



IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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UNITED STATES OF AMERICA, ) Docket No. 03 CR 978  
)  
Plaintiff, )  
)  
vs. )  
)  
ABDELHALEM HASAN ABDELRAZIQ ASHQAR, ) Chicago, Illinois  
) November 8, 2007  
Defendant. ) 10:00 o'clock a.m.

VOLUME ONE  
TRANSCRIPT OF PROCEEDINGS - SENTENCING  
BEFORE THE HONORABLE AMY J. ST. EVE

APPEARANCES:

For the Plaintiff: HON. PATRICK J. FITZGERALD  
United States Attorney  
BY: MR. JOSEPH M. FERGUSON  
MR. REID J. SCHAR  
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For Deft. Ashqar: MR. WILLIAM MOFFITT  
11582 Greenwich Point Road  
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MR. KEITH ALLAN SPIELFOGEL  
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Also Present: S/A JILL PETTORELLI, FBI  
MS. KELLY RICE, Probation

Court Reporter: MR. JOSEPH RICKHOFF  
Official Court Reporter  
219 S. Dearborn St., Suite 1232  
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PROCEEDINGS RECORDED BY  
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THE CLERK: 03 CR 978, USA vs. Abdelhaleem Ashqar.

THE COURT: Good morning.

MR. SCHAR: Good morning, Judge.

MR. SPIELFOGEL: Good morning, Judge.

MR. SCHAR: Reid Schar, Joseph Ferguson and Carrie Hamilton on behalf of the United States.

MR. SPIELFOGEL: Bill Moffitt and Keith Spielfogel on behalf of Dr. Ashqar, Judge.

MS. RICE: Kelly Rice on behalf of Probation, your Honor.

THE COURT: We are here for sentencing.

Are you ready to proceed?

MR. SCHAR: Yes, Judge.

MR. SPIELFOGEL: Yes, Judge.

THE COURT: Before you do, I understand, Mr. Schar, that the government intends to call one witness.

Is that accurate?

MR. SCHAR: That is accurate, Judge.

THE COURT: And that is?

MR. SCHAR: Special Agent David Bray of the FBI.

THE COURT: And, Mr. Spielfogel, do you intend to call any witnesses?

MR. SPIELFOGEL: No, Judge.

THE COURT: Okay.

Go ahead. We will proceed.



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MR. SCHAR: Thank you, Judge.

MR. FERGUSON: The government calls David Bray to the stand.

THE COURT: Please come forward, Agent Bray.

DAVID BRAY, PLAINTIFF'S WITNESS, SWORN

MR. FERGUSON: All set?

THE COURT: You may proceed.

THE WITNESS: Set. Thank you.

DIRECT EXAMINATION

BY MR. FERGUSON:

Q. Would you please state your name and spell your last name for the record?

A. My name is David Bray. My last name is spelled B-r-a-y.

Q. And how are you employed?

A. I'm an FBI agent.

Q. And how long have you been with the FBI as a special agent?

A. A little over ten years.

Q. You've testified in these proceedings and, specifically, at trial; is that correct?

A. Yes, I have.

Q. All right.

MR. FERGUSON: With the Court's leave, I'll dispense with background information about Agent Bray, since that's --

THE COURT: That is fine.



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MR. FERGUSON: -- already in the record.

THE COURT: I am familiar with the record in the case. That is fine.

BY MR. FERGUSON:

Q. Special Agent Bray, prior to the filing of the second superseding indictment -- upon which this case went to trial -- in August, 2004, and from -- specifically, from -- 2002 to 2004, were you the case agent for a grand jury investigation looking into matters concerning Hamas?

A. Yes, I was.

Q. And that grand jury investigation was conducted here in the Northern District of Illinois?

A. Yes, it was.

Q. Would you describe -- and we're going to discuss this in some detail, but would you describe in broad outline what the nature of the investigation was that was conducted at that time?

A. In a broad sense, we were conducting an investigation of Hamas in the United States.

Q. Okay.

And what about Hamas in the United States?

A. Hamas members, associates, their interactions, their activities with one another, what type of support they provided to Hamas abroad in Israel.

Q. At the time that you were assigned to this case and



1 working it as a case agent, had you previously worked on any  
2 other investigations concerning Hamas?

3 A. No, I had not.

4 Q. Were there specific statutory violations or crimes related  
5 to Hamas or its members that the investigation was  
6 specifically pursuing?

7 A. Yes, there were.

8 Q. Can you name some of them?

9 A. Some of them were racketeering conspiracy; material  
10 support to a foreign terrorist organization; conspiracy to  
11 kill, kidnap, maim or injure; hostage taking; money  
12 laundering; certain fraud statutes, mail and wire fraud;  
13 obstruction.

14 Q. Passport or travel document fraud?

15 A. Yes.

16 Q. Other types of fraud?

17 A. Yes.

18 Q. Including financial fraud --

19 MR. MOFFITT: Objection. Leading.

20 MR. FERGUSON: Two things, Judge. First of all, all  
21 of this is in the record. I want to get through it fairly  
22 quickly.

