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**U.S. Immigration and
Customs Enforcement**

July 29, 2008

Immigration Judge Riefkohl
970 Broad Street, Room 1135
Newark, NJ 07102

Re: Mohammad Qatanani
A76-133-969

Dear Immigration Judge Riefkohl:

Attached please find a copy of the Department of Homeland Security's trial brief (Tab A). Also, as you will recall, at the individual hearing, you requested a copy of the report prepared by FBI Special Agent Alicea following his February 7, 2005 interview of the respondent. Unfortunately, I was not able to secure that document, but I was able to obtain Special Agent Philpott's report of the same interview, and it is attached hereto (Tab B).

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Wolf".

Alan Wolf
Senior Attorney

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT: NEWARK, NEW JERSEY

-----X
IN THE MATTER OF

MOHAMMAD QATANANI,

A76-133-969

IN REMOVAL PROCEEDINGS.
-----X

DRS TRIAL BRIEF

The Department of Homeland Security (DHS) respectfully submits this brief in support of its position that the respondent is ineligible for adjustment of status under INA §245. The status of an alien who has been inspected and admitted or paroled may be adjusted to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and an immigrant visa is immediately available to him at the time his application is filed. INA §245(a). The respondent is ineligible for adjustment of status because he is not admissible to the United States.

The respondent is not admissible because: 1) he has by fraud or willfully misrepresenting a material fact, sought to procure a visa, other documentation, or admission into the United States or other benefit provided under the Immigration and Nationality Act, see INA §212(a)(6)(C)(i), and 2) because he has engaged in terrorist activity, see INA §212(a)(3)(B)(i)(I). The fact that the respondent has not been charged with being being deportable from the United States pursuant to INA §237(a)(4)(B) is of no consequence to his inadmissibility under INA §212(a)(3)(B)(i)(I), since deportability has

been established as charged in the Notice to Appear, and therefore the respondent bears the burden of proof as to eligibility for the requested relief. See 8 C.F.R. 1240.8(d).

In addition to the two above grounds of inadmissibility, the respondent is ineligible for adjustment of status because he is deportable under INA §237(a)(4)(B). See INA §245(c)(6). An alien is deportable under INA §237(a)(4)(B), *inter alia*, if he is described in INA §212(a)(3)(B). The respondent is further ineligible for adjustment of status because he has been employed in the United States without the authorization of the DHS. See 8 CFR 1245(b)(10). These grounds of inadmissibility and ineligibility will be further addressed below.

The respondent shall have the burden of establishing that he or she is eligible for any requested benefit or privilege and that it should be granted in the exercise of discretion. If the evidence indicates that one or more of the grounds for mandatory denial of the application for relief may apply, the alien shall have the burden of proving by a preponderance of the evidence that such grounds do not apply. 8 CFR §1240.8(d).

DHS further submits that even if the Court were to determine that the respondent was eligible for adjustment of status, his application should nevertheless be denied as a matter of discretion. This position will also be further discussed below.

1. THE RESPONDENT IS INADMISSIBLE PURSUANT TO INA §212(a)(6)(C)(i).

The respondent is inadmissible to the United States pursuant to INA §212(a)(6)(C)(i) because he has by fraud or willfully misrepresenting a material fact sought to procure a visa, other documentation, or admission into the United States or other benefit

provided under the Immigration and Nationality Act. The respondent willfully made at least two material fraudulent misrepresentations on his application for adjustment of status (I-485) which he signed on March 25, 1999, and which was filed with the Immigration and Naturalization Service in April 1999. The application directs the applicant, in relevant part, to:

Please answer the following questions. (If your answer is "Yes" on anyone of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to register for permanent residence or adjust status.)

1. Have you ever, in or outside the U.S.:
 - b. been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding traffic violations?
4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, or have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has been engaged or conspired to engage, in sabotage, kidnapping, political assassination, hijacking, or any other form of terrorist activity?

The respondent answered "no" to both questions. Additionally, the DHS submits that the respondent made further material misrepresentations at his May 16, 2006, adjustment of status interview before U.S. Citizenship and Immigration Services (USCIS). The misrepresentations made at the USCIS interview were detailed in the September 11, 2007, affidavit from Professor Amos Guiora, and in his testimony before the Court.

- A. Contrary to Respondent's I-485 assertion, he was arrested, indicted, and imprisoned.

The DHS has submitted evidence that establishes that on December 12, 1993, in the Shechem Military Court, in the West Bank, the respondent was convicted of 1) Membership in an Illegal Association, to wit, Hamas, in violation of Regulation 85(1) of the Defense (Emergency) Regulations, 1945, and 2) Performing a Service for an Unlawful Association, also in violation of Regulation 85(1) of the Defense (Emergency) Regulations, 1945.

DHS submitted 3 documents establishing the respondent's criminal conviction in the military court system. These documents are 1) the May 3, 2005 letter from Osnat Hershler addressed to the Federal Bureau of Investigation, 2) the verdict and criminal record, and 3) the Indictment and Protocol.

1. May 3, 2005 Letter

In his May 3, 2005 letter, with the Subject being noted at top as being "Mohamed Qatanani," Osnat HersWer, Superintendent Liaison Officer with the Israel Police Intelligence Department Special Operations Division stated, "Please be informed that the aim subject is in possession of ID. Nr. 995600459. In 1993 he was convicted for membership in an illegal organization and sentenced to 3 months imprisonment, 12 months imprisonment suspended for 3 years." U.S. Department of State Officer Thomas Rhodes certified the authenticity of this letter on February 15, 2007.

