fourth one is my sister Tahera, the fifth one is my other  
8 sister Shamina, the sixth one is my other sister Manira.  
9 After Munira is myself and my younger brother Sikander.

10 Q. Mr. Juma, did any of your brothers and sisters join you  
11 when you moved to Nairobi in 1982?

12 A. Yes, sir.

13 Q. Which of your brothers and sisters joined you in Nairobi?

14 A. All of them except Setuna and Shamina.

15 Q. Now I would like to show you a photograph that's been  
16 previously entered into evidence as Government Exhibit 103.

17 A. That's --

18 Q. Do you recognize the person in Government Exhibit 103?

19 A. Yes, sir.

20 Q. Who is that?

21 A. That's Jalal, or Adel Habib.

22 Q. How do you know this person?

23 A. He was my brother-in-law. He was -- he married my sister.

24 Q. And you knew him as Jalal, J-A-L-A-L?

25 A. Yes, sir.

1 Q. And you also knew him as Adel, A-D-E-L, Habib, H-A-B-I-B?

2 A. A-D double-E-L Habib.

3 Q. Is this person that you identify as Jalal, is he still  
4 alive?

5 A. No, he is not. He is dead.

6 Q. And do you know how he died?

7 A. Yes, he died in a ship accident, ferry accident.

8 Q. How do you know this?

9 A. Because I was with him.

10 Q. Do you recall approximately when he died in this ferry  
11 accident?

12 A. Yes, in '96, 21st of May.

13 Q. During the time that Jalal was alive, did you ever know  
14 him by the name Abu Ubaidah al Banshiri?

15 A. No, sir.

16 Q. Did you ever know him under the name Abu Ubaidah?

17 A. No.

18 Q. During the time this individual you identified as Jalal  
19 was alive, did you ever know him to be a member of a group  
20 called al Qaeda?

21 A. No, sir.

22 Q. During the time you knew Jalal, did you ever know him to  
23 have any relationship with an individual named Usama Bin  
24 Laden?

25 A. No.

- 1 Q. You say that this person Jalal was your brother-in-law.  
2 Which sister did he marry?  
3 A. Tahera.  
4 Q. And that's T-A-H-E-R-A?  
5 A. Yes, sir.  
6 Q. About when did they get married?  
7 A. Somewhere around in '93.  
8 Q. Where did that wedding take place?  
9 A. In Nairobi.  
10 Q. And when did you -- approximately when did you first meet  
11 Jalal?  
12 A. Approximately in '93.  
13 Q. About how long before they got married did you first meet  
14 him?  
15 A. Few months.  
16 Q. How frequently did you see him during this period?  
17 A. He was there in Nairobi. He was coming every time to my  
18 house before he married my sister.  
19 Q. Did you find out where Jalal was originally from?  
20 A. I knew he was from -- he was an Egyptian, but he was  
21 holding Dutch citizenship.  
22 Q. So your understanding was that he was originally from  
23 Egypt?  
24 A. Yes, sir.  
25 Q. But he also had Dutch citizenship?

1 A. Yes.

2 Q. Did you attend the wedding of Jalal and your sister  
3 Tahera?

4 A. Yes.

5 Q. Where did that wedding take place?

6 A. In Nairobi in my house.

7 Q. Do you recall who else generally attended that wedding?

8 A. All of my family was there.

9 Q. Do you recall, were there any family of Jalal who attended  
10 that wedding?

11 A. No, there was no one.

12 Q. Were there any friends of Jalal who attended that wedding?

13 A. No.

14 Q. Where was Jalal living when you first met him?

15 A. In Nairobi.

16 Q. Did you know what he was doing for a living at the time?

17 A. Well, he had told me that he has a business of importing  
18 gymnasium equipment, like weight-lifting and all that.

19 Q. So he was importing exercise equipment into Nairobi?

20 A. Yes, sir.

21 Q. Did you know if he was involved in any other businesses?

22 A. No.

23 Q. Did you ever work with Jalal in any kind of a business?

24 A. Yes, we had started a mining business in Tanzania.

25 Q. And approximately when did you start this mining business

1 in Tanzania?

2 A. Early '93.

3 Q. And what was this mining business going to mine?

4 A. Sorry?

5 Q. This was a mining business, what was it going to mine?

6 A. Diamond and gold.

7 Q. What was going to be your role in this business?

8 A. I was one of the directors.

9 Q. Was there anything else you were going to do for the  
10 business?

11 A. Well, my role was mostly that I was processing the  
12 paperwork all about license and to go all around the place  
13 because I knew Tanzania very well, and the Tanzanian  
14 government, it says that you have to be -- a foreigner can't  
15 work, do any business in Tanzania without any local person in  
16 Tanzania. And since I was Tanzanian, so it was easier for me  
17 to go around.

18 Q. Do you recall what the name of that mining business was?

19 A. Taheer Limited.

20 Q. And who provided the money to start up this mining  
21 business?

22 A. Mr. Jalal.

23 Q. Did you invest any of your own personal money in this  
24 business?

25 A. No, sir.

1 Q. Did any members of your family invest any money in this  
2 business?

3 A. No, sir.

4 Q. Were you paid any salary by this business for the work  
5 that you did?

6 A. Yes. In the starting, I was paid \$200 a month.

7 Q. Who paid you that \$200 a month?

8 A. Mr. Jalal, and he paid me for about five months, six  
9 months.

10 Q. At the time do you know where Jalal was getting the money  
11 to pay you this \$200 a month?

12 A. No, sir.

13 Q. Did this mining business ever actually operate?

14 A. No, sir.

15 Q. You say that you received \$200 a month in salary for about  
16 five months. Did you receive anything else from Jalal in  
17 connection with this mining business?

18 A. Yes, I got a car from him.

19 Q. What kind of car did you get from him?

20 A. It was Toyota Land Cruiser, four-wheel drive.

21 Q. When was this about?

22 A. That was in '93. We talk about transportation we will  
23 need in Tanzania, so I said we need a car at least, and he  
24 bought a car.

25 Q. Who purchased the car?

- 1 A. Mr. Jalal.
- 2 Q. And he gave you the car?
- 3 A. Yes, sir, he bought the car.
- 4 Q. What happened to that car?
- 5 A. Well, he bought it on my name and I took it to Tanzania  
6 with me from Nairobi.
- 7 Q. You say that you took it from Nairobi to Tanzania. Did  
8 you relocate to Tanzania for a while in connection with this  
9 business?
- 10 A. Yes, sir. I was supposed to be living in Tanzania after  
11 that.
- 12 Q. And what did you do with this car once you got to  
13 Tanzania?
- 14 A. Well, I used the same car to go everywhere to Dar es  
15 Salaam and to wherever, to mining place where the mines are.
- 16 Q. And did you eventually sell this car?
- 17 A. Yes, sir. Then I talked to him, I said, look, I can't --  
18 since we have not started the business of mining, we are not  
19 getting any income so it's better I sell this car and I buy a  
20 minibus whereby I can operate it in Mwanza and on my own  
21 salary through the minibus, town bus.
- 22 Q. Did you actually do that, did you sell the car and buy a  
23 minibus?
- 24 A. Yes, I did.
- 25 Q. Did you operate that minibus as a business in Tanzania?

1 A. Yes, sir.

2 Q. Did Jalal ever tell you where he got the money to buy the  
3 car that you used eventually to set up this bus business?