23 Second of all, the rules of evidence don't apply  
24 here. He's not going to be led throughout all of this, but  
25 I'd like to get to the particulars.



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THE COURT: Objection overruled.

These are preliminary matters; and, second, the rules of evidence do not apply here.

So, for the preliminary matters, it is fine.

BY MR. FERGUSON:

Q. I want to focus your attention on a couple of the specific statutory violations that were the subject of investigation. Let's take obstruction, for example.

Can you give examples of specific acts of obstruction in connection with Hamas or Hamas members that the investigation was conducting?

A. Yes, I can.

In 1998, in the Southern District of New York, Dr. Ashqar was called before a grand jury conducting an investigation; he was immunized by the Chief Judge; and, he failed to answer questions posed to him during the grand jury.

Q. And that was -- he was -- questions were posed with respect to Hamas?

A. Yes.

Q. All right.

Additional instances of acts of obstruction related to Hamas that were under investigation?

A. Yes.

Q. Name some.

A. Another individual, Ismael El-Barasse, was also called



1 before the grand jury in the Southern District of New York  
2 during the same year. He was immunized, as well, and refused  
3 to answer questions regarding the grand jury's investigation  
4 of Hamas.

5 Q. And within the context of the Hamas enterprise that was  
6 being investigated, were there any acts of obstruction that  
7 were also being further investigated here in the Northern  
8 District of Illinois?

9 A. Yes. In 2000, in the Northern District of Illinois, an  
10 individual, Sharif Alwan, was also called before a grand jury  
11 here. He was immunized, as well, by the Chief Judge and  
12 refused to answer questions posed to him by the grand jury.

13 THE COURT: Mr. Ferguson, I am sorry to interrupt,  
14 but would you please clarify for me -- the first two acts that  
15 Agent Bray testified to that took place in '98, I was not sure  
16 if he was saying those were part of the grand jury in  
17 Chicago's investigation or not. If you would clarify that.

18 BY MR. FERGUSON:

19 Q. Was the Chicago grand jury investigation, as part of its  
20 investigation into the Hamas enterprise, conducting an  
21 investigation into possible acts of obstruction that occurred  
22 in New York in 1998 by Ismael El-Barasse and Abdelhaleem  
23 Ashqar?

24 A. Yes.

25 THE COURT: Thank you.



1 BY MR. FERGUSON:

2 Q. Were there acts of obstruction of Muhammad Salah, a  
3 co-defendant in this matter, that were also being  
4 investigated?

5 A. Yes.

6 Q. And what were they in connection with?

7 A. In particular, civil proceedings regarding a U.S. citizen  
8 that was killed in a drive-by shooting, for which Hamas  
9 claimed responsibility, in Israel.

10 Q. And that's the Boim litigation that was brought under a  
11 civil analogue to the terrorism code?

12 A. Yes.

13 Q. And, of course, we're here today because of Abdelhaleem  
14 Ashqar's obstruction before the grand jury in the Northern  
15 District of Illinois; is that correct?

16 A. That is correct.

17 Q. All right.

18 And that, too, was the subject of investigation, as  
19 well; is that right?

20 A. Yes.

21 Q. All right.

22 I want to focus your attention on -- you mentioned  
23 murder, murder conspiracy, a number of other federal statutes  
24 that involve killing, kidnapping, maiming individuals.

25 At the time the investigation was being conducted,





1 were you investigating specific murders?

2 A. Well, yes and no. In the context of -- we were looking at  
3 Hamas as an enterprise. We knew from confessions obtained by  
4 Israeli authorities of Muhammad Salah, he mentions specific  
5 acts of murder: The murder of another Palestinian advocating  
6 peace --

7 Q. Is that Sari Nusseibah?

8 A. Yes.

9 -- the murders of three Israeli engineers in a plot  
10 that he was -- Muhammad Salah was -- discussing with Adil  
11 Awadallah, another co-conspirator.

12 Q. And was the investigation also inquiring into the murder  
13 and kidnapping of Ilan Sa'doan, an Israeli soldier?

14 A. Yes, it was.

15 Q. And just as a brief refresher to the Court, what was the  
16 general nature of that investigation?

17 A. Well, during his time in Israel, Muhammad Salah attempted  
18 to negotiate his release; the release of a Hamas leader, Salah  
19 Shahadah; and, also, at one point in time, the return of money  
20 that was confiscated from Muhammad Salah. He was attempting  
21 to barter, exchange information that he had regarding the  
22 burial location of an Israeli soldier for whom Hamas kidnapped  
23 and killed and took responsibility for -- claimed  
24 responsibility for.

25 Q. You've focused thus far in your remarks on specific



1 instances of murder or discussions about murder as it related  
2 to Muhammad Salah. Were there other acts of murder or  
3 terrorist activities that were also under investigation?

4 A. Yes. I mean, we looked at any terrorist attack,  
5 essentially, for which Hamas claimed responsibility. There  
6 were even acts in and around the time that Abdelhaleem Ashqar  
7 appeared before the grand jury here in the Northern District  
8 of Illinois.