This letter reasonably indicates the existence of a criminal conviction. See 8 CFR §1003.41 (d). In the first instance, it should be noted that the ID Number noted in the letter,

995600459, is the same as that on the Identification Card that the respondent produced in Court during cross-examination on June 2, 2008, and which he submitted to the Court by cover letter dated June 13, 2008. The reliability of the letter's information is further buttressed by the fact that the Department of State authenticated the letter. Moreover, Professor Guiora testified that the Israeli National Police is charged with maintaining criminal history information.

2. Verdict and Criminal Record

With respect to the verdict and criminal record, Chief Inspector Liat Lev-Ary certified these documents on September 7, 2005. Ms. Lev-Ary attested that she is authorized by the laws of Israel to attest to the records, that the records are true copies of original official records which are recorded or filed with the Israel National Police and which set forth matters required by law to be recorded or filed and reported. U.S. Department of State Foreign Service Officer Tom Rhodes verified Ms. Lev-Ary's attestation on October 12, 2007. The documents have been certified in accordance with 8 CFR §1287.6(b), which specifies that:

(1) In any proceeding under this chapter, an official record or entry therein, when admissible for any purpose, shall be evidenced by an official publication thereof, or by a copy attested by an officer so authorized. This attested copy in turn may but need not be certified by any authorized foreign officer both as to the genuineness of the signature of the attesting officer and as to his/her official position. The signature and official position of this certifying foreign officer may then likewise be certified by any other foreign officer so authorized, thereby creating a chain of certificates.

(2) The attested copy, with the additional foreign certificates if any, must be certified by an officer in the Foreign Service of the United States, stationed in the foreign country where the record is kept. This officer must

certify the genuineness of the signature and the official position either of (i) the attesting officer; or (ii) any foreign officer whose certification of genuineness of signature and official position relates directly to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation.

8 *CPR* §1287.6(b)(1)&(2).

Moreover, the U.S. Court of Appeals for the Third Circuit has squarely held that 8 *CPR* §287.6 is not an absolute rule of exclusion, and it is not the exclusive means of authenticating records before an Immigration Judge. See Liu v. Ashcroft, 372 P.3d 529, 533 (3rd Cir. 2004).

Ms. Lev-Ary's attestation satisfies the requirements of 8 CFR §1287.6(b)(1), and the certification of Department of State Officer Thomas Rhodes satisfies the requirements of §1287.6(b)(2). As discussed above, the Israeli National Police is the agency charged with maintaining such criminal records. Moreover, the documents clearly pertain to the respondent. In the first instance, the "ID Number" on the criminal record is the same as that noted above, 995600459. The name of the suspect is Muhamamd Qatanani (phonetic) and the suspect's mother's name is Ayesha (phonetic) and his father's name is Ahmad (phonetic). Respondent testified that these are his parents' names. The suspect's address is listed as the Askar refugee camp and the respondent also testified that that was where he lived at the time. Although the translation indicates that the suspect's date of birth is 6/29/64, the attached verdict lists the date of birth as 4/29/64, and an examination of the Hebrew language document reveals that the date of birth in the criminal record was

handwritten and it is actually 4/29/64. Additionally, Professor Guiora testified that the documents comported with thousands of such documents that he has reviewed in his career.

3. Indictment and Protocol

With respect to the Indictment and protocol, these documents have also been properly certified pursuant to 8 CFR §1287.6(b). The documents were submitted to the United States Department of Justice on October 5, 2006 by Anat Agami of the State of Israel Directorate of Courts. On April 16, 2008, Alon Gillon, the Deputy Director of Courts in Israel verified the signature of Anat Agami and he stated that she was the clerk of the Department for Legal Assistance to Foreign Countries at the Directorate of the Administration of Courts in Israel. On April 16, 2008, Mr. Yitzchak Blum, the Deputy Director of the Department of International Affairs in the Office of the State Attorney, Department of International Affairs, submitted the declaration from Alon Gillon and it further related that the original letter from Directorate of Courts (Anat Agami letter mentioned above) had attached military court records related to Mohd (a shortened form of Mohammed) Mahdi Ahmad Qatanani. Lastly, the Yitzchak Blum letter was verified by U.S. Department of State Foreign Service Officer Torn Rhodes on April 17, 2008. Thus all of the requirements of 8 CFR 1287.6(b) have been met.

The respondent has argued that the documents have not been properly certified because Anat Agami was not the proper official to certify the records in the first instance. However, he has submitted nothing in support of this claim, and in fact, his own witness, Mr. Jonathan Kattab, testified, on cross-examination, that he was not familiar with such

records being submitted in courts outside of the United States, and thus he has no knowledge of who the State of Israel has authorized to certify documents for use in another country. The declarations of Alon Gillon, Yitzchak Blum and the verification of Tom Rhodes establish that Anat Agami had such authority. Professor Guiora also testified that these documents comported with thousands of such documents that he has reviewed in his career.