4 A. Yes, sir. He had mentioned to me that that car was --  
5 that money was from one of his friend.

6 Q. So he mentioned that it was money that he had gotten from  
7 one of his friends?

8 A. Yes, sir.

9 Q. Did he mention that friend's name?

10 A. Not I can remember, sir.

11 THE COURT: Mr. Butler, when you get to a good  
12 stopping point, we'll break for lunch.

13 MR. BUTLER: This is fine, your Honor.

14 THE COURT: Very well, then we'll break for lunch and  
15 we'll resume at 2:15.

16 (Jury not present)

17 THE COURT: Mr. Ruhnke, you had something you want to  
18 take up?

19 MR. RUHNKE: Indeed, your Honor, ex parte.

20 THE COURT: All right. Ex parte matter.

21 (Luncheon recess)

22 (Pages 634 through 635 filed under seal)

23

24

25

1 (Pages 637 through 638 sealed)

2 (In open court; jury present; witness resumed)

3 THE COURT: Mr. Juma, Mr. Butler, you may continue.

4 MR. BUTLER: Thank you, your Honor.

5 DIRECT EXAMINATION(Continued)

6 BY MR. BUTLER:

7 Q. Again, Mr. Juma, if you could just try to keep your voice  
8 up, speak into the microphone so everyone can hear you.

9 I believe you testified before the lunch break that  
10 you had moved back from Nairobi to Tanzania in connection with  
11 this mining business, correct?

12 A. Yes, sir.

13 Q. And about when was that?

14 A. In '93.

15 Q. '93?

16 A. Yes, sir.

17 Q. And where did you live when you were in Tanzania?

18 A. In Mwanza.

19 Q. And did you own your own home?

20 A. I was renting a house there.

21 Q. And your brother-in-law Jalal, did he have a house in  
22 Mwanza, Tanzania?

23 A. No, he did not have the house.

24 Q. And where would he stay when he would come down to Mwanza,  
25 Tanzania?

1 A. To my place, sometimes in the hotel.

2 Q. You mentioned that you were with Jalal when he died in a  
3 ferry accident. When did that trip occur?

4 A. Sorry?

5 Q. The ferry trip that you mentioned, when did that trip  
6 occur?

7 A. It was in '96. It was about one of my sister. She had  
8 some problems with her husband. There had been some domestic  
9 fights, so we had to come between them to bring them together  
10 again, because she wanted to separate from the husband and we  
11 tried to bring them back.

12 Q. To be clear, this is a different sister than Tahera who is  
13 married to Jalal?

14 A. Yes, sir.

15 Q. Which sister was this?

16 A. My sister Munira.

17 Q. She was having trouble with her husband?

18 A. Yes, sir.

19 Q. Where were they living at the time?

20 A. At the time they were in Nairobi, and husband say that,  
21 no, I want you to go to Tanzania Bukova whereby you can live  
22 there in Bukova.

23 Q. Where is Bukova located in relationship to Mwanza?

24 A. It is northwest of the Mwanza town in the shore of Lake  
25 Victoria.

- 1 Q. How did you get from Mwanza to Bukova?
- 2 A. We had to go by ferry.
- 3 Q. Who went by ferry from Mwanza to Bukova?
- 4 A. It was myself, my sister Munira, and Jalal.
- 5 Q. And did you arrive safely in Bukova?
- 6 A. Yes, sir.
- 7 Q. How long did you stay in Bukova?
- 8 A. One day only. It was in the morning and we came out again
- 9 in the evening.
- 10 Q. When you say you came out again that evening, what did you
- 11 do in the evening?
- 12 A. In the evening we just went to the port and bought a
- 13 ticket and boarded the ferry.
- 14 Q. So you boarded the ferry to return back from Bukova to
- 15 Mwanza?
- 16 A. After dropping my sister there.
- 17 Q. Was it just you and Jalal who was on the return trip?
- 18 A. Yes, sir.
- 19 Q. Now, could you please describe the ferry for us? What did
- 20 it look like?
- 21 A. It was big ferry of passenger and cargo together and could
- 22 capacity of about 480 passenger.
- 23 Q. About 480 passengers on the ferry?
- 24 A. Yes. It had the capacity of carrying that much, but the
- 25 ship at that date was overloaded. We were about over one

1 thousand two hundred people on the ship.

2 Q. So where were you on the ship? Were you in a compartment  
3 or on the deck?

4 A. Yes, we were in the compartment.

5 Q. Could you describe where you were located, where the  
6 compartment was located?

7 A. We were in the second class cabin, and which was not at  
8 the main gate, main door to come out which there was a small  
9 corridor in between there which we had to go completely inside  
10 there, and it was our intent to come back by the main door.

11 Q. How big was this compartment approximately?

12 A. Approximately it was about seven feet by ten feet.

13 Q. And how many people were in the compartment with you?

14 A. We were totally seven people in it.

15 Q. And was Jalal with you?

16 A. Yes, sir.

17 Q. And what else was in the compartment? Was there any  
18 furniture or anything like that in the compartment?

19 A. No, sir. There was only one small cupboard which was  
20 there and there were four beds, bunkers like.

21 Q. And where were you during the course of this trip?

22 A. We were, I was sleeping on the top bed, and he was  
23 sleeping on the next top bed, too. We were together like on  
24 top.

25 Q. When you say "he," who are you referring to?

1 A. Mr. Jalal.

2 Q. And why don't you describe for the jury what happened on  
3 the ferry that day?

4 A. Well, from where we were going the ship was not very good.  
5 Actually, it was moving on the sideways, not in a straight  
6 way, the way ships ferry should be, because one of the water  
7 tank under the ship, which I came to find out later on, was  
8 not working, so it had no water it, so to keep the ship on the  
9 balance, because moving on the sideways.

10 And when we reached almost in Mwanza, it was early in  
11 the morning around 7 o'clock, saw outside the window, and I  
12 was, we were both asleep on the, he was in his bed and I was  
13 on my bed and five others they were on the bottom under  
14 sleeping, and all of a sudden the ship went first on the side  
15 of the left-hand side of the ship. It tilted a bit more, till  
16 I had to shout for Mr. Jalal who is next to me. When he woke  
17 up he was asleep, too, and he told me that --

18 (Pause)

19 Q. Okay, Mr. Juma, continue.

20 A. And he told me that, I shouted, Brother Jalal, and he say  
21 to me that, don't worry. Go back to sleep. Allah is with us.  
22 And I went back to sleep again. Within that moment only the  
23 ship went again on the right-hand side from this side to the  
24 other side, and once he started going that way, it went  
25 straight.

1           We started everybody wanted to come out, and there  
2 was a lot of screams and people were screaming, could not come  
3 out; things were falling inside, and everybody wanted to,  
4 there was only one way to come out and I managed to come out  
5 on the corridor. And I got hold of Mr. Jalal's hand and I  
6 pull him out, because the ship had already gone on the side  
7 way, so the door had become like a roof, because it was  
8 slipping on the side, and --

9 Q. The door had become the roof of the passenger compartment?

10 A. Yes, sir.

11 Q. And where were you in relationship to the door?

12 A. I was on top of the door. This means I was on the  
13 corridor but it was, this is the door, and once it comes like  
14 this I was on the other side here.

15 Q. And where was Jalal?

16 A. He was inside the compartment and I pulled him out halfway  
17 he came, he came out, but all of a sudden what he was holding  
18 was door, he was holding the door, and the door broke from the  
19 hinges and he fell back in.

20           As soon as he fell in, he fell on those other people  
21 who were inside there. I don't know how he fell in, because  
22 maybe some people tried to pull him out because they wanted to  
23 come out, too, and he was up, when he fell in. By the time  
24 when he fell in the water had already started coming from the  
25 window because the window was open from the boat underneath.