9 Q. Can you name a couple of those?

10 A. Yes. There was, in April of 2003, I believe it was, a  
11 suicide bombing at an establishment -- Mike's Place -- in Tel  
12 Aviv, Israel. It's essentially a pub, if you will, that's  
13 adjacent to the American Embassy frequented by Westerners and  
14 Americans.

15 Q. You said that was April of 2003; is that right?

16 A. Yes.

17 MR. FERGUSON: I believe, Judge, just for the record,  
18 that is referenced and was the subject of testimony from the  
19 government's expert, Matthew Levitt, and also submitted as  
20 part of the Levitt Timeline that was admitted into evidence.

21 THE COURT: Okay.

22 BY MR. FERGUSON:

23 Q. That was in April, 2003, I think you said?

24 A. Yes.

25 And I believe there were three fatalities and



1 numerous injuries involved.

2 Q. Okay.

3 And that establishment -- have you visited that  
4 establishment yourself?

5 A. Yes, I have.

6 Q. All right.

7 You indicated it was adjacent to the American  
8 Embassy. What types of individuals frequent that  
9 establishment?

10 A. Americans.

11 Q. And that was approximately two months before Abdelhaleem  
12 Ashqar was called into the grand jury here in Chicago; is that  
13 right?

14 A. Yes.

15 Q. All right.

16 Can you name another -- give us another -- example of  
17 a Hamas terrorist strike that occurred during the period of  
18 investigation and around the time that Abdelhaleem Ashqar was  
19 called into the grand jury in Chicago?

20 A. Yes. In August of 2003, there was a bus bombing in  
21 Jerusalem that resulted in 21 fatalities, including five  
22 American citizens.

23 Q. You said that was August, 2003?

24 A. Yes.

25 Q. And that was during the period of time that contempt



1 proceedings -- civil contempt proceedings -- were ongoing with  
2 respect to --

3 MR. MOFFITT: Again, I'm going to object to leading  
4 questions at this point. I don't think this is preliminary.

5 MR. FERGUSON: It's in the record, Judge. I --

6 THE COURT: Objection overruled at this point.

7 And the rules of evidence do not apply in hearings  
8 such as this.

9 BY MR. FERGUSON:

10 Q. You've indicated that Hamas was being investigated as an  
11 enterprise; is that right?

12 A. Yes.

13 Q. And, in fact, they were charged as an enterprise; is that  
14 right?

15 A. Yes, they were.

16 Q. Were any and all attacks undertaken by Hamas -- terrorist  
17 attacks undertaken or claimed by Hamas -- of interest and the  
18 subject of some amount of investigation in the context of the  
19 Northern District of Illinois case that you were pursuing?

20 A. Yes, they were.

21 Q. And what, with respect to individuals in the United States  
22 or entities in the United States, were you investigating in  
23 relation to those acts?

24 A. We were clearly trying to define whether or not there was  
25 support -- financial support, logistical support,



1 communication support, whatever that may be -- by persons here  
2 in the United States that supported those activities abroad,  
3 those terrorist attacks.

4 From the Muhammad Salah confessions, we know that  
5 money came into the U.S., passed through U.S. bank accounts,  
6 eventually made its way back overseas, which he personally  
7 handed off to Hamas military operatives where that money was  
8 used to further their cause and was used to support military  
9 operations by Hamas.

10 Q. And at the time of Dr. Ashqar's June, 2003, appearance in  
11 the grand jury here in Chicago, what was Hamas' legal status  
12 in the United States?

13 A. It was a foreign terrorist organization.

14 Q. Designated by the United States government?

15 A. Yes.

16 Q. And when was it so designated?

17 A. There were two designations, but the one designation as a  
18 foreign terrorist organization occurred in 1997.

19 Q. Now, was part of the investigation, at that time and when  
20 Dr. Ashqar was called in to the grand jury, to determine  
21 whether individuals or entities in the United States were  
22 possibly engaged in acts of material support to Hamas as a  
23 designated entity at that time?

24 A. Yes.

25 Q. Slightly redirect your attention.



1                   Were there individuals who you were specifically  
2 looking at with an eye towards possible charges of material  
3 support of Hamas as a terrorist organization?

4     A.   Yes.   Muhammad Salah and Abdelhaleem Ashqar.

5     Q.   And was there a material support charge actually returned  
6 by the grand jury through whom you conducted the investigation  
7 in this case?

8     A.   Yes, of Muhammad Salah.

9     Q.   That charge never went to trial; is that right?

10    A.   It did not.

11    Q.   But the grand jury returned a material support charge; is  
12 that right?

13    A.   Yes.

14    Q.   What was Muhammad Salah's legal status at the time of  
15 Dr. Ashqar's appearance in the grand jury?

16    A.   He was a specially-designated terrorist.

17    Q.   And how long had he had that status?

18    A.   Since 1995.

19    Q.   Because he was a specially designated terrorist, were  
20 there certain obligations that he had or restrictions placed  
21 upon him from the Treasury Department?

22    A.   Yes, there were.   In order to conduct financial  
23 transactions, open a bank account, have any money given to  
24 him, employment, all of that had to be cleared with the  
25 Treasury Department.



