

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABDUL JABBAR NAJI SHALABI,
f/k/a Abdul Jabbar Naji Abdul Jaber,

Defendant.

Case No. _____

**COMPLAINT TO REVOKE
NATURALIZATION**

PRELIMINARY STATEMENT

The United States of America (“Plaintiff”) brings this civil action against Defendant Abdul Jabbar Naji Shalabi f/k/a Abdul Jabbar Naji Abdul Jaber (“Defendant”), to revoke and set aside his U.S. citizenship and cancel his Certificate of Naturalization under 8 U.S.C. § 1451(a). Before he became a citizen of the United States, Defendant was convicted in an Israeli court, pursuant to his guilty plea, of Providing Service to a Hostile Entity in violation of Section 85(c) of the Israel Defense (Emergency) Regulations, 1945. Specifically, Defendant admitted in open court as part of a plea agreement to twice concealing acetone – a chemical used to manufacture explosives – on behalf of Hamas member Ahmed Abu-Taha. Upon returning to the United States, Defendant concealed and misrepresented his conduct providing support to Hamas, his conviction in an

Israeli court, and his subsequent incarceration in Israel. Thus, with the attached affidavit of good cause, Plaintiff brings this civil action to revoke and set aside the order admitting Defendant to United States citizenship and to cancel his Certificate of Naturalization.

I. JURISDICTION AND VENUE

1. This is an action under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Defendant to U.S. citizenship and to cancel Certificate of Naturalization No. 29516121 issued December 6, 2005.

2. This Court has subject-matter jurisdiction pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. §§ 1331 & 1345.

3. Venue is proper in this District pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391 because Defendant resides in Ypsilanti, Michigan, within the jurisdiction and venue of this Court.

II. PARTIES

4. Plaintiff is the United States of America, suing on behalf of itself in its sovereign capacity.

5. Defendant is a naturalized United States citizen, and a native and citizen of Jordan.

III. FACTUAL BACKGROUND

6. The affidavit of Christopher C. Hesson, a Special Agent with Homeland Security Investigations, U.S. Immigration and Customs Enforcement, an agency within the U.S. Department of Homeland Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached hereto as Exhibit A.

IMMIGRATION HISTORY

Defendant Becomes a Lawful Permanent Resident

7. Defendant was born in Jordan in March 1980.

8. In March 1997, Defendant was issued an immigrant visa to permanently resettle in the United States. In his visa application, Defendant indicated that he was joining his grandmother in Munster, Indiana.

9. In June 1997, Defendant was admitted to the United States as a lawful permanent resident.

NATURALIZATION PROCEEDINGS

Defendant Applies for Naturalization

10. On or about May 28, 2005, Defendant submitted a Form N-400, Application for Naturalization (“Form N-400”) to U.S. Citizenship and Immigration Services (“USCIS”).

11. Part 7, Section A, asked: “How many total days did you spend outside of the United States during the past 5 years?”

12. In response, Defendant indicated “160” days.

13. Part 7, Section C, required Defendant to “[l]ist all trips of 24 hours or more that you have taken outside of the United States since becoming a Lawful Permanent Resident.”

14. In response, Defendant indicated that he had taken two trips: one, lasting 20 days, from March 20 to April 10, 2003, and another, lasting 140 days, from August 18, 2004, to January 8, 2005. Defendant indicated that both trips were to “West Bank – Jordan.” Defendant listed no other foreign travel in response to this question.

15. Part 10, Question 8(a), of Defendant’s Form N-400 asked whether Defendant had “**EVER** been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place?” (emphasis in original). In response, Defendant checked the box marked “No.”

16. Part 10, Question 9(c), of Defendant’s Form N-400 asked whether Defendant had “**EVER** been a member or in any way associated with . . . a terrorist organization?” (emphasis in original). In response, Defendant checked the box marked “No.”