1           And I tried to stick my hand again to pull him out,  
2 and the water came in through the corridor now. It was like  
3 full force of water came in. And I just jumped to the next  
4 door which was closed, and I held the lock of that door. The  
5 water was pushing me inwards, and I had only single breath to  
6 go out now for the breath. So I went all the way for those  
7 things, other compartments crossing all those things and to  
8 the main gate, and then I came out the other side, which by  
9 the time I came out the ship had already gone about half of it  
10 is already under the water from the sideways, and I climbed  
11 up on top.

12           Now I was on the side of the ship, and it was going  
13 this way, from straight it was going upside down, and I was  
14 walking on top and climbing up until I reached on the belly of  
15 the ferry.

16 Q. So you were standing eventually on the top of what was the  
17 bottom hull of the ferry?

18 A. Of the bottom hull of the ship.

19 Q. What did you do after that?

20 A. Well, after that, there were many people, there were many  
21 people who were trying to scream, and I saw people dying  
22 there, because there were quite a lot of people they were not  
23 in their compartment cabins, they were sleeping out on the  
24 corridor doors. Other people were coming out, and I, within  
25 few minutes I saw many bodies floating out there, and I said

1 that this ship might sink because it has already overturned  
2 and if it sinks because I saw many people fighting for their  
3 life and holding each other, and they took others, the one who  
4 could swim, they drowned. So I said, if it goes underwater  
5 the ship sinks, then these people who are on top we were about  
6 twenty to thirty people on that belly of the ship, they might  
7 come to catch me, hold of me, too, so I took off my clothes  
8 and I dived from the ship. I swam for about five hundred  
9 meters, but it was around the area, because I could not go the  
10 other side of the land, as it was very far from me, it was  
11 about nine kilometers, and nearest was about not, not near,  
12 less than about two kilometers, three kilometers away from the  
13 ship where it sank.

14           So I what I said then, let me go back near where I  
15 can get the floater and hold the floater. There were about  
16 five to six floaters only around there. So we were holding  
17 about ten people in that floater.

18 Q. And were you eventually rescued?

19 A. Yes, after two hours the first ship came to rescue us.

20 Q. And did the ferry eventually sink entirely?

21 A. Not at that time, but when it was just floating upside  
22 down and there were some people who were alive at that time,  
23 and well, we were taken -- we were on the other ship which  
24 rescued us and some police officers came there, and they saw  
25 somebody knocking at the door, and they commanded that, okay,

1 make hole here to take out this person, and most of the people  
2 who were there they said that, if you take out this the air  
3 bubble once this comes out the ship will sink, and why don't  
4 you like pull the ship on the side, because since its  
5 floating? But, no, they say, just cut the hole there and save  
6 the person who is knocking from inside there. As soon as they  
7 cut the hole with the gas, and the whole air came out, they  
8 saved only one person from there already. The ship all went  
9 down.

10 Q. Do you know about how deep the water was at that point?

11 A. One hundred ten feet.

12 Q. Now, after you were rescued where did they bring you?

13 A. I went first to the hospital for checkup. They said no,  
14 you're not supposed to go home. I said that, I am very fine,  
15 I can go home, but, no, they took me to hospital for checkup.

16 Q. And that was back in Mwanza?

17 A. Mwanza, yes, sir.

18 Q. Do you know about how many people died in this ferry  
19 accident?

20 A. Not less than one thousand, sir, 'cause we were only  
21 hundred fourteen people who survived.

22 Q. When you got back to Mwanza did you do anything to notify  
23 anyone about what happened to you and to Jalal?

24 A. Yes, I told my brothers and sisters that, look, I am sure  
25 a hundred and one percent sure that Mr. Jalal could not make

1 it and we better notify to the family member or to any friend  
2 or any relative of Mr. Jalal. So I told that to my sister  
3 Tahera.

4 Q. And what happened after you asked your sister Tahera to  
5 notify Jalal's friends or family about the ferry accident?

6 A. Well, she said that I think she had a phone number of  
7 somebody, and she called and after three days a friend of  
8 Mr. Jalal came to Mwanza, three, four days later.

9 Q. And who was the friend of Jalal that came to Mwanza three  
10 or four days later?

11 A. It was Fazhul.

12 Q. And what did Fazhul look like?

13 A. He was a short, a bit short guy, five foot something, some  
14 inches, dark with a bit hair, and could speak broken Swahili  
15 and broken English.

16 Q. And how long did Fazhul stay in Mwanza?

17 A. For about a month.

18 Q. And where did he stay while he was in Mwanza?

19 A. He stayed in my house, in my sister's house.

20 Q. And how frequently did you see him while he was down there  
21 for that month?

22 A. I saw from, because we were seeing each other, we were  
23 going together to the port to try and great Mr. Jalal's body.

24 Q. So you and Fazhul would go to the port to try to get to  
25 identify Jalal's body?

1 A. Yes, sir.

2 Q. And what would you do in order to do that?

3 A. Well, he was most of the time he was with my younger  
4 brother Sikander.

5 Q. S-I-K-A-N-D-E-R?

6 A. Yes, sir. Most of the time he was with him because had he  
7 they could manage to go to the accident site by other boats  
8 which were rescuing the body, recovering the bodies.

9 Q. What was happening at the port during this month that  
10 Fazhul was down?

11 A. It was just we were just getting some other bodies of  
12 other people and try to notify this is the one, but we did not  
13 find anybody, anybody of Mr. Jalal. We did not find Jalal's  
14 body.

15 Q. Did Fazhul tell you where he had come from to come to  
16 Mwanza?

17 A. From Nairobi.

18 Q. And did Fazhul tell you how he knew Jalal?

19 A. Not I can remember.

20 Q. Did Fazhul tell you what he was doing in Nairobi?

21 A. No.

22 Q. And, once again, did you ever find Jalal's body?

23 A. No, sir.

24 Q. Now, did there come a time when you came into possession  
25 of a videotape of the aftermath of this ferry accident?

1 A. Yes, sir. There was one local video librarian there, he  
2 shot movies which were showing about the dead bodies which  
3 were coming there, and about the accident and all the incident  
4 which happened there, and he sold those cassettes, which I  
5 bought one.

6 Q. Do you know who filmed this video?

7 A. Sorry?

8 Q. Do you know who filmed this video?

9 A. Yes, the boy's name is Henry the one who shot that video.

10 MR. BUTLER: Now, I'd just like to show a brief clip  
11 to the witness of a video that has been marked as Government  
12 Exhibit 82A for identification.

13 THE COURT: Very well.

14 (Video played)

15 THE WITNESS: Yeah, that's me.

16 Q. You recognize this videotape, Mr. Juma?

17 A. Yes, sir.

18 Q. Is this the videotape you were just referring to?

19 A. Yes, I was referring to the same video.

20 Q. And do you recall what that scene is?

21 A. This was at the port.

22 Q. And are you depicted in that footage?

23 A. Sorry?

24 Q. Are you in that tape?

25 A. Yeah, that's me.

1 Q. And what's going on there?

2 A. Here the local journalist and the remaining journalists  
3 whereby I was interviewed, because in that area actually it  
4 was on that date it was almost the next day whereby this video  
5 was shot, and many journalists had come to question me about  
6 the accident and what happened and how many people there were  
7 dead. So this guy was one of them.