1 Q. And was your investigation specifically looking into  
2 violations -- criminal violations -- of those obligations and  
3 legal strictures that attended Muhammad Salah's special  
4 designated terrorist status?

5 A. Yes.

6 Q. Was any information related to Muhammad Salah and anything  
7 having to do with his activities of interest to your  
8 investigation?

9 A. Yes.

10 Q. Was Mousa Abu Marzook a target of your investigation?

11 A. Yes, he was.

12 Q. Just as a brief refresher, who is Mousa Abu Marzook?

13 A. He currently is the Deputy Chief of the Hamas Political  
14 Bureau. He is also a specially-designated terrorist by the  
15 U.S. government.

16 Q. And was the investigation focused, in some part, on the  
17 material support of Hamas through Marzook or individuals and  
18 entities in the United States to which Marzook was connected?

19 A. Yes.

20 Q. Was Dr. Ashqar, at the time of his grand jury appearance  
21 in Chicago, in June of 2003, understood to have knowledge of  
22 people directly connected to Salah and Marzook?

23 A. Yes.

24 Q. Can you name some of them?

25 A. Sure. Ismael El-Barasse, Nasser Al-Khatib, Abdel Aziz



1 Al-Rantisi, Anwar Hamdan, Zyad --  
2 Q. Mohammad Jarad?  
3 A. Mohammed Jarad.  
4 Q. Zyad Hamdan?  
5 A. Zyad Hamdan.  
6 Q. Yousif Saleh?  
7 A. Yousif Saleh.  
8 Q. Were there others?  
9 A. Yes.  
10 Q. And what led you, as the case agent, to believe that  
11 Dr. Ashqar had either dealings with or some knowledge of some  
12 of these people who you've named, and others, in connection  
13 with Hamas?  
14 A. The materials that we had obtained from investigations of  
15 Dr. Ashqar; materials being financial records, telephone  
16 records, search documents, amongst others.  
17 Q. And I want to focus your attention, just by way of  
18 example, on one such document.  
19 MR. FERGUSON: Which, Judge, is in the record  
20 admitted into evidence at trial. It was found at -- in -- it  
21 was placed into evidence as Ashqar Search Document Tab 6.  
22 These are pages ASH 185 and 186.  
23 May I approach, Judge?  
24 THE COURT: You may.  
25 MR. FERGUSON: I have another copy for the Court.





1 I've provided a copy to defense counsel.

2 (Document tendered to the Court and witness.)

3 BY MR. FERGUSON:

4 Q. Are you familiar with this document, Agent?

5 A. Yes.

6 Q. What is it, in general?

7 A. Document ASH 185 is a -- it says -- as it says on the top,

8 "Important Telephone and Fax Numbers, Section

9 Palestine/America," and then it has a listing of 35 names --

10 Q. Where was this --

11 A. -- countries or cities, fax numbers and telephone numbers

12 associated with those names.

13 Q. Where is this document from?

14 A. From the search of Dr. Ashqar's apartment in Mississippi.

15 Q. And I want to go through some of the names of significance

16 to the investigation that appear on this document.

17 The first one you've already mentioned: Mousa Abu

18 Marzook. At the time, I think you've already indicated, he

19 was the Deputy Chief of Hamas --

20 MR. MOFFITT: At what time? Objection. What time?

21 THE COURT: Sustained.

22 MR. MOFFITT: The search of his apartment took place

23 in 1993.

24 THE COURT: Sustained.

25 The testimony was as of today that was his title.



1 So, clarify that, please.  
2 BY MR. FERGUSON:  
3 Q. In 2003, what was Dr. Marzook -- Mr. Marzook's -- status  
4 within Hamas?  
5 A. He was the Deputy Chief of the Hamas Political Bureau.  
6 Q. And in the 1990s, up until approximately 1997, what was  
7 his status?  
8 A. He was the Chief of the Hamas Political Bureau.  
9 Q. And he's on this America list; is that right?  
10 A. Yes. No. 1.  
11 Q. Next, "Ahmad Yousif." Is that individual also known by  
12 another name?  
13 A. Yes. Yousif Saleh.  
14 Q. I'm going to come back to him in a moment.  
15 No. 5, "Mohammad El-Mezzain," was that someone of  
16 general interest to the investigation?  
17 A. Of general interest. He was of more interest to Dallas  
18 FBI.  
19 Q. And was Mohammad El-Mezzain investigated and actually  
20 charged with material support of terrorism somewhere?  
21 A. Yes.  
22 Q. Where?  
23 A. In Dallas, as part of the Holy Land Foundation  
24 investigation.  
25 MR. MOFFITT: When did this occur?



1           This document was found in 1993. He wasn't indicted  
2 until 2005. I mean, I don't think you can assume certain  
3 things from a document found in 1993 that would be -- unless  
4 Dr. Ashqar is presumed to be prescient about when he would be  
5 indicted by the United States government.

6           MR. FERGUSON: Judge, we don't know what's in  
7 Dr. Ashqar's mind, so we're talking about what's in the  
8 agent's mind right now and why these people were of  
9 significance. And this is cross-examination.

