



U.S. Department of Justice

United States Attorney
Southern District of New York

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

June 4, 2012

By Hand

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P.O. Box 10985
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Re: United States v. Sabirhan Hasanoff, a/k/a "Tareq"
S6 10 Cr. 162 (KMW)

Dear Counsel:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Sabirhan Hasanoff, a/k/a "Tareq," ("the defendant") to Counts One and Two of the above-referenced superseding information (the "Information").

Count One of the Information charges the defendant with providing, and attempting to provide, material support and resources to a designated foreign terrorist organization, namely, al Qaeda, from at least in or about November 2007 up to and including in or about March 2010, in violation of Title 18, United States Code, Sections 2339B and 2. Count One carries a maximum term of imprisonment of 15 years; a maximum term of lifetime supervised release; a maximum fine, pursuant to Title 18, United States Code, Section 3571, of the greatest of \$250,000, or twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense; and a mandatory \$100 special assessment.

Count Two of the Information charges the defendant with conspiring to violate the laws of the United States, specifically by conspiring to provide material support and resources to a designated foreign terrorist organization, namely al Qaeda, from at least in or about November 2007 up to and including in or about March 2010, in violation of Title 18, United States Code, Section 371. Count Two carries a maximum term of imprisonment of 5 years; a maximum term of supervised release of three years; a maximum fine, pursuant to Title 18, United States Code, Section 3571, of the greatest of \$250,000, or twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense; and a mandatory \$100 special assessment.

The total maximum term of imprisonment on Counts One and Two is 20 years, with a maximum term of lifetime supervised release.

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In consideration of the defendant's plea to the above offenses, the defendant will not be further prosecuted criminally by this Office (except for criminal tax violations as to which this Office cannot, and does not, make any agreement) for (i) providing and attempting to provide material support and resources to al Qaeda, from in or about November 2007 up to and including in or about March 2010, as charged in Count One of the Information and in Count Two of Indictment S5 10 Cr. 162 (KMW); (ii) his participation in a conspiracy to violate the laws of the United States, specifically by conspiring to provide material support and resources to al Qaeda, from at least in or about November 2007 up to and including in or about March 2010, as charged in Count Two of the Information; (iii) his participation in a conspiracy to provide material support and resources to al Qaeda, from in or about November 2007 up to and including in or about March 2010, as charged in Count One of Indictment S5 10 Cr. 162 (KMW); (iv) his participation in a conspiracy to make a contribution of funds, goods, and services to, and for the benefit of, al Qaeda, from at least in or about November 2007 up to and including in or about March 2010, as charged in Count Three of Indictment S5 10 Cr. 162 (KMW); and (v) attempting to and providing money, equipment, and technological advice to al Qaeda, from at least in or about November 2007 up to and including in or about March 2010, as charged in Count Four of Indictment S5 10 Cr. 162 (KMW), it being understood that this agreement does not bar the use of such conduct as a predicate act or as the basis for a sentencing enhancement in a subsequent prosecution including, but not limited to, a prosecution pursuant to 18 U.S.C. §§ 1961 *et seq.* In addition, at the time of sentencing, the Government will move to dismiss any open Counts against the defendant. The defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

The defendant hereby admits the forfeiture allegation with respect to Counts One and Two of the Information, and agrees to forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(G) and 2332b(g)(5), and Title 28, United States Code, Section 2461: (i) all right, title, and interest in all assets, foreign and domestic, affording a source of influence over al Qaeda; (ii) all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and (iii) all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property. It is further understood that any forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture. The defendant consents to the entry of the Consent Order of Forfeiture annexed hereto as Exhibit A and agrees that the Consent Order of Forfeiture shall be final as to the defendant at the time it is ordered by the Court.