17. Part 10, Question 16, of Defendant’s Form N-400 asked whether Defendant had “**EVER** been arrested, cited, or detained by a law enforcement

officer (including INS and military)?" (emphasis in original). In response, Defendant checked the box marked "No."

18. Part 10, Question 17, of Defendant's Form N-400 asked whether Defendant had "**EVER** been charged with committing any crime or offense?" (emphasis in original). In response, Defendant checked the box marked "No."

19. Part 10, Question 18, of Defendant's Form N-400 asked whether Defendant had "**EVER** been convicted of a crime or offense?" (emphasis in original). In response, Defendant checked the box marked "No."

20. Part 10, Question 20, of Defendant's Form N-400 asked whether Defendant had "**EVER** received a suspended sentence, been placed on probation, or been paroled?" (emphasis in original). In response, Defendant checked the box marked "No."

21. Part 10, Question 21, of Defendant's Form N-400 asked whether Defendant had "**EVER** been in jail or prison?" (emphasis in original). In response, Defendant checked the box marked "No."

22. Part 10, Question 23, of Defendant's Form N-400 asked whether Defendant had "**EVER** given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion or removal?" (emphasis in original). In response, Defendant checked the box marked "No."

23. Part 10, Question 24, of Defendant's Form N-400 asked whether Defendant had "**EVER** lied to any U.S. government official to gain entry or admission into the United States?" (emphasis in original). In response, Defendant checked the box marked "No."

24. In Part 11 of the Form N-400, Defendant signed the application and dated it May 28, 2005, thereby certifying under penalty of perjury that the contents of the application were true and correct.

Naturalization Interview

25. On November 16, 2005, a USCIS officer placed Defendant under oath and interviewed him regarding his Form N-400 application. During this interview, Defendant orally testified as follows:

a. consistent with his statement in Part 7, Section C, of his Form N-400, Defendant testified that he had traveled out of the United States for a total of only 160 days during two separate trips, which took place from March 20 to April 10, 2003, and August 18, 2004, to January 8, 2005;

b. consistent with his statement in Part 10, Question 8(a), of his Form N-400, Defendant testified that he had never been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place;

c. consistent with his statement in Part 10, Question 9(c), of his Form N-400, Defendant testified that he had never been a member of or associated with any terrorist organization;

d. consistent with his statement in Part 10, Question 16, of his Form N-400, Defendant testified that he had never been arrested, cited, or detained by a law enforcement officer;

e. consistent with his statement in Part 10, Question 17, of his Form N-400, Defendant testified that he had never been charged with committing any crime or offense;

f. consistent with his statement in Part 10, Question 18, of his Form N-400, Defendant testified that he had never been convicted of a crime or offense;

g. consistent with his statement in Part 10, Question 20, of his Form N-400, Defendant testified that he had never received a suspended sentence, been placed on probation, or been paroled;

h. consistent with his statement in Part 10, Question 21, of his Form N-400, Defendant testified that he had never been in jail or prison; and

i. consistent with his statement in Part 10, Question 23, of his Form N-400, Defendant testified that he had had never given false or

misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal.

j. consistent with his statement in Part 10, Question 24, of his Form N-400, Defendant testified that he had never lied to any U.S. government official to gain entry or admission to the United States.

26. At the end of his naturalization interview on November 16, 2005, Defendant again signed his Form N-400, thereby attesting under penalty of perjury that he knew the contents of his application and that the information it contained was true and correct.

27. Based on Defendant's sworn statements on his Form N-400 and at his naturalization interview, on November 16, 2005, USCIS approved Defendant's application for naturalization.

28. Based on his approved Form N-400, on December 6, 2005, Defendant was administered the oath of allegiance, admitting him to U.S. citizenship, and was issued Certificate of Naturalization No. 29516121.

DEFENDANT'S UNDISCLOSED PROVISION OF SUPPORT TO HAMAS, CONVICTION, AND IMPRISONMENT

29. At an unknown date between June 1997 and no later than January 1, 2001, Defendant departed the United States to study at Bir Zeit University, in the West Bank.