10          MR. MOFFITT: This is not cross-examination. This is  
11 direct examination, although Mr. -- is treating it as if it  
12 were cross.

13          I would suggest to you that the fact that it was  
14 found in 1993 doesn't mean that it was relevant at the time  
15 that they were doing their investigation.

16          THE COURT: I think what this is, Mr. Moffitt, is  
17 argument that is more appropriate later on, when the Court is  
18 addressing the Guideline issues.

19          You may proceed.

20 BY MR. FERGUSON:

21 Q. "Ismael El-Barasse," what significance of he generally --  
22 was he generally -- to the investigation in 2003?

23 A. He was essentially a secretary, if you will, or associated  
24 closely with Mousa Abu Marzook, especially on Mousa Abu  
25 Marzook's financial accounts, financial transactions. They



1 were actually listed as co-signers on various bank accounts.

2 Q. And did he have some connection to Muhammad Salah?

3 El-Barasse, that is.

4 A. Yes.

5 Q. No. 8, "Ghassan El-A'She," was that individual  
6 specifically under investigation in Chicago?

7 A. Not specifically. Again, he was under investigation by  
8 Dallas FBI.

9 Q. And was he subsequently charged -- subsequent to  
10 Dr. Ashqar's appearance in the grand jury, was he subsequently  
11 charged with material support of terrorism?

12 A. Yes.

13 Q. No. 18, "Shukri Abu Baker."

14 MR. MOFFITT: What year he was charged, please?

15 MR. FERGUSON: 2004.

16 THE COURT: Do you want to ask the agent?

17 MR. FERGUSON: Judge, it's -- sure.

18 BY MR. FERGUSON:

19 Q. When -- there is a case that was charged in Dallas  
20 charging material support against a number of individuals in  
21 an organization. Are you familiar with such a case?

22 A. Yes.

23 Q. What was the lead organization?

24 A. Holy Land Foundation.

25 Q. And a number of the individuals on this page in



1 Dr. Ashqar's possession back in 1993 were also co-defendants  
2 in that case; is that right?

3 A. Yes.

4 Q. And when was that case charged?

5 A. 2004.

6 Q. And that was subsequent to Dr. Ashqar's appearance in the  
7 grand jury; is that right?

8 A. Yes.

9 Q. No. 22, "Muhammad Salah." That was -- that person was of  
10 interest to the investigation?

11 A. Yes.

12 Q. All right.

13 No. 25, "Omar Yahya," was that a person of interest  
14 to the investigation?

15 A. Yes.

16 Q. "Nihad Awwad," No. 32, was that a person of general  
17 interest to the investigation?

18 A. Yes.

19 Q. A couple of these names that I've mentioned, including the  
20 last two, aside from their appearance on this list here, did  
21 the investigation also have evidence of Dr. Ashqar's direct  
22 dealings with them in a meeting that occurred in 1993?

23 A. Yes, a meeting --

24 Q. And where was that meeting held?

25 A. Philadelphia.



1 Q. I want to turn your attention to the second page, ASH 186.  
2 It has the title, "Important Telephone and Fax Numbers,  
3 Section Palestine/outside America."

4 Did the investigation know who many of these people  
5 were?

6 A. No.

7 Q. And what would it have liked to have known from Dr. Ashqar  
8 when he appeared in the grand jury in June of 2003?

9 A. Who these people were; why he had a list of their names,  
10 telephone numbers, fax numbers. Where did he get them? For  
11 what purpose did he need them? Did he talk with them  
12 frequently; if so, what about?

13 Q. Direct your attention to No. 28, "Eisa Mohammad Ahmad,"  
14 Dubai.

15 A. Yes.

16 Q. Aside from the appearance of that name here, did that name  
17 appear elsewhere in Dr. Ashqar's papers in connection with  
18 financial transactions?

19 A. Yes, it did.

20 Q. I want to direct your attention to No. 33, "Dr. Abdullah  
21 Azam."

22 A. Yes.

23 Q. As a general matter, would Dr. Ashqar's knowledge about  
24 this individual have been of concern or interest to the FBI  
25 when he was called into the grand jury in 2003?



1 A. Absolutely.

2 Q. Who was Dr. Abdullah Azam, as the FBI understood it at the  
3 time of Dr. Ashqar's appearance?

4 A. Dr. Abdullah Azam was a Palestinian. He was an Islamic  
5 scholar -- an influential Islamic scholar -- from Gaza, who  
6 later left Gaza to Jordan and, then, made his way to  
7 Afghanistan, where he served as a spiritual adviser and mentor  
8 to Osama Bin Laden.

9 MR. MOFFITT: I'm going to object to that.

10 May we approach the bench, please?

11 THE COURT: You may.

12 (Proceedings had at sidebar:)

13 MR. MOFFITT: Their investigation, according to  
14 everything I know about it and everything that he was supposed  
15 to -- testimony he was supposed to -- be putting on, was  
16 supposed to do with an investigation of Hamas. Now he's  
17 suggested that there's some connection between Dr. Ashqar and  
18 Osama Bin Laden. That's -- the whole purpose of that is just  
19 to smear it, to put it in the newspapers. It has nothing to  
20 do with what we're supposedly here for.