Moreover, these documents clearly pertain to the respondent. The respondent's name is on the Indictment, and the Indictment indicates that he had been in custody since 10/21/93, which is the date that the respondent testified that he was taken into custody. The Indictment also lists his residence as the Askar Refugee Camp, which the respondent testified was where he lived. Count One of the Indictment alleges that the defendant worked at the Abu Qurah mosque in Amman, which is where the respondent testified that he worked. Indeed, even the respondent's own expert, attorney Jonathan Kattab, testified that the Court Case number on both the Indictment and the protocol were the same. He testified that it was 10771/93. While the translation of the protocol says 60771/93, a review of the Hebrew language documents clearly shows that this is a handwritten number and that the two numbers are the same. Moreover, the declaration of Yitzchak Blum, the Deputy Director of the Department of International Affairs in the Office of the State Attorney, Department of International Affairs, makes clear that the attached documents pertain to the military court records for Mr. Qatanani.

As discussed above, since the three documents above have all been properly authenticated and since they all clearly pertain to the respondent, they should finally be received into evidence and be considered by the Court.

B. Respondent's 1-485 misrepresentations were material and willful.

As the respondent answered the two previously mentioned 1-485 questions in the negative, and the evidence indicates that not only was he arrested, and charged with crimes, but that he was convicted, we turn to the question of whether or not these misrepresentations were material. The willfulness of the misrepresentations will be further discussed below.

1. Respondent's misrepresentations were material.

It is well-settled that a statement made in attempt to obtain a visa is material, as required for statement to constitute fraud, if either: (1) the alien is excludable on the true facts, or (2) the misrepresentation tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded. Mwongera v. INS, 187 F.3d 323 (3rd Cir. 1999).

An alien who has provided material support to a terrorist organization is inadmissible to the United States. Therefore, by answering the questions in the negative, the respondent cut-off a line of inquiry relevant to his eligibility for adjustment of status. The respondent completed the 1-485 and filed it in 1999. It was not until an interview in 2005 with the FBI and ICE, that he even remotely discussed the incident in question. As

During the hearing there was a line of questions, which attempted to establish that the government knew of adverse information against the respondent much earlier, principally because of an "IBIS" stamp from 2002 on the 1-485, however this is belied by the record. Both Special Agents Alicea and Philpott testified that they first learned of the arrest, charges and conviction at the 2005 interview; this testimony is corroborated by the fact that only thereafter did the FBI receive the May 3, 2005 letter from Osnat Hershler advising of the conviction. That the respondent concealed his arrest, charges and conviction for six years clearly prevented INS and USCIS from learning about it for many years. The assumption that the IBIS hit noted on the 1-485 in 2002 established knowledge of the arrest, charge and conviction, is based on mere speculation and is totally unsupported by any evidence.

2. Respondent's misrepresentations were willful.

With respect to willfulness, the respondent has alleged before this Court that he did not know that he was arrested, charged and convicted. This position is not credible. At the 2005 interview, when asked whether he had ever been arrested, charged, or convicted, the respondent told the agents that he in fact had been arrested, charged, and convicted, and he described a court process which included appearing before a military court judge. Respondent's testimony that he told the agents that he had been detained, but not arrested, defies logic. If that were true, he likely would not have mentioned the incident since the question asked of him was specifically whether he had ever been arrested, charged, or convicted of a crime. He was not asked whether he had been detained. This is particularly

pertinent given that one of the respondent's attorneys at the interview also assisted him in the preparation of the I-485. Moreover, both Professor Guiora and Ruth Levush, from the Law Library of Congress, have opined that the conviction records reflect that the respondent was present in court.

The respondent's hearing testimony regarding the process in the West Bank is not credible. It is not credible, as the respondent has testified, that he was detained without explanation and that when he met with his own attorney that he did not ask the attorney why he was being held. It is not credible, as the respondent has testified, that his attorney told the respondent that he would make a deal to have the respondent released, yet the respondent did not inquire of his attorney what the terms of that deal would be. It is not credible, as the respondent has testified, that he was subsequently released without being told why, and that he never inquired of his attorney about the outcome of his case. And, it is not credible, as the respondent has testified, that he was subjected to such horrendous treatment, yet upon attending a family dinner a few days after his release, he never discussed the sub-standard treatment. Moreover, the respondent's Immigration Court testimony on these issues contradicted his USCIS interview testimony. At the USCIS interview, he stated that he was not guilty (page 98, line 16), but it is axiomatic that one can only be found not guilty if he is initially charged with a crime. The respondent also testified about being charged with a crime at the end of the process (page 99, lines 9-10).

Additionally, despite the respondent's lengthy testimony regarding mistreatment he suffered, and the testimony of his purported experts¹, his claims are belied by the fact that he 1) never sought asylum; 2) has no medical documentation of injuries sustained; 3) did not mention this mistreatment at the 2005 FBI interview, despite the fact that it was an interview that he himself requested and at which he was at liberty to discuss anything that he desired; and, 4) did not discuss mistreatment at the useIS interview (although his attorney attempted to ask him to describe his treatment in custody, this was only after he had testified about the incident for 41 pages without ever mentioning mistreatment).