30. On or about October 18, 2002, Defendant was arrested by Israeli authorities and charged with Association with a Hostile Entity, Providing Service to a Hostile Entity, and Assistance to Persons of Interest in violation of the Defense Emergency Regulations.

31. On or about March 19, 2003, while represented by counsel and pursuant to a plea agreement, Defendant pled guilty to and was convicted of two counts of Providing Service to a Hostile Entity, i.e., Hamas, in an Israeli court, in violation of Section 85(c) of the Israel Defense (Emergency) Regulations, 1945.

32. Specifically, Defendant confessed to twice concealing acetone – an explosive component – on behalf of Ahmad Abu Taha, a bomb-maker for Hamas.

33. Defendant was sentenced to seven months' imprisonment, 24 months' imprisonment suspended, three years of probation, and a fine.

34. Defendant was incarcerated from on or about October 18, 2002, through on or about, April 6, 2003.

35. Subsequently, on an unknown date, but no earlier than April 6, 2003, Defendant returned to the United States.

36. Expert comparison of a fingerprint on a certified copy of the Israeli judgment of conviction with fingerprints submitted by Defendant during his immigration and naturalization proceedings confirm they were made by one and the same person.

IV. GOVERNING LAW

Congressionally Imposed Prerequisites to the Acquisition of Citizenship

37. No alien has a right to naturalization “unless all statutory requirements are complied with.” *United States v. Ginsberg*, 243 U.S. 472, 474-75 (1917).

Indeed, the Supreme Court has underscored that “[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v. United States*, 449 U.S. 490, 506 (1981).

38. To qualify for naturalization, an applicant must have been lawfully admitted to the United States for permanent residence and subsequently resided in this country for at least five years prior to the date of application. *See* 8 U.S.C. §§ 1427(a)(1), 1429. The term “lawfully” requires compliance with substantive legal requirements for admission and not mere procedural regularity. *See* 8 U.S.C. § 1101(a)(20).

39. An alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure, or has procured) a visa, other documentation, or admission into the United States or other immigration benefit is inadmissible. 8 U.S.C. § 1182(a)(6)(C)(i).

40. Congress has also mandated that an individual may not naturalize unless that person “during all periods referred to in this subsection has been and

still is a person of good moral character” *See* 8 U.S.C. § 1427(a)(3). The required statutory period for good moral character begins five years before the date the applicant files the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a United States citizen. *Id.*

41. Congress has explicitly precluded individuals who give false testimony for the purpose of obtaining immigration benefits from being able to establish the good moral character necessary to naturalize. 8 U.S.C. § 1101(f)(6).

42. Affiliation with organizations that advocate or teach (a) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers of any organized government because of their official character, or (b) the unlawful damage, injury, or destruction of property, are ineligible to naturalize for a period of ten years from the termination of such affiliation. 8 U.S.C. § 1424(a)(4) & (c).

The Denaturalization Statute

43. Recognizing that there are situations where an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or misrepresenting facts that are material to the decision on whether to grant his or her naturalization application, Congress enacted 8 U.S.C. § 1451.

44. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization and cancel the individual's Certificate of Naturalization if his or her naturalization was *either*:

- a. illegally procured, *or*
- b. procured by concealment of a material fact or by willful misrepresentation.

45. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship “illegally procured.” *Fedorenko*, 449 U.S. at 506.

46. Naturalization was procured by concealment of a material fact or by willful misrepresentation, where: (1) the naturalized citizen misrepresented or concealed some fact during the naturalization process; (2) the misrepresentation or concealment was willful; (3) the fact was material; and (4) the naturalized citizen procured citizenship as a result of the misrepresentation or concealment. *Kungys v. United States*, 485 U.S. 759, 767 (1988).

47. Where the government establishes that the defendant's citizenship was procured illegally or by willful misrepresentation or concealment of material facts, “district courts lack equitable discretion to refrain from entering a judgment of denaturalization.” *Fedorenko*, 449 U.S. at 517.