21 There was no -- there was no need for that, I suggest  
22 to you. This was not supposed to be an investigation of Osama  
23 Bin Laden. And I believe any information that they have would  
24 indicate that Dr. Ashqar has never had any direct or indirect  
25 contact with Osama Bin Laden. And the sole purpose of that



1 was to smear that into the record.

2 MR. FERGUSON: Judge, the name is on a list in  
3 Dr. Ashqar's possession on a list of people who are connected  
4 to the Hamas organization. That was of interest with respect  
5 to the Hamas organization that was being investigated in this  
6 case. And anything else he would have had to say about it,  
7 obviously, would have been of interest, as well.

8 MR. MOFFITT: But it's curious, none of the times  
9 that this person is alleged to have this connection with Osama  
10 Bin Laden are relevant to this list. This list was found in  
11 1993. They can't establish that he had a connection with  
12 Osama Bin Laden in 1993 -- even the person they're talking  
13 about -- or even knew Osama Bin Laden in 1993.

14 The suggestion that because his name is on this list,  
15 Dr. Ashqar had some connection with him is just absurd, in  
16 light of when the list was found.

17 MR. FERGUSON: Judge, he is on a list with the Hamas  
18 leadership. The Hamas -- Hamas, itself, continued to conduct  
19 terror attacks that resulted in the deaths of Americans. The  
20 investigation was trying to ferret out who these people were;  
21 what their connections were overseas; how, if in any way, that  
22 the individuals in the United States, through their  
23 connections here and outside, were serving Hamas and its  
24 terrorist operations through various forms of support.

25 All of this is argument. He is positing over -- in





1 his papers -- this is Mr. Moffitt. He posits in his papers  
2 that there's no connection. He posits here before the Court  
3 there's no connection. And the fact of the matter is the only  
4 person who could have answered that was Dr. Ashqar, and that's  
5 why we're here.

6 MR. MOFFITT: But I suggest to you that the point is  
7 being made because a name is on a list in 1993 and that name  
8 somehow gets connected at a later time -- and we don't even  
9 know because he hasn't even bothered to put in the time that  
10 he supposedly traveled and became involved with Osama Bin  
11 Laden -- that that has some connection and that that fact has  
12 some relevance to this investigation.

13 We don't even know whether his connection with Osama  
14 Bin Laden occurred during the time that this investigation was  
15 going on.

16 MR. FERGUSON: Exactly. We don't know. Because no  
17 questions were answered.

18 THE COURT: Mr. Ferguson, address your comments to  
19 me, not to Mr. Moffitt.

20 The objection is overruled.

21 You are free to cross-examine on these issues, Mr.  
22 Moffitt. And I will certainly give you leeway in cross-  
23 examining.

24 And a lot of this is argument for the Court. The  
25 agent has stated that at the time that Dr. Ashqar appeared



1 before the grand jury, that that is who this individual was.

2 MR. MOFFITT: I don't --

3 THE COURT: In terms of inferences that can be made,  
4 all of that is argument for the Court.

5 Also, there is no jury here; it is the Court; and,  
6 so, there is no harm. I can -- certainly, in terms of the  
7 fact-finding, I can distinguish between what may or may not be  
8 relevant.

9 MR. MOFFITT: Well, if your Honor's telling me that I  
10 shouldn't make any objections because there's no rules of  
11 evidence and there's no jury here and things that I think, I  
12 won't make any more. But --

13 THE COURT: No, I am not telling you not to make any  
14 objections. I responded to your "leading" objection that  
15 under the Federal Rules of Evidence, those do not apply in  
16 sentencing hearings.

17 I am not saying do not object. You are free to  
18 object to anything that you want to. I am ruling by the law,  
19 Mr. Moffitt; and, the law on leading questions is, they are  
20 fair game during sentencing hearings.

21 MR. MOFFITT: Fine, your Honor. And this is -- this  
22 goes beyond the leading question as far as I'm concerned.

23 THE COURT: I did not take this as a "leading  
24 question" objection. I took this as really a relevance  
25 objection.



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So, you are free to cross-examine on it.

(Proceedings had in open court:)

THE COURT: You may proceed.

BY MR. FERGUSON:

Q. You indicated, Agent Bray, some of the things the investigation wanted to inquire of Dr. Ashqar with respect to the people outside the United States. Did they apply equally with respect to the list of names of people within the United States?

A. Yes.

Q. In fact, at the time that Dr. Ashqar appeared in the grand jury, in June of 2003, were some of these people on this list in the United States?

A. Yes, they were.

Q. As an example, I want to have you speak to one of the names on the list. It is the third name on ASH 185, Ahmad Yousif, who you indicated was also known as Yousif Saleh?

A. Yes.

Q. At the time that Dr. Ashqar appeared before the grand jury -- well, tell us, who is Yousif Saleh as understood by the FBI?

A. He was a founder of an organization called United Association for Studies and Research or UASR. It's actually founded, I believe, around 1990 in Chicago and, in the early '90s, moved to -- moved its operations to -- Virginia.