8 MR. BUTLER: Your Honor, I move Government Exhibit  
9 82A into evidence.

10 THE COURT: 82A.

11 MR. BUTLER: 82A, your Honor.

12 THE COURT: Received.

13 (Government's Exhibit 82A received in evidence)

14 Q. And, Mr. Juma, is that you being interviewed on this  
15 videotape?

16 A. Yes, sir.

17 Q. And do you recall what you were discussing during the  
18 course of that interview?

19 A. Yes. They were questioning me about how many people were  
20 we in that ship, and at that time I was trying to explain to  
21 this gentleman, because many journalists there were there, so  
22 I was trying to locate about there is some five boys, Asian  
23 boys who had come Uganda just to visit Tanzania. Uganda is  
24 the next country and second country from Tanzania. So they  
25 had come from Kampala. They were Indians, and as I saw them

1 and I said that you guys look like you're Asian Indian guy  
2 like me and they say, yeah. Because we started talking our  
3 language Jurati.

4 THE COURT: Is this relevant?

5 MR. BUTLER: We can move on, your Honor.

6 THE COURT: Yes, please.

7 MR. BUTLER: I'd like to show now another piece of  
8 the tape which has been marked as Government Exhibit 82B for  
9 identification.

10 A. That was the football stadium whereby they were bringing  
11 the dead bodies there.

12 Q. And do you recognize this as the part of the same tape  
13 that you previously referred to?

14 A. Yes, sir.

15 MR. BUTLER: Your Honor, I move Government Exhibit  
16 82B into evidence.

17 (Government's Exhibit 82B received in evidence)

18 Q. Mr. Juma, I'm going to ask you to watch this clip and  
19 first tell me if you recall where it is, and, secondly, if you  
20 recognize anyone in this video clip? Where is that scene, Mr.  
21 Juma?

22 A. This was at the football stadium.

23 Q. Which is in the port Bukova?

24 A. Yes, sir.

25 Q. Do you recognize that person?

1 A. That's Fazhul.

2 Q. Okay. And that's the same Fazhul who came down to try to  
3 find Jalal's body in Mwanza?

4 A. Yes, sir.

5 Q. I'd like to show you a photo that's been marked as  
6 Government Exhibit 110 for identification.

7 A. That's Fazhul.

8 MR. BUTLER: Your Honor, I'd like to move Government  
9 Exhibit 110 into evidence.

10 THE COURT: Received.

11 (Government's Exhibit 110 received in evidence)

12 Q. Once again, who is that Mr. Juma?

13 A. Fazhul.

14 Q. Now, did you meet any other friends or associates of Jalal  
15 during this period after the ferry accident?

16 A. Yes, after almost two weeks another friend of Mr. Jalal  
17 came to Mwanza.

18 Q. And who is that person?

19 A. Mr. Wadih Hage.

20 Q. And Mr. Wadih arrived in Mwanza when?

21 A. About two weeks.

22 Q. And where did you meet Mr. Wadih?

23 A. In my house.

24 Q. And who introduced him to you?

25 A. He came together with Fazhul and my younger brother

1 Sikander and I was at home because there were many people in  
2 my house.

3 Q. And how long was Mr. Wadih in Tanzania during this period  
4 after the ferry accident?

5 A. About two weeks.

6 Q. And where did Wadih stay?

7 A. In the hotel with Fazhul.

8 Q. And how frequently did you see Mr. Wadih during this  
9 period?

10 A. Almost everyday.

11 Q. What was Wadih doing during this period he was in  
12 Tanzania?

13 A. We were all trying to locate the body of Mr. Jalal and we  
14 would go to the port and come back in the evening.

15 Q. And did Wadih participate in this?

16 A. No, sir. He was there at the port, but he was not doing  
17 anything.

18 Q. Why was Wadih at the port?

19 MR. DRATEL: Objection.

20 THE COURT: Sustained.

21 Q. What did you observe -- what did Wadih tell you was the  
22 reason that he was at the port?

23 A. Well, he came there actually to actually find out whether  
24 it is true that Mr. Jalal is dead or we could find the body.

25 Q. Did you have any conversations with Wadih about Jalal?

1 A. We did talk some and in which some of them I cannot  
2 remember, because we were talking generally, and he mentioned  
3 to me about anything of --

4 MR. DRATEL: Objection as to the content of the  
5 conversation.

6 THE COURT: Overruled.

7 Q. Did Wadih tell you how he knew Jalal?

8 A. Yes, he just mentioned that they were, they knew each  
9 other because they were in the business together. What  
10 business he did not mention, but it was like they were helping  
11 with the community, the poor and all that.

12 Q. And where was that?

13 A. No, he did not mention about that. It could be in Nairobi  
14 I assumed at that time.

15 Q. Do you recognize Mr. Wadih in the courtroom? I ask you to  
16 look around the courtroom and see if you recognize him?

17 A. Yes, that's him.

18 Q. Could you describe him for us?

19 A. He's not very tall and he has one hand or leg something  
20 like it's short.

21 Q. What is he wearing?

22 A. Sorry?

23 Q. What is he wearing now?

24 A. What is he?

25 Q. Yes. What is he wearing?

1 A. Wearing. Look like a shirt with below neck.

2 Q. Starting from all the way in the right, count the number  
3 of people in and tell us which one you recognize as Wadih?

4 A. Number three.

5 MR. DRATEL: Judge, indicate the witness has  
6 identified the defendant El Hage.

7 Q. Now, I believe you previously testified that Jalal had  
8 given you a truck in connection with the mining business,  
9 correct?

10 A. Yes, a car.

11 Q. And you had sold that car and used the money to buy a bus  
12 business?

13 A. A minibus, yes, sir.

14 Q. Did you have any discussions with Wadih about that topic  
15 while he was in Mwanza?

16 A. Yes. Asked me that, do you know that the car which  
17 Mr. Jalal bought the money was of one of his friends, and I  
18 said, yes, he had mentioned to me that this money doesn't  
19 belong to him. So he said, yes, this money belongs to his  
20 friend Mohammed Karama. And I said, fine, I'll repay him the  
21 money.

22 Q. And did you have any further conversations with Wadih at  
23 that time about this money that you owed Jalal?

24 A. Well, I just said that I still have one installment to pay  
25 to the company, and after that I might start, after repairing

1 the bus, it needs some repair, and I will start repay you guys  
2 money.

3 Q. Going back to the ferry for a moment, did Jalal bring  
4 anything with him on the ferry?

5 A. He had only a briefcase.

6 Q. And had you seen him with that briefcase before?

7 A. Many times.

8 Q. And was that briefcase ever recovered?

9 A. No, sir.

10 Q. Now, after Jalal died, did he leave any assets to your  
11 family?

12 A. Yes, he left a house and salon car.

13 Q. Can you describe the car for us a little bit?

14 A. It was white Nissan.

15 Q. And do you still have it? Does your family still own that  
16 car?

17 A. Yes, sir.

18 Q. Now, after the discussions that you had in Mwanza,  
19 Tanzania, did you have any further communications with Wadih  
20 regarding this money that Jalal lent you?

21 A. Yes, sir. After about two, three weeks Mr. Wadih left and  
22 we were communicating through my brother, younger brother,  
23 Sikander, about the money, but it passed about some few months  
24 whereby I received a letter asking me that what happened about  
25 the money. Well, at that time I did not reply back, and I did

1 not follow that letter very much to pay any money.

2 Q. Okay. I'd like to show you what has been previously  
3 marked --

4 MR. DRATEL: I couldn't hear, Judge.

5 THE COURT: Mr. Reporter, would you read that last  
6 answer back please.

7 (Record read)

8 Q. I'd like to show you what's been previously marked as  
9 Government Exhibit 600 for identification. Do you recognize  
10 this document, Mr. Juma?

11 A. Yes, sir. That was the letter I was returning by  
12 Mr. Wadih to me and it was brought by Sikander to me in  
13 Mwanza.