Furthermore, although the respondent testified that his wife knew that he was in Israeli military custody, retained an attorney for him, and saw him when he was released, his wife did not testify at the hearing, despite being present throughout the proceedings. It is also noteworthy that the attorney whom the respondent chose to call as a witness was not the attorney who represented him (and presumably would have first-hand knowledge of the criminal proceedings), but an attorney who had no actual knowledge of the case, and who made no effort to look into the criminal records in the case. The respondent's recitation of events is not credible.

The evidence establishes that he was arrested, charged and convicted of a crime. The respondent told Agents Alicea and Philpott that he had been was arrested, charged and convicted of a crime. The respondent's 1-485 statement to the contrary was false and

¹ Lisa Hajar and Eric Goldstein's areas of expertise are unclear given that they have no actual first hand knowledge of the practices about which they testified, and in fact, Eric Goldstein only interviewed one of the twenty some odd subjects of the book he edited

willful, as he knew what answer he was supplying, and it was material. Accordingly, the respondent is inadmissible to the United States pursuant to INA §212(a)(6)(C) and thus, ineligible for adjustment of status.

Moreover, as the respondent admitted in his testimony, he failed to disclose this arrest on his initial application for the non-immigrant visa application through which he came to the United States. This fraudulent non-disclosure was material; it cut off a line of inquiry and allowed the respondent to gain his initial entry into the United States. Had the respondent truthfully answered that question on the non-immigrant visa application, he likely would not have been issued a visa.

II. The Respondent is inadmissible because he has engaged in terrorist activity.

Any alien who has engaged in terrorist activity is inadmissible to the United States.

INA §212(a)(3)(B)(i)(I). Terrorist activity is defined as:

[A]ny activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:
(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any-

(a) biological agent, chemical agent, or nuclear weapon or device, or

(b) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

INA §212(a)(3)(B)(iii).

Engaging in terrorist activity includes committing an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training to a terrorist organization described in INA §212(a)(3)(B)(vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization. See INA §212(a)(3)(B)(iv)(VI)(dd).²

The record overwhelmingly establishes that Hamas, during the requisite time frame, was a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in INA §212(a)(3)(B)(iv)(I) through (VI). See INA §212(a)(3)(B)(vi)(III); see also DHS Exhibit 12 (Council on Foreign Relations article, and "Hamas-The Islamic Resistance Movement of Palestine" by Yehudit Barsky) and DHS Exhibit 21 (Congressional Research Service Issue brief, Hamas: The Organizations, Goals and Tactics of a Militant Palestinian Organization, dated October 14, 1993, and the Israel ministry of Foreign Affairs, publication, Hamas- The Islamic Resistance Movement, dated January 1, 1993). These materials make clear that during the

years from 1989 through 1991, Hamas was engaged in numerous killings and violent attacks against civilians, as well as the destruction of property. This activity was illegal where it was committed and would have been illegal if committed within the United States. Thus Hamas was a terrorist organization as contemplated by INA §212(a)(3)(B)(vi)(III) during the time period in the Indictment, under which the respondent was convicted.

Under Count One of the Indictment, the respondent was charged with being a member of Hamas, having joined in 1989, and that in such capacity, he attempted to enter the West Bank in 1990 to give a report on the status of Hamas in Jordan to the Hamas leader, Zoheir Abd Al Salaam. Under Count Two of the Indictment, the respondent was charged with providing a service for Hamas, to wit, referring Hamas activists to the leader of Hamas, after those activists had given the respondent the proper code word. These acts, for which the respondent was ultimately convicted, fall well within the definition of material support. See Singh-Kaur v. Ashcroft, 385 F.3d 293 (3rd Cir. 2004); McAllister v. Attorney General, 444 F.3d 178 (3rd Cir. 2006); Matter of S-K-, 23 I&N Dec. 936.

As the evidence clearly establishes that the respondent has been convicted of acts which constitute material support to a terrorist organization, and that he is therefore inadmissible to the United States, the burden is on him to establish, by a preponderance of the evidence, that he is not inadmissible as charged. As discussed above, the respondent's testimony with respect to his denial of the criminal conviction lacked credibility, and he

² Hamas is currently a designated Foreign Terrorist Organization under INA §212(a)(3)(B)(vi)(I), however since no such designations existed at the time specified in the Indictment against the respondent, the instant analysis is under INA §212(a)(3)(B)(vi)(III).

therefore failed to meet his burden of proof. This is especially true, when considered in light of the respondent's additional ties to Hamas, which will be discussed below.

III. The respondent's application should be denied as a matter of discretion.

Adjustment of status is a matter of administrative grace, not mere statutory eligibility. See Hintopoulos v. Shaughnessy, 353 U.S. 72, 77 (1957). An applicant who meets the objective prerequisites is merely eligible for adjustment of status; he is in no way entitled to such relief. See Matter of Marques, 16 I&N Dec. 314, 316 (BIA 1977). An application for adjustment of status is a discretionary application and ultimately the question presented is whether a grant of relief is in the best interests of this country. See Matter of Tijam, 22 I&N Dec. 408 (BIA 1998).

In denying asylum to an applicant who was an exiled leader of a terrorist group, based on discretion, the Attorney General of the United States has stated, "[t]he United States has significant interests in combating violent acts of persecution and terrorism wherever they may occur, . . . and it is inconsistent with these interests to provide safe haven to individuals who have connections to such acts of violence." See Matter of A-R-, 23 I&N Dec. 774, 782 (A.G. 2005).