- 1 Q. And introduced into evidence in this case were certain  
2 founding documents and financial documents related to money  
3 going to Yousif Saleh and UASR. Who was the source of those  
4 funds from that material introduced in evidence?
- 5 A. Mousa Abu Marzook.
- 6 Q. The head of Hamas?
- 7 A. Yes.
- 8 Q. And who is one of the named founding members in the  
9 Articles of Incorporation of UASR?
- 10 A. Mousa Abu Marzook.
- 11 Q. And did UASR, as run by Yousif Saleh, employ any  
12 individuals of significance to the investigation?
- 13 A. Yes. UASR employed both Muhammad Salah and Dr. Ashqar.
- 14 Q. In relation to Dr. Ashqar's appearance in the grand jury  
15 in June of 2003, what subsequently became of Yousif Saleh?
- 16 A. Soon thereafter, he left the country.
- 17 Q. How long had he been in the country when he left?
- 18 A. I think approximately 15 years.
- 19 Q. And did he ever return to the United States?
- 20 A. No, he did not.
- 21 Q. Did he pop up somewhere?
- 22 A. Yes, he did.
- 23 Q. Where?
- 24 A. He's in Gaza. He is a senior adviser to Hamas leadership  
25 in Gaza; particularly, Ismael Haniyeh and Mahmoud --



1 Q. Zahar?

2 A. -- Zahar.

3 Q. And those two names that you just mentioned, were those  
4 names -- individuals -- who were recorded in conversations  
5 with Dr. Ashqar on the 1993 wiretap?

6 A. Yes, they were.

7 And I might add that Mahmoud Zahar was co-founder of  
8 Hamas or a founding member of Hamas.

9 Q. So, the investigation, at the time that Dr. Ashqar  
10 appeared in the grand jury, was seeking information about  
11 Yousif Saleh, correct?

12 A. Yes.

13 Q. All right.

14 And you also indicated that it was pursuing any  
15 information about Ismael El-Barasse, right?

16 A. Yes.

17 Q. About 14 months after Dr. Ashqar's grand jury appearance  
18 and days after the second superseding indictment was returned  
19 in this case, was there an investigative event of some  
20 significance in relation to those two individuals?

21 A. Yes, there was.

22 Q. What was that?

23 A. Ismael El-Barasse, who we believed to be out of the  
24 country, was arrested by Maryland authorities. Subsequent to  
25 his arrest, the FBI executed a court-authorized search warrant



1 of El-Barasse's residence.

2 Q. And, in general, what was found in that search?

3 A. Significant amount of documents regarding Hamas, Muslim  
4 Brotherhood, the founding of Hamas in the United States.  
5 There were financial records. Financial records that we had  
6 attempted to get -- gather -- in our investigations. These  
7 were actual statements that appeared to be of various account  
8 holders.

9 Q. Including Mousa Abu Marzook's accounts?

10 A. Yes.

11 Q. And were there also documents relating to UASR?

12 A. Yes.

13 Q. And what did you come to understand to be El-Barasse's  
14 relationship to UASR and how he had these documents?

15 A. Basically, once Yousif Saleh left, El-Barasse went and  
16 took all the documents from UASR and maintained it kind of as  
17 an archivist, I guess.

18 Q. Based on his employment relationship and other forms of  
19 relationships suggested by the materials that the FBI had in  
20 hand, at the time that he appeared in the grand jury in June  
21 of 2003, do you have an opinion as to whether Dr. Ashqar might  
22 have had personal knowledge of the existence of these types of  
23 documents subsequently found in the possession of El-Barasse?

24 MR. MOFFITT: I'm going to object to his opinion.

25 THE COURT: What is your response?



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MR. FERGUSON: I'll rephrase the question.

THE COURT: Rephrase the question.

BY MR. FERGUSON:

Q. Do you have an opinion about whether Dr. Ashqar, when he appeared in the grand jury, may have had information regarding the existence of these documents?

A. Yes.

Q. What's your opinion?

A. That he would have known. He worked for UASR.

Q. What was Dr. Ashqar's legal status or situation when he was called to the grand jury to testify in June of 2003?

A. I think he was at the culmination of a long legal battle to stay in the United States, at which point he had finally given up; and, he agreed to be voluntarily deported.

Q. And just by way of refresher -- it's in the transcript, itself, but was anything offered to Dr. Ashqar with respect to him possibly staying in the grand jury if he would testify?

THE COURT: Stay in the grand jury?

BY MR. FERGUSON:

Q. Sorry, stay in the United States, if he would testify in the grand jury.

A. Yes. He was offered a chance to be allowed to stay in the United States.

Q. Him alone?

A. No, him and his family.



1 Q. All right.

2 So, why was it that Dr. Ashqar's testimony in June of  
3 2003 was of particular importance to your investigation?

4 A. It was clear from the body of materials that we had that  
5 Dr. Ashqar was an insider. An insider of Hamas; specifically,  
6 Hamas in the United States.

7 The financial records indicated that he was a  
8 conduit, if you will, for monies, both coming from overseas  
9 and monies being transferred among individuals in the United  
10 States.