14 MR. BUTLER: Your Honor, I move Government Exhibit  
15 600 into evidence.

16 MR. DRATEL: No objection, your Honor.

17 THE COURT: Received.

18 (Government's Exhibit 600 received in evidence)

19 Q. Mr. Juma, you received this letter from your brother  
20 Sikander?

21 A. Yes, sir.

22 Q. And it was written by whom?

23 A. By Mr. Wadih.

24 Q. And what does the letter say to you?

25 A. You want me to read?

1 Q. No, just in substance what was Mr. El Hage writing to you  
2 about?

3 A. That it has been some time since you're supposed to pay us  
4 money, and you know that money we are supposed to give it to  
5 Mr. Karama and you have not done anything. Please do  
6 something about paying me that money.

7 Q. Again, did you do anything in response to this letter?

8 A. No, sir.

9 Q. Had you had any further communications with Wadih after  
10 receiving this letter?

11 A. Yes, sir, months after, six months pass I saw Sikander,  
12 Mr. Wadih and Mr. Mohamed Karama came to Mwanza.

13 Q. And did you meet with them?

14 A. Yes, sir.

15 Q. Where did you meet with them?

16 A. In the hotel.

17 Q. And what took place at that meeting in the hotel in  
18 Mwanza?

19 THE COURT: And the two he met with? I missed the  
20 name of the person he met.

21 Q. Oh. Could you repeat who was a that meeting in the hotel  
22 in Mwanza?

23 A. It was my younger brother came home to pick me up and it  
24 was Mr. Wadih and Mr. Mohamed Karama in the hotel waiting for  
25 me.

1 Q. And once again, who is Mohammed Karama?

2 A. Mohamed Karama was a friend of Mr. Jalal, and whom the  
3 money came from for that bus.

4 Q. And what took place at this meeting?

5 A. Well, they asked me that it has been a year since, Ashif,  
6 you were supposed to pay us money and you never tell us till  
7 now that you don't have money. And Mr. Wadih said that since  
8 you know that we don't know about tomorrow, that what might  
9 happen, you might even not be around, just write to us in the  
10 paper showing that, yes, you are supposed to pay Mr. Karama  
11 the money.

12 Q. And did you in fact write a paper acknowledging that you  
13 owed Mr. Karama the money?

14 A. Yes, sir.

15 Q. I'd like to show you what's been previously marked as  
16 Government Exhibit 603 for identification.

17 Do you recognize this document, Mr. Juma?

18 A. Yes, sir.

19 Q. What is this document?

20 A. This is the document which I wrote just to show that I am  
21 supposed to pay this amount to Mr. Karama which I had taken  
22 from Mr. Jalal.

23 MR. BUTLER: Your Honor, I move Government Exhibit  
24 603 into evidence.

25 MR. DRATEL: No objection.

1 THE COURT: Received.

2 (Government's Exhibit 603 received in evidence)

3 Q. Now, looking at Government Exhibit 603, could you just  
4 read the first sentence for us, Mr. Juma?

5 A. Ashif Mohammed Juma have borrowed an amount of shillings 9  
6 million Tanzania shillings from Mohammed Karama to Jalal for  
7 the purpose of paying off the loan of my bus, H2182.

8 Q. Mr. Juma, who actually physically wrote this document?

9 A. Mr. Wadih.

10 Q. And there is a signature a couple of lines down. Do you  
11 recognize your signature on that document?

12 A. Yes, with the date.

13 Q. What is the date that appears there?

14 A. 29 April '97.

15 Q. And then there are two witnesses that signed the document.

16 Who are two witnesses that sign the document?

17 A. The first one is Wadih el Hage and the second one is Ashif  
18 Hussein. That is Sikander my younger brother.

19 Q. That's the given name of your brother, Sikander?

20 A. Ashif Hussein Mohammed Juma. Actually, we call him  
21 Sikander. That is us in the house we call him Sikander, but  
22 the name which he is born with is Ashef Mohammed Juma.

23 Q. When you discussed your brother-in-law with Wadih, what  
24 name did you both use to describe him?

25 A. Jalal.

1 Q. Did you do anything in response to this document?

2 A. No, sir.

3 Q. And did you ever pay the money back that you owed to  
4 Mohammed Karama?

5 A. No, sir.

6 Q. Did you have any further contact with Wadih after this  
7 meeting?

8 A. No, sir.

9 Q. Now, Mr. Juma, have you entered into any agreement with  
10 the government in connection with this case?

11 A. Yes, sir. I have received a letter from the government of  
12 the United States.

13 Q. And what does that agreement entail?

14 A. Which is stating that they will protect me and my family  
15 if in case of any problem or what we come here.

16 Q. What did the government do in connection with this  
17 agreement?

18 A. They've given us expenses to live for about a year.

19 Q. And to live where?

20 A. In United States.

21 Q. And how many of your family members came to the United  
22 States in connection with this agreement?

23 A. We are totally 17 people.

24 Q. And how much does the agreement say that it will give you  
25 and your family for relocating to the United States?

1 Approximately?

2 A. Approximately 300,000.

3 Q. How many family members are there that came?

4 A. The one who already here or the whole family?

5 Q. No, no, how many family members under the agreement will  
6 be coming?

7 A. 17.

8 Q. Has your brother Sikander also agreed to testify?

9 A. Yes, sir.

10 MR. BUTLER: No further questions, your Honor. I'm  
11 sorry, excuse me.

12 (Pause)

13 Q. Oh. Mr. Juma who is Popu?

14 A. Popu is myself, that name they call me in the house.  
15 Among family members.

16 MR. BUTLER: Thank you. No further questions.

17 THE COURT: Excuse me?

18 THE WITNESS: Can we have a break?

19 THE COURT: You want to go to the rest room?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. We'll take a five-minute  
22 recess.

23 (Recess)

24 (Continued on next page)

25 THE COURT: Mr. Dratel.

1 (Jury present)

2 THE COURT: You may.

3 MR. DRATEL: Thank you, your Honor.

4 CROSS-EXAMINATION

5 BY MR. DRATEL:

6 Q. Good afternoon, Mr. Juma.

7 A. Good afternoon.

8 Q. Are you nervous?

9 A. I am.

10 Q. This is an important event for you, correct?

11 A. Yes, sir.

12 Q. Were you also nervous when the FBI first spoke to you  
13 about this matter?

14 A. Not that much, sir.

15 Q. Was that shortly after the bombing of the Tanzanian --  
16 after the embassy bombings in Tanzania and Nairobi?

17 A. Yes, sir.

18 Q. Was it in October of 1998?

19 A. Yes, sir.

20 Q. And at that time wasn't it also true that your brother was  
21 a -- was involved in the investigation as well, your brother  
22 Sikander? Withdrawn. I'll rephrase it.

23 Isn't it true that the FBI also wanted to question  
24 your brother about his relationship with Fazhul?

25 A. Yes, sir.

1 Q. And in fact, hadn't your brother signed the papers at an  
2 address, a Runda Estates, 43 Runda Estates; is that correct?

3 MR. BUTLER: Objection, your Honor.

4 THE COURT: Restate the question. It's not clear.

5 BY MR. DRATEL:

6 Q. Isn't it a fact that your brother signed the papers to  
7 lease a property 43 Runda Estates for Fazhul?

8 MR. BUTLER: Objection, your Honor, scope.

9 MR. DRATEL: Your Honor, I'll ask a foundation  
10 question.

11 THE COURT: All right.

12 BY MR. DRATEL:

13 Q. Did you tell the government that during your interviews?

14 MR. BUTLER: Objection, your Honor.

15 THE COURT: Overruled. Do you understand the  
16 question?

17 THE WITNESS: Yes, I understand, but I did not know  
18 that he had signed any paper that time.

19 BY MR. DRATEL:

20 Q. Let me show you what has been marked as 3502-1, just ask  
21 you to read the final paragraph, please, to yourself. Just  
22 let me know when you're finished.