V. CAUSES OF ACTION

COUNT I

ILLEGAL PROCUREMENT OF NATURALIZATION
LACK OF GOOD MORAL CHARACTER
(FALSE TESTIMONY)

48. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

49. As discussed above, to be eligible for naturalization an applicant must show that he has been a person of good moral character for the five-year statutory period before he files his Form N-400, and until the time he becomes a naturalized United States citizen. 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1). Thus, Defendant was required to prove that he was a person of good moral character from May 31, 2000, through December 6, 2005 (the “statutory period”).

50. Defendant was statutorily precluded from establishing the good moral character necessary to naturalize because he gave false testimony during the statutory period for the purpose of obtaining an immigration benefit. *See* 8 U.S.C. § 1101(f)(6).

51. Defendant provided false testimony for the purpose of obtaining an immigration benefit on November 16, 2005, when he was interviewed under oath in connection with his Form N-400.

52. Specifically, while under oath, Defendant falsely testified that he had: traveled outside of the United States for a total of only 160 days since becoming a lawful permanent resident; never been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place; never been a member of or associated with any terrorist organization; never been arrested, cited, or detained by a law enforcement officer; never been charged with committing any crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; never been in jail or prison; and never given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal.

53. Defendant's testimony was false, because, as described above, after becoming a permanent resident he: was incarcerated in Israel for more than 160 days and was therefore necessarily outside of the United States for at least that amount of time; was associated with Hamas, which is both an organization and terrorist organization; had been arrested or detained by a law enforcement officer when he was arrested on or about October 18, 2002; had been convicted of a crime or offense when he pleaded guilty to providing service to a hostile entity in an Israeli court; had received a suspended sentence or been placed on parole as a

result of that conviction; had been in jail or prison as a result of that conviction; and had given false or misleading information to any U.S. government official while applying for any immigration benefit, when he falsely swore to the answers to each of these questions in his Form N-400.

54. Defendant knew his testimony to be false.

55. Defendant provided false testimony for the purpose of obtaining an immigration benefit, namely, naturalization.

56. Because Defendant provided false testimony for the purpose of obtaining an immigration benefit during the statutory period, he lacked the good moral character necessary to be eligible to naturalize.

57. Because he was ineligible to naturalize, Defendant illegally procured his citizenship, and this Court must revoke his naturalization, as provided for by 8 U.S.C. § 1451(a).

COUNT II

ILLEGAL PROCUREMENT OF NATURALIZATION **LACK OF GOOD MORAL CHARACTER** **(UNLAWFUL ACTS)**

58. As discussed above, to be eligible for naturalization, Defendant must have shown that he was a person of good moral character from May 31, 2000, through December 6, 2005. 8 U.S.C. § 1427(a); 8 C.F.R. § 316.10(a)(1).

59. Defendant could not establish the requisite good moral character for naturalization under 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10(b)(3)(iii) because he committed unlawful acts during the statutory period that adversely reflected on his moral character and there were no extenuating circumstances that would lessen his culpability.

60. As described above, Defendant committed acts during the statutory period that constitute the essential elements of perjury, in violation of 18 U.S.C. § 1621; false swearing in an immigration matter, in violation of 18 U.S.C. § 1546(a); and making false statements, in violation of 18 U.S.C. § 1001(a), all of which adversely reflected on his moral character, and there were no extenuating circumstances. *See* 8 U.S.C. § 1101(f); 8 C.F.R. § 316.10(b)(3)(iii). Specifically:

a. Perjury (Oral Statement): On or about November 16, 2005, in testimony after taking an oath before a USCIS officer that he would testify truly, Defendant did testify as true material matter that he did not believe to be true; to wit: Defendant testified that he had: only traveled out of the United States for 160 days in the five years preceding his naturalization application submission, with the trips taking place from March 20 to April 10, 2003, and August 18, 2004 to January 8, 2005; never been associated with any organization; never been a member of or associated with a terrorist organization; never been arrested, cited, or detained by a law enforcement

officer; never been charged with committing a crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; and never given false or misleading information to a U.S. government official while applying for any immigration benefit. These statements under oath before a government officer were material, were not true, and Defendant did not believe them to be true. All are in violation of 18 U.S.C. § 1621(2).