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In consideration of the foregoing and pursuant to United States Sentencing Guidelines ("U.S.S.G." or "Guidelines") Section 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

1. The Guidelines in effect as of November 1, 2011, apply in this case.
2. Pursuant to U.S.S.G. § 3D1.2(a), Counts One and Two are grouped together into a single group, because they involve the same act or transaction.
3. The Guideline applicable to the offenses charged in Counts One and Two of the Information is U.S.S.G. § 2M5.3. Pursuant to U.S.S.G. § 2M5.3(a), the base offense level is 26.
4. Because the offenses charged in Counts One and Two involved the provision of funds or other material support or resources with the intent, knowledge, or reason to believe that they were to be used to commit or assist in the commission of a violent act, 2 levels are added pursuant to U.S.S.G. § 2M5.3(b).
5. Because the offenses charged in Counts One and Two were felonies that involved, or were intended to promote, a federal crime of terrorism, 12 levels are added pursuant to U.S.S.G. § 3A1.4(a).
6. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence, a two-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional one-level reduction is warranted, pursuant to U.S.S.G. § 3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level is 37.

B. Criminal History Category

Based upon the information now available to this Office (including representations by the defense), the defendant has no criminal history. However, because the offenses charged in Counts One and Two of the Information were felonies that involved, or were intended to promote, a federal

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crime of terrorism, the defendant's Criminal History Category is VI, pursuant to U.S.S.G. § 3A1.4(b).

C. Sentencing Range

Based upon the calculations set forth above, the applicable Guidelines range is 360 months to life. However, because the combined statutory maximum sentence permitted under Title 18, United States Code, Sections 2339B and 371 is 240 months' imprisonment, the applicable Guidelines sentence is 240 months (the "Stipulated Guidelines Sentence"). In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Guidelines level 37, the applicable fine range is \$20,000 to \$200,000.

The parties agree that neither a downward nor an upward departure from the Stipulated Guidelines Sentence set forth above is warranted. Accordingly, neither party will seek any departure or adjustment pursuant to the Guidelines that is not set forth herein. Nor will either party suggest that the Probation Office consider such a departure or adjustment under the Guidelines, or suggest that the Court *sua sponte* consider any such departure or adjustment.

The parties agree that either party may seek a sentence outside of the Stipulated Guidelines Sentence, suggest that the Probation Office consider a sentence outside of the Stipulated Guidelines Sentence, and suggest that the Court *sua sponte* consider a sentence outside of the Stipulated Guidelines Sentence, based upon the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a).

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and the defendant, nothing in this Agreement limits the right of the parties (i) to present to the Probation Office or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Sentence (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a); (iii) to seek an appropriately adjusted Guidelines range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above; and (iv) to seek an appropriately adjusted Guidelines range or mandatory minimum term of imprisonment if it is subsequently determined that the defendant qualifies as a career offender under U.S.S.G. § 4B1.1. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, *see* U.S.S.G. § 3E1.1, regardless of any stipulation set forth above, if the defendant fails clearly to demonstrate acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence. Similarly, nothing in this Agreement limits the right of the Government to seek an enhancement for

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obstruction of justice, *see* U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

It is understood that pursuant to U.S.S.G. § 6B1.4(d), neither the Probation Office nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Office or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the stipulated Guidelines range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is further understood that the Guidelines are not binding on the Court. The defendant acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Guidelines range set forth above.

It is agreed (i) that the defendant will not file a direct appeal; nor bring a collateral challenge, including but not limited to an application under Title 28, United States Code, Section 2255 and/or Section 2241; nor seek a sentence modification pursuant to Title 18, United States Code, Section 3582(c), of any sentence at or below the Stipulated Guidelines Sentence of 240 months' imprisonment, and (ii) that the Government will not appeal any sentence at or above the Stipulated Guidelines Sentence. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation. The parties agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with the undischarged portion of any other sentence of imprisonment that has been imposed on the defendant at the time of sentencing in this case. The defendant further agrees not to appeal any term of supervised release that is less than or equal to the statutory maximum.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on

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the ground that the Government has failed to produce any discovery material, *Jencks* Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

It is further agreed that should the convictions following the defendant's pleas of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

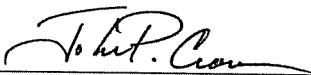
It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Joshua L. Dratel, Esq.
David Ruhnke, Esq.
Linda Moreno, Esq.
June 4, 2012