A. Connections to Ramas

In the instant case, not only has the respondent been convicted of being a member of, and providing services to, Ramas, he also has undeniable connections with Ramas.

1. Respondent's brother-in-law, Mahmud al-Shuli, a former West Bank Military Leader of Ramas

First, the respondent's brother-in-law, Mahmud al-Shuli, was a former West Bank military leader of Hamas. The respondent admitted that he met al-Shuli immediately after the respondent was released from custody, yet he incredibly claimed that he did not speak with al-Shuli at that time. If the respondent were to be believed, he had been unjustly detained and tortured for three months, yet he did not have any discussions with al-Shuli, a Hamas leader who had been shot by the Israeli army during the first intifada and who had been deported by the Israelis. This claim does not merit belief. Moreover, the respondent admits that, despite claiming he never spoke with al-Shuli when they met in person, he spoke to al-Shuli on the telephone, while the respondent was in the United States. The telephone contact from within the United States to the West Bank military leader of Hamas is certainly troubling. During the course of this testimony, the Immigration Judge commented that he believed that such communication could be presumed to have been monitored, but such belief is merely speculative and did not contemplate that al-Shuli was then being held by the Palestinian Authority, not the Israelis. The respondent never testified about the substance of his conversation with al-Shuli.

not true

2. Mohamed EI-Mezain, presently under indictment for raising funds for Hamas.

Mohamed EI-Mezain was the Imam at the Islamic Center of Passaic County before the respondent arrived there, and he and the respondent worked there together as Imams until 1999. The respondent worked with, and lived at the same address, as Mohamed EI-Mezain, who is presently under indictment for raising funds for Hamas through the Holy Land Foundation. Mr. EI-Mezain is reported to have at one time claimed to have raised

\$1,800,000 in the United States for Ramas. See DRS Exhibit 5.3. The respondent claimed that he was recruited by the Islamic Center of Passaic County (ICPC) to immigrate to the United States to be an Imam there, but alleges that he was not told that ICPC already had an Imam and that he was to only be one of two Imams there. This claim is not credible. Further, the respondent has acknowledged that the ICPC, and perhaps himself as well, has made donations to the Holy Land Foundation, a fundraising arm of Hamas.

3. Cash sent to West Bank

The respondent also sent thousands of dollars to the West Bank in cash. His explanation, that it was easier that way because he saved on a wire transfer fee, is highly dubious. It is certainly suspicious when a person who has been convicted of being a member of, and providing services, to Hamas, who has personal ties to a Hamas militant leader, and a Hamas fundraiser also sends undisclosed cash to the West Bank.

A further indication of the respondent's non-desirability as a permanent resident is the fact that he allowed another brother-in law, Muamar Sholi, to reside with him, while Muamar Sholi was an out of status alien, who was subsequently deported from the United States.

Despite the numerous letters of support, the crowded courtroom, and the witnesses that the respondent presented, it can hardly be in the best interests of the United States to grant permanent residency to someone who has been convicted of being a member of, and providing services to, Hamas, who has personal ties to a Hamas militant leader and a

Barnas fundraiser, who sends undisclosed cash to the West Bank, and who gives residence to an out of status alien.

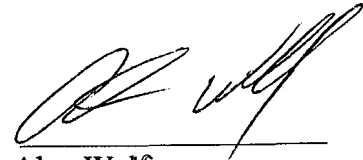
IV. The respondent cannot adjust his status since he has worked without authorization.

The respondent is further ineligible for adjustment of status because he was employed from July of 2001 until at least May 2006 without authorization. See INA §245(c). Such employment bars the respondent from adjustment of status. See Matter of Bennett, 19 I&N Dec. 21 (BIA 1984). The fact that the respondent had work authorization, which expired, and a pending application for adjustment of status and for renewed work authorization does not appear to be an exception to this bar for adjustment of status.

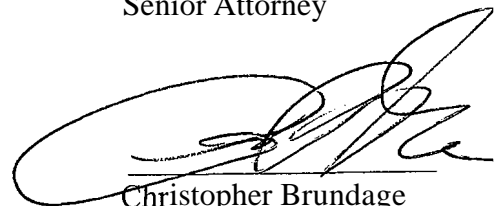
Conclusion

For the foregoing reasons, the respondent's application for adjustment of status must be denied because he has committed a material misrepresentation, because he has engaged in terrorist activity, and because he has engaged in unauthorized employment. Moreover, even if the Court were to determine that the respondent was eligible for adjustment of status, the application should be denied due to his convictions for being a member of Hamas and for providing a service to Hamas; because of his associations with a Hamas militant and a Hamas fundraiser; and, his disregard for the immigration laws evidenced by his engaging in unauthorized employment and by allowing an out of status alien to reside with him. Granting permanent residence to the respondent is not in the best interests of the United States.