b. Perjury (Written Statement): On or about May 31, 2005, and affirmed on November 16, 2005, in a statement under penalty of perjury, Defendant did willfully subscribe as true material matter that he did not believe to be true: to wit: on a Form N-400, Defendant subscribed as true that he had: only traveled out of the U.S. for 160 days in the five years preceding his naturalization application submission; never been associated with any organization; never been a member of or associated with a terrorist organization; never been arrested, cited, or detained by a law enforcement officer; never been charged with committing a crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; and never given false or misleading information to a U.S. government official while applying for any immigration benefit. These written statements under penalty of perjury were

material, not true, and Defendant did not believe them to be true. All are in violation of 18 U.S.C. § 1621(1).

c. False Swearing in an Immigration Matter: On or about May 31, 2005, and affirmed on November 16, 2005, Defendant did knowingly subscribe as true, under penalty of perjury, false statements with respect to material facts in a document required by the immigration laws or regulations prescribed thereunder, to wit: a Form N-400. Defendant subscribed as true that he had: only traveled out of the United States for 160 days in the five years preceding his naturalization application submission with the trips taking place from March 20 to April 10, 2003 and August 18, 2004, to January 8, 2005; never been a member of or associated with any organization; never been a member of or associated with a terrorist organization; never been arrested, cited, or detained by a law enforcement officer; never been charged with committing a crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; and never given false or misleading information to a U.S. government official while applying for any immigration benefit. All are in violation of 18 U.S.C. § 1564(a).

d. False Statements: On or about May 31, 2005, and affirmed on November 16, 2005, Defendant did willfully and knowingly make materially

false, fictitious, and fraudulent statements and representations, and make or use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of a department or agency of the United States. Defendant made false statements when he testified at his naturalization interview and stated on his Form N-400, that he had: only traveled out of the United States for 160 days in the five years preceding his naturalization application submission with the trips taking place from March 20 to April 10, 2003, and August 18, 2004, to January 8, 2005; never been a member of or associated with any organization; never been a member of or associated with a terrorist organization; never been arrested, cited, or detained by a law enforcement officer; never been charged with committing a crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; and never given false or misleading information to a U.S. government official while applying for an application for an immigration benefit. Defendant knew these statements were false. All are in violation of 18 U.S.C. § 1001(a).

61. The crimes of perjury, in violation of 18 U.S.C. § 1621; false swearing in an immigration matter, in violation of 18 U.S.C. § 1546(a); and making false statements, in violation of 18 U.S.C. § 1001(a), adversely reflect on

Defendant's moral character. *See, e.g., Abdi v. U.S. Citizenship & Immigration Servs.*, 923 F. Supp. 2d 1160, 1167 (D. Minn. 2013) (providing false statements to a police officer are unlawful acts that adversely reflect on good moral character as provided in 8 C.F.R. § 316.10(b)(3)(iii)); *United States v. Mwalumba*, 688 F. Supp. 2d 565, 571 (N.D. Tex. 2010) (violation of 18 U.S.C. § 1546 prevented defendant from establishing good moral character pursuant to 8 C.F.R. § 316.10(b)(3)(iii)); *Etape v. Napolitano*, 664 F. Supp. 2d 498, 511 (D. Md. 2009) (finding conduct violating a federal statute that required knowledge, willfulness, and intent to deceive constituted unlawful acts under 8 C.F.R. § 316.10(b)(3)(iii)).