23 THE COURT: You're showing him 35?

24 MR. DRATEL: 02, 3502-1, your Honor, at page 6 and 7.

25 Q. If you could read, actually, on the next page.

1 A. I read it aloud.

2 Q. No, not aloud, to yourself. And if you could read the  
3 first paragraph on the next page as well to yourself.

4 A. Oh, yes, sir, yes, I was aware that he had signed the  
5 paper.

6 Q. Thank you. That was the address where the bomb for the  
7 Nairobi embassy was put together, correct, to your knowledge?

8 A. I guess so, yes, sir.

9 Q. And so that was on your mind at the time as well, correct?

10 A. Yes, sir.

11 Q. That your brother, even though he hadn't done anything  
12 wrong, may have a problem?

13 A. Yes, sir.

14 Q. In fact, you told the FBI that your brother didn't have a  
15 lot of education, wasn't very smart?

16 A. Yes, sir.

17 Q. In fact, your brother had told you that he was upset  
18 because he knew the FBI was looking for a Fazhul?

19 MR. BUTLER: Objection.

20 THE COURT: The question is whether he told that to  
21 the FBI?

22 BY MR. DRATEL:

23 Q. No, whether -- yes, whether you told the FBI that your  
24 brother had told you that your brother Sikander was upset  
25 because he knew the FBI was looking for Fazhul.

1 A. No, I don't recall saying that, sir.

2 Q. Withdrawn.

3 Now, with respect to your brother-in-law, Adel Habib  
4 was his name, correct?

5 A. Yes, sir.

6 Q. And Jalal is a nickname, right?

7 A. Yes, sir.

8 Q. Is the origin of that nickname an Indian term, to your  
9 knowledge?

10 A. Sorry?

11 Q. Do you know that to be an Indian term, Jalal, of respect  
12 for somebody, whether you know or not; do you know that that's  
13 what that is?

14 A. The meaning of the Jalal?

15 Q. Yes.

16 A. No, I don't know.

17 Q. Now, you also, you identified a photo of your  
18 brother-in-law, Adel Habib?

19 A. Yes, sir.

20 Q. Is that how he appeared to you on a regular basis?

21 A. Sorry?

22 Q. Did he wear that type of clothing on a regular basis that  
23 you saw, the Western type of clothing?

24 A. Yes, sir.

25 Q. And the beard was trimmed pretty short?

1 A. Yes.

2 Q. And he was a very religious Muslim, correct?

3 A. Yes, sir.

4 Q. And he tried to encourage you to become more religious as  
5 well, correct?

6 A. Yes, sir.

7 Q. And for Muslims in Kenya, was it difficult to travel  
8 openly in the traditional Muslim dress without -- withdrawn.

9 Did most Kenyan Muslims who lived in the cities like  
10 Nairobi dress as Westerners?

11 A. Yes.

12 Q. And was that also -- was that because the government in  
13 Kenya -- excuse me. Withdrawn. Kenya is not a Muslim  
14 country, majority, correct?

15 A. Fifty-fifty.

16 Q. But it's -- the government is Christian, correct?

17 A. The president, yes, he's Christian, but there are many  
18 parliament members who are Muslims, too. It's fifty-fifty.

19 As I say, I can say that it's fifty-fifty, like Western Kenya  
20 is also. Eastern Kenya is almost all Muslims. Southern Kenya  
21 is almost all Muslims. All coastal area is Muslims. So it's  
22 is about fifty-fifty, even in the parliament.

23 Q. But the government is -- the president is Christian?

24 A. Is Christian, yes.

25 Q. And the president has been the president for 25 years?

1 A. Yes, sir.

2 Q. Do you know the attitude of the Kenyan government towards  
3 Islamic organizations, towards Islamic relief organizations?

4 A. No, not exactly, sir.

5 Q. Now, the mining business that you and Adel Habib started  
6 was a completely legitimate business, correct?

7 A. Was?

8 Q. Yes, in other words, it was a -- it was just a business  
9 venture?

10 A. Yes, sir.

11 Q. Nothing else?

12 A. Nothing else.

13 Q. When Mr. El Hage came the second time with Mr. Karama --  
14 when I say Mr. El Hage, I mean Wadia, the person you described  
15 as Wadia if I call him Mr. El Hage -- he came with Mr. Karama,  
16 correct?

17 A. Yes.

18 Q. And during the discussion that you had, at one point  
19 Mr. Karama became upset with the fact that you hadn't paid any  
20 money, correct?

21 A. Yes, sir.

22 Q. And during that time when he was upset, Wadia calmed him  
23 down, correct?

24 A. Yes, sir.

25 Q. And you had started to answer a question on direct that

1 one of Mr. El Hage's limbs is disabled, correct?

2 Q. One of his arms?

3 A. Arm or leg, I don't -- can't remember exactly.

4 Q. With respect to Government Exhibit 600, which is the  
5 letter that you received from Wadia?

6 A. Yes.

7 Q. You received that letter a couple of months after the  
8 ferry accident, correct?

9 A. Yes.

10 Q. The letter refers to a conversation that you had with  
11 Wadia when he first visited, correct?

12 A. Yes, sir.

13 Q. And the letter is an accurate reflection of what you had  
14 discussed beforehand, correct?

15 A. Yes.

16 Q. In fact, though, in your first two interviews with the  
17 government you did not mention the letter at all, correct?

18 A. I can't remember.

19 Q. Well, when did you give the letter to the government?

20 Withdrawn.

21 When did you find the letter?

22 A. When?

23 Q. When did you give the government the letter?

24 A. I can't remember the day, sir. It was after the  
25 interviews.

1 Q. It was after the interviews?

2 A. Yes, sir.

3 MR. DRATEL: If I may have a second, your Honor.

4 THE COURT: All right.

5 (Pause)

6 MR. DRATEL: Just to save time, your Honor, I think  
7 we have an agreement with the government that the reports of  
8 the interview do not contain any information about the  
9 letters.

10 THE COURT: Very well.

11 MR. DRATEL: The dates of the interviews were -- the  
12 first one is October 7, 1998, second one is January 30, 1999.

13 Q. And does it sound correct that you provided the government  
14 the letter perhaps -- was it last year, the year 2000, when  
15 you gave the government the letter?

16 A. I can't remember, sir.

17 Q. June 2000, does that sound correct?

18 I just show you what's marked 3502-3. I just ask you  
19 to read that paragraph to yourself.

20 A. Yes, sir.

21 Q. Does that refresh your recollection that you gave the  
22 government the letter in June of 2000?

23 A. Yes, sir.

24 Q. Thank you.

25 When you left the letter out of those two interviews,

1 you didn't do that on purpose, did you? You didn't  
2 deliberately lie to the government, correct? You didn't  
3 lie --

4 MR. BUTLER: Objection, your Honor.

5 THE COURT: Overruled.

6 BY MR. DRATEL:

7 Q. You didn't deliberately leave the letter out, correct?

8 A. I didn't deliberately?

9 Q. Did you just forget about the letter during those  
10 interviews? You didn't remember the letter; isn't that  
11 correct?

12 A. I did remember. I think I had mentioned that I had got a  
13 letter, but I did not have it with me. But I had mentioned to  
14 them that once I find that letter, I will bring it to you.