Respectfully submitted,



Alan Wolf
Senior Attorney



Christopher Brundage
Assistant Chief Counsel

Dated: July 29, 2008
Newark, New Jersey

REQUESTED BY: PHILPOTT, HEATHER

OFFICIAL USE ONLY

DEPARTMENT OF HOMELAND SECURITY ICE REPORT OF INVESTIGATION	1. TECS ACCESS CODE 2. PAGE 1 3. CASE NUMBER [REDACTED]
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4. TITLE: MOHD MAHDI AHMAD QATANANI

5. CASE STATUS: INIT RPT

6. REPORT DATE 030905	7. DATE ASSIGNED 022805	8. CLASS 1	9. PROGRAM CODE [REDACTED]	10. REPORT NO. 001
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11. RELATED CASE NUMBERS:

COLLATERAL REQ:

13. TYPE OF REPORT:
INITIAL SOURCE DOCUMENT

TOPIC: INTERVIEW OF MOHD MAHDI AHMAD QATANANI

14. SYNOPSIS:

Mohd Mahdi QATANANI, aka: Mohammad Mahdi Ahmad HASAN, Mohammed QATANANI, Muhammad Ahmed Hasan QATANANI, and Mohammad H. QATANANI, DOB: 04/29/1964, COB: Jordan [REDACTED]

This report documents an interview of QATANANI conducted on 02/07/2005 by ICE and FBI Agents.

15. DISTRIBUTION: [REDACTED]	16. SIGNATURE: PHILPOTT <i>Heather Philpott</i> HEATHER PHILPOTT SENIOR SPEC AGENT
	17. APPROVED: HACK <i>James J. Angole</i> ANGOLF C SENIOR SPEC AGENT
	18. ORIGIN OFFICE: NEWARK, NJ - [REDACTED]
	19. TELEPHONE: [REDACTED]
	20. TYPIST: PHILPOTT

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DETAILS OF INVESTIGATION:

On 02/07/2005, QATANANI was interviewed at his attorney's office, Sohail Mohammed, located at 1030 Clifton Ave, Clifton, NJ, by FBI/JTTF agents, regarding *his* 1-485 petition filed with Citizenship and Immigration Service. QATANANI advised that his full name is, Mohd Mahdi Ahmed QATANANI. QATANANI was asked why his name was not spelled the same way on the I-485 form that he had submitted to the citizenship and Immigration Services (CIS). QATANANI advised that the name Mohammad is written out in his I-485 as opposed to the way that it is illustrated in the abbreviated spelling Mohd, but written either way, it is still his name. QATANANI advised that his date of birth is 04/29/1964 and he was born in the West Bank, which was considered to be part of Jordan at the time. QATANANI's father's name is Ahmed QATANANI and his mother's name is Aysheh QATANANI. His parents are also first cousins. QATANANI lived in the Askar Camp after he was born. The Askar Camp was established by the United Nations. QATANANI is a Jordanian citizen. QATANANI's parents currently reside in Amman, Jordan, where they rent a home in Abu Alia, a suburb of Amman. QATANANI traveled to the United States (U.S.) from Jordan with his wife, Sumaia Abu Hanoud (PH), and three of his children, Ahmad (PH), Israa (PH) and Omar (PH). QATANANI has three children that were born in the United States, Anas (PH), Alaa (PH), and Osama (PH).

QATANANI consented to an examination of his I-485 form. QATANANI was shown a copy of his I-485 form and asked if the signature of the I-485, under Part 4, was his signature. QATANANI advised that the aforementioned signature was his and that the date illustrated on the I-485, 03/25/1999, was correct. QATANANI advised that he understood English and can read and/or speak English. QATANANI was asked who prepared his 1-485 form. QATANANI's attorney, Sohail Mohammed, advised that his firm completed the form and submitted it to CIS. Mohammed advised that it is customary for his firm to have an employee of the firm go over the completed form with their client upon obtaining the client's signature on the form. QATANANI was asked if someone from Mohammed's law firm went over his I-485 form with him when he came in to sign it. QATANANI advised that he signed the form, but he didn't have an answer to the question of whether anyone went over the form with him. QATANANI advised that he trusted his attorney, Sohail Mohammed, so he signed the 1-485 form. The interviewing agents proceeded to go over QATANANI's 1-485 form with him. Each questions were read out loud in English and Arabic and QATANANI was asked for a response to the question as well as follow up questions. QATANANI provided the following answers to the following questions from his I-485, dated 03/25/1999. Part 1 of the I-485 form asked for biographical information that QATANANI provided. QATANANI's name was spelled, Mohammad M. QATANANI, and he advised that this was correct. The I-485 form requests additional biographical information that was illustrated on the form as follows:

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Address: 151 Derrom Ave, Paterson, NJ 07504
 DaB: 04/29/1964
 COB: Jordan
 Social Security number: [REDACTED]
 Immigration number: [REDACTED]
 DOE: 11/19/1996
 I-94 ADM#: [REDACTED]
 CUrrent INS status: H-1
 Expires on: 04/01/1999

Part 2 of the 1-485 form provided the reason that QATANANI is applying for adjustment to permanent resident status is because he is the principal beneficiary of an approved I-360 (religious worker petition). QATANANI advised that what is listed in Part 2 of the 1-485 form is correct.