62. Defendant cannot demonstrate extenuating circumstances for his unlawful activity that render his crimes less reprehensible than they otherwise would be, or tend to palliate or lessen his guilt.

63. Because Defendant committed unlawful activity that adversely reflected on his moral character during the statutory period and he cannot demonstrate extenuating circumstances, he was barred under 8 U.S.C. § 1101(f) and 8 C.F.R. § 316.10(b)(3)(iii) from showing that he had the good moral character necessary to become a naturalized United States citizen.

64. Because Defendant could not establish the requisite good moral character for naturalization required under 8 U.S.C. § 1427(a), he illegally procured

his citizenship and the Court should revoke and set aside his naturalization under 8 U.S.C. § 1451(a).

COUNT III

ILLEGAL PROCUREMENT OF NATURALIZATION **NOT LAWFULLY ADMITTED** **(Engaged in Illegal Activity While Abroad)**

65. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

66. Defendant was granted permanent resident status in the United States in June 1997.

67. Thereafter, Defendant traveled abroad. While abroad, Defendant was convicted, pursuant to his plea, of violating Section 85(c) of the Israel Defense (Emergency) Regulations, 1945.

68. Although permanent residents are in general presumed not to be arriving aliens when returning to the United States from abroad, 8 U.S.C. § 1101(a)(13)(C), a permanent resident who has engaged in illegal activity while abroad is deemed an arriving alien and must be “admissible” to the United States to be re-admitted, *id.* § 1101(a)(13)(C)(iii).

69. Similarly, a permanent resident who has been absent from the United States in excess of 180 consecutive days is deemed an arriving alien and must also be “admissible” to the United States. 8 U.S.C. § 1101(a)(13)(C)(ii).

70. Defendant engaged in illegal activity while outside of the United States. Specifically, as discussed above, Defendant violated Section 85(c) of the Israel Defense (Emergency) Regulations—conduct to which Defendant pleaded guilty.

71. In addition, Defendant was absent from the United States for a period in excess of 180 days.

72. Accordingly, Defendant was an arriving alien under 8 U.S.C. § 1101(a)(13)(C) upon his return to the United States.

73. To be lawfully admitted to the United States as an arriving alien, Defendant had to be admissible to the United States.

74. Committing an act that the actor knows, or reasonably should know, affords material support to a designated foreign terrorist organization or to any member of any such designated foreign terrorist organization renders the actor inadmissible to the United States. 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(cc).

75. Defendant knew or should have known that hiding acetone – a bomb-making component – for Hamas bomb-maker Ahmed Abu-Taha rendered material support to Hamas or a member of Hamas.

76. Defendant was therefore inadmissible to the United States.

77. As noted above, lawful admission requires compliance with substantive legal requirements for admission and not mere procedural regularity. *See* 8 U.S.C. § 1101(a)(20).

78. Because Defendant had engaged in illegal activity outside of the United States and because he remained outside of the United States for more than 180 consecutive days, he was an arriving alien and subject to the admissibility criteria in § 1182. And because he was inadmissible under 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(cc), he was not lawfully admitted.

79. Because Defendant was never lawfully admitted for permanent residence, he was and remains ineligible for naturalization under 8 U.S.C. §§ 1427(a)(1) and 1429.

80. Because Defendant was not eligible for naturalization, he illegally procured his citizenship and the Court should revoke and set aside his naturalization under 8 U.S.C. § 1451(a).

COUNT IV

ILLEGAL PROCUREMENT OF NATURALIZATION INELIGIBLE TO NATURALIZE DUE TO AFFILIATION WITH A PROSCRIBED ORGANIZATION

81. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

82. Under 8 U.S.C. § 1424(a) & (c), aliens who have affiliated with organizations described in § 1424(a) are ineligible to naturalize for a period of ten years from the end of such affiliation.

83. Hamas is an organization described in 8 U.S.C. § 1424(a).

84. Hamas advocates or teaches “the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character.” 8 U.S.C. § 1424(a)(4)(B). In particular, Hamas teaches or advocates the aforementioned conduct with respect to officers of the Government of the State of Israel.