15 Q. When you -- in your first two interviews with the  
16 government, you never spoke about the conversation that you  
17 had about repaying the money during the first trip that Wadia  
18 took; isn't that correct?

19 A. I did. I did.

20 Q. Well, I'll show you what's marked as 3502-1 and ask you to  
21 read these two paragraphs. You can read the whole page if you  
22 like, but those two paragraphs read to yourself, please.

23 MR. BUTLER: Which page?

24 MR. DRATEL: What page is that, page 4?

25 THE WITNESS: Page 4.

1 (Pause)

2 THE COURT: What is the question?

3 BY MR. DRATEL:

4 Q. Okay, the question is: There's nothing there about the  
5 conversation about repaying the money or the loan itself the  
6 first time that Wadia comes to see you, correct?

7 MR. BUTLER: Objection to form, your Honor.

8 A. Yes, sir.

9 Q. Is it possible that you had just left it out and you  
10 forgot it, correct?

11 MR. BUTLER: Your Honor, objection. The document is  
12 not in evidence.

13 THE COURT: Yes. Ask the witness what his  
14 recollection is. You can use the document to refresh his  
15 recollection, but that's the extent of it.

16 BY MR. DRATEL:

17 Q. Does that refresh your recollection that perhaps you left  
18 it out?

19 A. I left out what, sir?

20 Q. The first conversation, the first time Wadia comes to see  
21 you, right at the time of the accident, that you left out the  
22 discussion of the loan and all that, that you possibly forgot  
23 it?

24 THE COURT: You forgot to tell the FBI?

25 MR. DRATEL: Yes.

1 THE COURT: In the description of this meeting?

2 A. No, sir. I remember I had discussed, I had told them that  
3 he asked me about the money.

4 THE COURT: Let's move on.

5 MR. DRATEL: Yes.

6 Q. The 9 million in Tanzanian shillings, do you know how much  
7 that would be in U.S. dollars at the time?

8 A. Somewhere around --

9 Q. Would it be \$10,000?

10 A. 18,000.

11 Q. Wasn't the exchange rate about 6.15?

12 A. About that much, yes, sir.

13 Q. And when you spoke to Mr. Adel Habib about the money, he  
14 told you that it was from friends in Mombasa, correct?

15 A. Yes, sir.

16 Q. And Mr. Karama had a Khost Swahili accent by your  
17 judgment?

18 A. Yes.

19 Q. And Mombasa is on the Khost of Kenya?

20 A. Yes, sir.

21 Q. And you never heard anything from anybody else about this  
22 after the second time Mr. Wadia came to see you, correct, in  
23 terms of repayment of any money?

24 A. The second time?

25 Q. Yes, after you signed the note?

1 A. Yes.

2 Q. You never heard anything else about this?

3 A. No.

4 Q. And you never repaid any money?

5 A. No.

6 Q. Or were in contact with anyone?

7 A. Yes, sir.

8 MR. DRATEL: Thank you. Nothing further, your Honor.

9 THE COURT: Redirect?

10 MR. BUTLER: Briefly, your Honor.

11 REDIRECT EXAMINATION

12 BY MR. BUTLER:

13 Q. Mr. Juma, Mr. Dratel asked you on cross-examination about

14 whether your brother Sikander had told you if he was nervous

15 about having signed a lease to this property at 43 Runda

16 Estates, correct?

17 MR. DRATEL: Objection, your Honor. Objection,

18 that's not the question. It was a mischaracterization.

19 THE COURT: Well, the jury's recollection will

20 control. You may answer the question.

21 Q. Mr. Juma, did your brother Sikander tell you that the same

22 Fazhul who stayed at the hotel with Wadia after Jalal drowned

23 was the person who asked him to rent the place at 43 Runda

24 Estates where the Nairobi bomb was built?

25 A. Yes, sir.

1 MR. BUTLER: No further questions, your Honor.

2 THE COURT: Very well.

3 RE-CROSS-EXAMINATION

4 BY MR. DRATEL:

5 Q. And he rented that about over two years after the ferry  
6 accident, correct, the bombing, more than two years after the  
7 ferry accident?

8 A. Yes, sir.

9 MR. DRATEL: Nothing further.

10 THE COURT: Thank you, sir. You may step down.

11 (Witness excused)

12 THE COURT: What's the next order of business?

13 MR. FITZGERALD: Your Honor, I believe there was a  
14 stipulation as to an exhibit Mr. Karas will be addressing.

15 THE COURT: All right.

16 MR. KARAS: Your Honor, if I may hand up the  
17 stipulation?

18 THE COURT: Yes. The stipulation has been marked  
19 Government Exhibit 31, which is signed by counsel for all the  
20 defendants, which reads: "It is stipulated and agreed that  
21 Government Exhibit 1600 is a copy of a declaration of Jihad  
22 issued in Usama Bin Laden's name on August 23, 1996.  
23 Government Exhibit 1600-T is a fair and accurate translation  
24 of the declaration."

25 MR. KARAS: Your Honor, at this time we would like to

1 read the translation to the jury.

2 THE COURT: Are you also going to give them copies of  
3 it while you read?

4 MR. KARAS: We are.

5 MR. RUHNKE: Before that happens, could we be heard  
6 on that, just before that happens? Maybe we can take our  
7 afternoon break and discuss it briefly, before they start  
8 reading this.

9 THE COURT: We have just taken a break. I will see  
10 you and the reporter -- did we not take a break? No? We'll  
11 take a break. We'll take a break. We can't have too many  
12 breaks.

13 (Recess)

14 THE COURT: I have to tell you I'm totally confused  
15 on taking breaks because I thought there was a whole issue  
16 being made about breaks to enable the defendants to observe  
17 their religious practices, and so I have been taking a break  
18 shortly after noon and then discover that although everybody  
19 else took a break, the defendants chose to remain in the  
20 courtroom, so I just don't understand.

21 In any event, Mr. Ruhnke, what is your problem?

22 MR. RUHNKE: Judge, the government is about to, I  
23 guess, simply read Government Exhibit 1600 in evidence.

24 THE COURT: Yes.

25 MR. RUHNKE: There are references in 1600-T, and they

1 will have a chance to read these, to the explosions at Riyadh  
2 and Khobar at page 6. There are references on page 34 to the  
3 bombing in Lebanon, I assume, because it refers to the Riyadh,  
4 Khobar bombing in Beirut, talking about the corpses of 241  
5 soldiers, most of whom were marines. There is a reference on  
6 page 35 to the dead pilot who is dragged throughout the  
7 streets of Mogadishu, and I think some of this has to be  
8 redacted, I suggest, before it goes to the jury.

9 THE COURT: I'm confused. Why did you sign the  
10 stipulation?

11 MR. RUHNKE: It's an accurate translation, your  
12 Honor. It is an accurate translation. We're stipulating that  
13 it is an accurate translation.

14 THE COURT: All right.

15 MR. KARAS: Judge, the document as a whole is a  
16 declaration of Jihad that was issued in Bin Laden's name.

17 THE COURT: Yes.

18 MR. KARAS: The document, first of all, it's a  
19 co-conspirator statement and lays out his mind-set and where  
20 it is that he thinks that the organization or people who  
21 are --

22 THE COURT: May I have a copy of it, please?

23 MR. KARAS: You may, Judge. I'm sorry.

24 He is not taking credit for what happened in Riyadh  
25 or Khobar. What he's doing is he is praising it, and it goes

1 to his mind-set and the mind-set that he wants his followers  
2 to undertake, which is to attack the Americans for their  
3 presence in the Saudi Gulf.

4 THE COURT: You want me to tell the jury that this  
5 document, which has been stipulated to as being an accurate  
6 translation and which may be received in evidence, is a  
7 statement made by Usama Bin Laden and is to be understood by  
8 the jury to be a statement made by him?