Apart from any written Proffer Agreement(s) that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

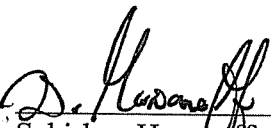
PREET BHARARA
United States Attorney

By: 
John P. Cronan
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APPROVED:

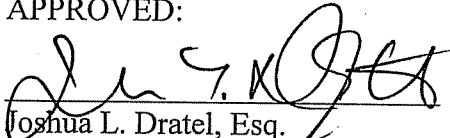

Michael Farbiarz
Co-Chief, Terrorism and International Narcotics

AGREED AND CONSENTED TO:


Sabirhan Hasanoff

DATE

APPROVED:


Joshua L. Dratel, Esq.
David Ruhnke, Esq.
Linda Moreno, Esq.
Attorneys for Sabirhan Hasanoff

6/14/12
DATE

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

- v. -

SABIRHAN HASANOFF,
a/k/a "Tareq,"

Defendant.

:
: **CONSENT ORDER OF FORFEITURE**

: S6 10 Cr. 162 (KMW)
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:
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WHEREAS, on or about June 4, 2012, SABIRHAN HASANOFF, a/k/a "Tareq," (the "defendant"), was charged in a two-count Information, S6 10 Cr.162 (KMW) (the "Information"), with (1) violating Title 18, United States Code, Sections Sections 2339B(a)(1), (d)(1)(A), (d)(1)(D), (d)(1)(E), and 2 by providing material support to al Qaeda (Count One); and (2) violating Title United States Code, Sections Section 371, by conspiring to provide material support to al Qaeda, in violation of 2339A(b)(1) (Count Two);

WHEREAS, the Information contained a forfeiture allegation giving notice of the United States' intent to seek forfeiture, pursuant to Title 18, United States Code, Sections 981(a)(1)(G) and 2332b(g)(5), and Title 28, United States Code, Section 2461 of, *inter alia*: (i) all right, title, and interest in all assets, foreign and domestic, affording a source of influence over al Qaeda; (ii) all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and (iii) all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime

of terrorism against the United States, citizens and residents of the United States, and their property;

WHEREAS, on June 4, 2012, the defendant pleaded guilty to Counts One and Two of the Information pursuant to a plea agreement;

WHEREAS, pursuant to the plea agreement, the defendant admits the forfeiture allegation with respect to Counts One and Two of the Information, and agrees to forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(G) and 2332b(g)(5), and Title 28, United States Code, Section 2461: (i) all right, title, and interest in all assets, foreign and domestic, affording a source of influence over al Qaeda; (ii) all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and (iii) all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property.

WHEREAS, pursuant to Rule 32.2(b)(2)(C) of the Federal Rules of Criminal Procedure, if, before sentencing, the court cannot identify all the specific property subject to forfeiture or calculate the total amount of the money judgment, the court may enter a forfeiture order that describes property subject to forfeiture in general terms and states that the order will be amended under Rule 32.2(e)(1) when additional specific property is identified or the amount of the money judgment has been calculated; and

WHEREAS, pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Order of Forfeiture shall become final at the time of sentencing, or at any time before sentencing if the defendant consents;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Preet Bharara, United States Attorney, Assistant United States Attorneys John P. Cronan, Glen A. Kopp, and Michael D. Lockard, of counsel, and the defendant, and his counsel, Joshua Dratel, Esq. that:

1. As a result of the offenses charged in Counts One and Two of the Information, to which the defendant has pleaded guilty, the defendant shall forfeit (i) all right, title, and interest in all assets, foreign and domestic, affording a source of influence over al Qaeda; (ii) all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and (iii) all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Order is final as to the defendant and shall be considered part of the sentence of the defendant and shall be included in the judgment of conviction therewith.

3. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of forfeitable property,

including depositions, interrogatories, requests for production of documents and to issue subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

4. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Rule 32.2(b)(2)(C) and 32.2(e) of the Federal Rules of Criminal Procedure.

5. The signature page of this Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

DATE _____