85. Additionally, Hamas advocates or teaches “the unlawful damage, injury, or destruction of property.” 8 U.S.C. § 1424(a)(4)(C).

86. Under 8 U.S.C. § 1101(e)(2), “[t]he giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith.”

87. Defendant affiliated with Hamas in 2001 when he concealed acetone on behalf of Ahmed Abu-Taha, a member of Hamas. *See* 8 U.S.C. § 1101(e)(2).

88. Because Defendant affiliated with Hamas in 2001 and Hamas is described in 8 U.S.C. § 1424, Defendant was barred from eligibility to naturalize until at least 2011.

89. Defendant was therefore ineligible to naturalize in 2005.

90. Because he was ineligible to naturalize when he did so, Defendant illegally procured his naturalization, and the Court should revoke and set aside his naturalization under 8 U.S.C. § 1451(a).

COUNT V

PROCUREMENT OF UNITED STATES CITIZENSHIP BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

91. The United States re-alleges and incorporates by reference the foregoing paragraphs of this Complaint.

92. Under 8 U.S.C. § 1451(a), this Court must revoke Defendant's citizenship and cancel his Certificate of Naturalization because he procured his naturalization by concealment of a material fact or by willful misrepresentation.

93. As set forth above, Defendant concealed and willfully misrepresented on his Form N-400 and at his subsequent naturalization interview that he had: traveled outside of the United States for a total of only 160 days since becoming a lawful permanent resident; never been a member or associated with any organization, association, fund, foundation, party, club, society, or similar group in

the United States or in any other place; never been a member of or associated with any terrorist organization; never been arrested, cited, or detained by a law enforcement officer; never been charged with committing any crime or offense; never been convicted of a crime or offense; never received a suspended sentence, been placed on probation, or been paroled; never been in jail or prison; and never given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal.

94. Defendant's misrepresentations and omissions about these matters were willful in that they were made voluntarily, deliberately, and with knowledge of their falsity.

95. Defendant's willful misrepresentations and omissions were material to determining his eligibility for naturalization. Defendant's false statements and testimony had the natural tendency to influence a decision by USCIS to approve his Form N-400. Indeed, but for Defendant's concealment of material facts and willful misrepresentations, multiple grounds of statutory ineligibility for naturalization would have been disclosed, and USCIS would not have approved his Form N-400 or administered the oath of allegiance.

96. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts. This Court must therefore revoke his citizenship pursuant to the requirements of 8 U.S.C. § 1451(a).

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests:

- (1) A declaration that Defendant illegally procured his citizenship;
- (2) A declaration that Defendant procured his citizenship by concealment of material facts and by willful misrepresentation;
- (3) Judgment revoking and setting aside the order admitting Defendant to citizenship and canceling Certificate of Naturalization No. 29516121, effective as of the original date of the order and certificate, December 6, 2005;
- (4) Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages under any document which evidences United States citizenship obtained as a result of his December 6, 2005 naturalization;
- (5) Judgment requiring the Defendant, within ten (10) days of Judgment, to surrender and deliver his Certificate of Naturalization, as well as any copies thereof in his possession or control (and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of

others), to the Attorney General, or his representative, including undersigned counsel;

(6) Judgment requiring the Defendant, within ten (10) days of Judgment, to surrender and deliver any other indicia of U.S. citizenship, including, but not limited to, United States passports and passport cards; voter registration cards and other voting documents; enhanced drivers licenses or state identification reflecting Defendant's citizenship status; as well as any copies thereof in his possession, custody, or control (and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others), to the Attorney General, or his representative, including undersigned counsel; and

(7) Judgment granting the United States any other relief that may be lawful and proper in this case.

Dated: December 18, 2019

MATTHEW J. SCHNEIDER
United States Attorney
Eastern District of Michigan

/s/ Peter A. Caplan
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