Part 3 of the 1-485 form had the following information displayed:

A.
 City/Town/Village of birth: Nablus
 Current Occupation: Imam (Muslim Priest)
 Mother's first name: Aysheh
 Father's first name: Ahmad
 Give you name exactly how it appears on your Arrival/Departure Record (I-94):
 Modh Mahdi QATANANI
 POE: New York, NY
 In what status did you last enter? H1-B
 Were you inspected by aU.S. Immigration Officer? (yes checked)
 Nonimmigrant Visa Number: [REDACTED]
 Consulate where Visa was issued: Amman, Jordan
 Date Visa was issued: 10/27/1996
 Sex: Male
 Marital Status: (married checked)
 Have you ever before applied for permanent resident status in the U.S.? (not checked)

B.
 List your present husband/wite, all of your sons and daughters:
 QATANANI listed his wife, Sumaia M. ABUHNOUD (PH), DOB: 02/02/1965, his son, Ahmad M. QATANANI, DOB: 06/16/1990, his daughter, Isra QATANANI, DOB: 05/31/1991, his son, Omar M. QATANANI, DOB: 06/15/1994, and hie son, Anas M. QATANANI, DOB: 04/22/1997.

Part 3 of the 1-485 form also had the following question listed:
 List your present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place since your 16th birthday.

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Include any foreign military service in this part. If none, write "none", include the name of the organization, location, dates of membership from and to and the nature of the organization. QATANANI's I-485 form reflected "various religious organizations" in response to this question. The interviewing agents asked QATANANI if he was ever in the military. QATANANI advised that he was never in the military. The interviewing agents also asked QATANANI what organizations he was referring to when he answered this question on the form with "various religious organizations." QATANANI advised that he was involved in student organizations when he attended the University of Jordan in Jordan.

QATANANI advised that he was part of what is believed to be the Islamic Law program in the University of Jordan, which is called Sharia'A. QATANANI advised that he could not recall the names of the other student organizations he was involved in, but all of the student organizations were part of or under the Islamic Brotherhood. QATANANI also advised that it was legal to be part of the Islamic Brotherhood in Jordan because it was a registered organization. The interviewing agents asked QATANANI why would it have been illegal to be part of the Islamic Brotherhood somewhere else. QATANANI did not answer this question..

QATANANI was asked if anyone had previously asked him the aforementioned question concerning his affiliation with organizations. QATANANI advised that he could not recall if anyone had asked him this question before.

From Part 3. Processing Information (continued) section of the I-485 form:

1. Have you ever, in or outside of the U.S.:

- a. knowingly committed any crime of moral turpitude or a drug related offense for which you have not be arrested?
- b. been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding traffic violations?
- c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action?
- d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U.S.? QATANANI's I-485 form reflected, NO, checked in response to this question.

QATANANI was asked this question and advised that he was arrested by the Israeli authorities in 1993 when he crossed into Israeli territory in the West Bank from Jordan with his wife and children. QATANANI advised that he was traveling from Jordan to the Askar Camp to visit his family when he was arrested. QATANANI was asked why his response to the question was NO on his I-485 form. QATANANI had no response to this question. QATANANI's other attorney present during the interview, Robert S. Fava, asked QATANANI if he

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was detained or arrested. The interviewers then asked QATANANI to clarify whether he was detained or arrested. QATANANI advised that he was arrested and there was a court and trial process and he was released from prison after three (3) months. The interviewing agents asked QATANANI to explain, in more detail, the events that transpired involving his arrest by the Israeli authorities in 1993. QATANANI advised that sometime in 1993 he was traveling to the aforementioned Askar camp from Jordan to visit his family. At this time, QATANANI was pursuing the equivalent of a PH.D in some form of Islamic studies in Jordan. Upon passing through an Israeli checkpoint, QATANANI was given a written notice by the Israeli authorities to appear before the Israeli authorities 7 days after the date he was given the notice. QATANANI advised that he then passed through the checkpoint and visited with his family for 7 days. After his visit, QATANANI advised that his wife and children remained with his family at the Askar Camp when he reported to the authorities. The Israeli authorities spoke with QATANANI and then took him into custody. QATANANI was then advised that he would remain in their custody for a while.

QATANANI advised that after he was arrested he was put in a small room with his hands handcuffed while he was sitting on a small chair. QATANANI then advised that the air conditioning was turned on and was blowing directly on him. QATANANI advised that he has a nasal condition which made him uncomfortable in the air conditioning. QATANANI advised that the authorities had something bad put on his head and he was treated roughly for a period of time. During this period, no one asked him any questions.

QATANANI advised that he hired an attorney because he had to go to court. When QATANANI was asked why he was arrested, he advised that it was because the Israelis accused him of being a member of HAMAS. QATANANI did not provide the interviewing agents the actual charges he faced. QATANANI's attorney advised him to take part in a plea bargain with the Israeli authorities because he felt this was the only way out of the situation QATANANI was in.

QATANANI was asked why the Israelis thought he was a member involved with HAMAS. QATANANI advised that he had told the Israeli authorities that he was part of the Islamic Brotherhood in Jordan and the Israeli authorities consider the Islamic Brotherhood and HAMAS the same thing. QATANANI was then asked if it is illegal to be part of the Islamic Brotherhood in Israel and he advised that it was illegal in Israel. QATANANI was then asked if the Islamic Brotherhood was the same organization as the Muslim Brotherhood that is banned by Syria and Egypt. QATANANI advised that the Islamic Brotherhood and the Muslim Brotherhood described by the interviewing agents, are the same organization. QATANANI advised that HAMAS was formed from the Muslim Brotherhood. QATANANI advised that it was legal to be part of the Muslim Brotherhood in Jordan, but

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was not the same in other countries. QATANANI was asked why it was different in different countries and he did not provide the answer to this question.