9 MR. RUHNKE: Well, your Honor, that's not why the  
10 government is offering it. That's --

11 THE COURT: Yes, it is.

12 MR. RUHNKE: That's sort of circular. They are  
13 offering it as a declaration of a co-conspirator, admissible  
14 as the declaration of every person seated at counsel table.

15 THE COURT: Do you want me to tell them that?

16 MR. RUHNKE: No, sir. I want, under Rule 403, I  
17 would like the references to the Khobar bombing, the Riyadh  
18 bombing, the dragging of the dead body through the streets of  
19 Mogadishu and the reference to the bombing of the marine  
20 barracks in Beirut excised.

21 MR. KARAS: Judge, this is --

22 THE COURT: Overruled. This is what he said. Now,  
23 the fact that he said it itself has a relevance.

24 All right, do people want to take a recess? We will  
25 take a recess.

1 MR. DRATEL: Yes.

2 THE COURT: We'll take a five-minute recess.

3 This is going to be the prayer recess. We'll recess  
4 again at 4:30.

5 MR. BAUGH: Okay.

6 MR. COHN: Next one is at 5:30, which is beyond our  
7 time table.

8 THE COURT: I have another matter at 4:30. So it's  
9 certainly beyond it.

10 (Recess)

11 THE COURT: I just want to put one other thing on the  
12 record apropos to the last application and the Court's ruling.  
13 The fact that the government intended to read this 1600T in  
14 evidence has long been known to everyone. The stipulation  
15 that was entered into is signed by everyone. If there is in  
16 the future any application to redact an exhibit, as I thought  
17 I had made clear many times in the past, that application is  
18 to be made at the earliest possible opportunity, not at the  
19 moment when it's about to be read or presented to the jury.

20 As soon as the defendants are ready, we'll resume.

21 (Recess)

22 THE COURT: The first stipulation did not have an  
23 exhibit number.

24 MR. FITZGERALD: Yes, because it was in poor form, I  
25 was going to retype it and give it an exhibit number tomorrow.

1 It will be number 30.

2 THE COURT: We are ready to bring in the jury? Who  
3 is going to read it?

4 MR. FITZGERALD: Mr. Karas.

5 (Jury present)

6 THE COURT: Ladies and gentlemen, just before the  
7 recess, I read to you a stipulation of the parties to the  
8 effect that Government Exhibit 1600T is a fair and accurate  
9 translation of a declaration of Jihad issued in Usama Bin  
10 Laden's name on August 23, 1996. I understand the government  
11 is now going to read it. You have a copy of it on your seat.  
12 You may, if you wish, read along. If you care to listen and  
13 not read, you may do that. Whatever you feel most comfortable  
14 with.

15 You may proceed.

16 MR. KARAS: Thank you, your Honor. Also, your Honor,  
17 what we would like to do is show Exhibit 1600, which is the  
18 Arab original on the screens.

19 THE COURT: Very well.

20 (Exhibit 1600T read)

21 THE COURT: Suppose we pick it up from there  
22 tomorrow.

23 MR. KARAS: Yes.

24 THE COURT: You can take this with you and leave it  
25 in the jury room. We'll adjourn until 10 a.m. tomorrow.

1 (Jury not present)

2 THE COURT: There is something somebody wants to take  
3 up with me?

4 MR. FITZGERALD: I can do it in a letter over night.  
5 I wanted to raise an issue with regard to 3500 material. I  
6 handed out an article -- I'm concerned more about the process  
7 than substance -- an article appearing in today's paper. It  
8 indicated that -- the reporter indicated the content of an  
9 item of 3500 material that was not put in evidence.

10 THE COURT: This is an article appearing in the --

11 MR. FITZGERALD: I believe it's the Post or Newsday.

12 THE COURT: Newsday. And the concern is this portion  
13 of this article that --

14 MR. FITZGERALD: Yes, your Honor, and it's not the  
15 concern about that particular document discussed or shown to  
16 the press, it's a concern in the future that we give over 3500  
17 material with the understanding that it is not handed out as a  
18 public exhibit or discussed or shown to the media unless in  
19 the event that it becomes a public exhibit, which is something  
20 we have an opportunity to be heard about. And that has guided  
21 us in turning over much material that we otherwise would not  
22 turn over.

23 THE COURT: Anybody have any quarrel with that?

24 MR. RUHNKE: No.

25 THE COURT: Mr. Dratel, do you have any problem with

1 that?

2 MR. DRATEL: I'm sorry, I didn't hear you.

3 THE COURT: Do you have any problem with that?

4 MR. DRATEL: No, your Honor.

5 THE COURT: Mr. Ruhnke?

6 MR. FITZGERALD: I just want to make a record and  
7 hopefully it won't happen again.

8 MR. RUHNKE: One thing before we adjourn, I'm sorry.

9 THE COURT: Yes.

10 MR. RUHNKE: We are now in the middle of reading  
11 Government Exhibit 1600T. We have not gotten to the  
12 reference -- we've gotten a couple of references to Khobar and  
13 Riyadh. We have not gotten to the references to the bombing  
14 in Beirut or to the dragging of the dead American pilot  
15 through the streets of Mogadishu, which I submit is probably  
16 the only memorable thing for most people to come out of the  
17 action in Somalia. It can be easily redacted overnight, and I  
18 renew my objection and ask the government to redact it  
19 overnight on a 403 basis, dangerously prejudicial. Our  
20 clients are not charged with that. The government has --

21 THE COURT: Your clients are charged. Your clients  
22 are charged with being members of a conspiracy of which Bin  
23 Laden is the leader of, who set the goals and the criteria.

24 MR. RUHNKE: Yes, sir, and we have had discussions  
25 before about whether the government was going to move away

1 from its proof of what occurred in Somalia because it involved  
2 none of the defendants on trial, it involved references only  
3 to people who were trained by people who were trained by al  
4 Qaeda, and we are now having the reference right in the jury's  
5 face. And I made my objection. If your Honor thought it was  
6 late, we got the revised translation a couple of days ago. We  
7 had a stipulation which we didn't think we were going to get  
8 to until tomorrow.

9 THE COURT: What is the government's position?

10 MR. KARAS: Judge, what Bin Laden is doing here is  
11 explaining the mind-set of himself and what he wants the  
12 mind-set of his followers to be. He is praising the people  
13 who conducted these other operations, but he is not saying  
14 that either he or his group took credit for it. We're not  
15 charging these defendants with participation in Riyadh or  
16 Khobar, we certainly are not charging them with this  
17 participation in the Beirut bombing in 1983, but the document  
18 goes directly to the mind-set of this group and explains  
19 really the theme of Bin Laden's organization.

20 THE COURT: Overruled.

21 MR. WILFORD: Your Honor?

22 THE COURT: Yes.

23 MR. WILFORD: Given Mr. Karas's position, the Court's  
24 denial of Mr. Ruhnke's objection, would the Court give an  
25 instruction to the jury along the lines of Mr. Karas's

1 statement?

2 THE COURT: Which says? Tell me again what you want  
3 me to say. Some of your co-counsel are shaking their head  
4 "no."

5 MR. COHN: One is, can we consider that until  
6 tomorrow morning and talk about it as a group?

7 MR. WILFORD: No problem.

8 MR. COHN: Thank you.

9 THE COURT: We'll take it up at 9:45 tomorrow  
10 morning.

11 MR. WILFORD: Thank you.

12 THE COURT: All right.

13 (Adjourned to 9:45 a.m. on February 15, 2001)

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