QATANANI advised that he agreed to take part in the plea bargain with Israeli authorities. QATANANI was asked what the plea bargain with the Israeli authorities entailed. QATANANI advised that the plea agreement was for QATANANI to provide information on the activities of the Muslim Brotherhood and to serve-3 months in prison. QATANANI was asked if he provided the Israeli authorities with a statement. QATANANI advised that he did provide them with a statement upon his arrest. QATANANI advised that he did not remember exactly what was in the statement because it was a rough time. The interviewing agents asked QATANANI if he told the Israeli authorities that he was a member of the Muslim Brotherhood, and QATANANI said that he did. QATANANI also advised that the Israeli authorities were pushing him to provide information and/or statement. QATANANI advised that the Israeli authorities threatened to prevent him from continuing his education. QATANANI advised that every Palestinian that passes through the Israeli checkpoints is investigated. QATANANI advised that he respects Jordanian law and that he was not in Israel until the time period of 1982 to 1996. QATANANI also advised that he doesn't remember if the Israeli authorities fingerprinted or photographed him when he was in their custody. QATANANI advised that he was travel back to Israel after he plead guilty. QATANANI also advised that he *is* in possession of a document that will allow him to travel back to Israel. 2. Have you received public assistance in the U.S. from any source, including the United States government or any state, country, city, or municipality (other than emergency medical treatment), or are you *likely* to receive public assistance in the future? QATANANI's 1-485 form had the answer, NO, checked in the response to this question. QATANANI was asked this' question, and he advised that he had received public assistance in the past. QATANANI advised that he had received assistance from Women Infants and Children Program (WIC) for his children. QATANANI didn't remember when he received WIC for his children, but believe it was for one of his youngest children. QATANANI was asked the remaining questions, 3 through 14, on the 1-485 form and he provided the same answers that he had previously provided. QATANANI was asked who is Mahmoud Abu Hanoud (PH). QATANANI advised that Abu Hanoud was the military leader of HAMAS. The interviewing agents advised QATANANI that his wife, Sumaia Abu Hanoud, his brother in-law, Muamar Sholi, aka: Muamar Abu Hanoud, and his brother in-law, Husein Sholi, all appeared to not know who Mahmoud was when they were initially asked about Mahmoud Abu Hanoud, even though he was their brother.

The interviewing agents asked QATANANI if he had any knowledge as to why his wife and her brothers would want to appear to conceal their relationship with Mahmoud Abu Hanoud. QATANANI advised that he did not know why they would have acted in this manner, but advised that maybe they were scared. QATANANI advised that Mahmoud Abu Hanoud and his alleged activities were in the news

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and everybody knows who he is. The interviewing agents asked QATANANI if he has ever met Mahmoud Abu Hanoud. QATANANI advised that he had met Mahmoud Abu Hanoud in 1993. QATANANI advised that he had met Abu Hanoud at Abu Hanoud's fathers house in Asyria. QATANANI was asked if Aub Hanoud ever discussed his activities with QATANANI. QATANANI advised that Abu Hanoud never discussed his activities with him. QATANANI advised that he spoke to Abu Hanoud when he was incarcerated by the Palestinian Authorities. QATANANI was asked he knew how Mahmoud Abu

Hanoud died. QATANANI advised that he died in a helicopter attack. QATANANI advised that he saw a report of Mahmoud Abu Hanoud's death on Al Jazeera (PH) news report a few days after *it* happened.

QATANANI advised that Mahmoud Abu Hanoud's family did not have any association with HAMAS. QATANANI advised that his brother-in-law, Husein Sholi, was involved in human rights and was invited by the United States Embassy to visit the United States. The interviewing agents asked QATANANI if he was aware that Husein was interviewed when he departed the U.S. QATANANI advised that he was aware of Husein's interview and had discussed *it* with Husein after *it* happened. The interviewing agents advised QATANANI that Husein did not declare all of the U.S. currency in his possession upon his departure from the U.S. The interviewing agents advised QATANANI that Rusein didn't declare \$5,000 that he had in his possession and didn't reveal that he had this currency until he was questioned further by the U.S. authorities. QATANANI advised that he was aware of the \$5,000 and he had given Husein the money. QATANANI advised that he gave the money to Husein to give to Husein's brother Hasan. QATANANI advised that Hasan gave QATANANI some land in Asira (PH) and QATANANI is paying Hasan to build a house on the land. Hasan has a construction company in Israel.

The interviewing agents asked QATANANI if he would agree to be interviewed, *in* the future, if there was a need to ask *him* more questions. QATANANI agreed to future interviews. QATANANI advised that his New Jersey driver's license has expired and he *is* waiting for a decision concerning his application for Lawful Permanent Resident (LPR) status in the United States.



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Proof of Service

Mohammad Qatanani
(Name of alien or aliens)

76-133-969
("A number" of alien or aliens)

PROOF OF SERVICE

On 7/29/08, I, Alan Wolf
(date of mailing or delivery) (printed name of person signing below)

mailed or delivered a copy of this Brief & Exhibit
(name of document being served)

and any attached pages to Claudia Slovinsky, Esq.
(name of party served)

at the following address: 401 Broadway, Suite 1600
New York, NY 10013
(address of party served)

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[Signature]
(signature)

7/29/08
(date)