11 Telephone records also indicate that -- I mean, he  
12 would get thousands and thousands of phone calls. Either he  
13 would place them or receive them. Many of them international  
14 calls. So, based on those records, he appeared to also be a  
15 communications conduit.

16 And, then, the search documents of the apartment. He  
17 had various documents that we were keenly interested in.

18 Q. And, in general, what about those documents were you  
19 keenly interested in?

20 A. The basics: The who, what, when, where and why. Who did  
21 they come from? Why did he have them? What was his purpose  
22 for having them? What did he do with them?

23 Q. The -- there has been suggestion in the filings in this  
24 case that from these Ashqar materials, the government already  
25 knew everything it would need to know about Dr. Ashqar and the





1 substance of those materials.

2 Is that correct?

3 A. No.

4 Q. All right.

5 I want to focus your attention on some examples of  
6 areas where Dr. Ashqar's testimony would have significantly  
7 enhanced the FBI's understanding of these and other materials  
8 and, conversely, his refusal to testify significantly hurt the  
9 investigation.

10 First, financial documents. Were voluminous  
11 financial records gathered as part of this investigation?

12 A. Yes, they were.

13 Q. And many of them were introduced into evidence at trial;  
14 is that right?

15 A. Yes.

16 Q. Were these all Dr. Ashqar's account records?

17 A. No.

18 Q. Were some of them?

19 A. Some of them were, yes.

20 Q. And beyond his own accounts, were there documents -- and I  
21 want to focus your attention on the search documents.

22 Were there documents in his possession that related  
23 to accounts and transactions that were not his?

24 A. Yes.

25 Q. Including transactions to accounts associated with Mousa



1 Abu Marzook?

2 A. Yes.

3 Q. With respect to Dr. Ashqar's own account transactions,  
4 what information was kept from the investigation and the grand  
5 jury by Dr. Ashqar's refusal to testify?

6 A. In looking at Dr. Ashqar's personal accounts -- keeping in  
7 mind that at the time, you know, he was a student in  
8 Mississippi -- there were hundreds of thousands of dollars  
9 flowing through these accounts.

10 Of interest would have been, why? What was the  
11 source of the money? Why was it sent to him? What was he  
12 instructed to do with it? What did he do with it? For what  
13 purpose.

14 I mean, the financial documents and records in and of  
15 themselves are a snapshot, but they don't tell the whole  
16 story.

17 Q. And with respect to transactions of others -- not him --  
18 that he had documents relating to, what did Dr. Ashqar's  
19 refusal to testify keep from the investigation and the grand  
20 jury that you wanted to inquire about?

21 A. It clearly deprived us of the information as to why he  
22 would have in his personal possession financial records of  
23 others, deposit slips, things of that nature. For what  
24 purpose did he need those? If those people needed to engage  
25 in financial transactions, why didn't they just engage in them



1 directly? Why would he need those types of documents or  
2 instruments?

3 Q. And among the search documents introduced into evidence  
4 eventually at trial, but in the possession of the  
5 investigation in 2003, did they include many handwritten or  
6 typewritten notations concerning distributions of funds to  
7 purposes relating to Hamas, as the investigation understood  
8 it?

9 A. Yes.

10 Q. At the time that Dr. Ashqar was called into the grand jury  
11 in June of 2003, had the investigation deciphered what those  
12 notations and summaries related to and how, if at all, they  
13 synced up with the voluminous bank records that were gathered  
14 as part of the case?

15 A. No.

16 Q. Was that one of the things that you sought information  
17 from Dr. Ashqar on?

18 A. Yes.

19 Q. What were the investigative consequences of Dr. Ashqar's  
20 refusal to testify on these matters that we've been  
21 discussing?

22 A. Significant resources had to be expanded to try to get our  
23 arms around all this. Records -- we had literally thousands  
24 of pages of financial records. In a lot of instances, those  
25 were our original source documents. Again, we're talking



1 about bank records from the 1990s.

2           So, in order for us to do any type of analysis of  
3 those, they had to first be photocopied, because we didn't  
4 want to lose track of them, which was somewhat labor  
5 intensive. They had to all be organized, kind of categorized.

6           They were all shipped to FBI headquarters, where a  
7 unit there essentially data-entried all of these financial  
8 transactions in an effort to get some type of computer  
9 analysis of them. Reports were generated.

10           Financial analysts examined the reports, provided  
11 those reports to the case agents and the prosecutors who were  
12 trying to make heads and tails of it and take those types of  
13 documents and, then, compare them to handwritten ledgers, if  
14 you will, found during the search of Dr. Ashqar's apartment.

15 Q. And what you've discussed thus far, how time consuming and  
16 undertaking was that in terms of manpower hours?

17 A. Hundreds if not thousands of hours were. Not just --  
18 again, not just -- case agents here. Support personnel here,  
19 people at FBI headquarters, obviously prosecution. So --

20 Q. Let me stop you there.

21           Were the prosecutors expending significant time on  
22 this same effort of comparing up search documents to financial  
23 records?

24 A. Oh, absolutely.

25 Q. I want to ask you a general question about that process.



1                   Was it simply a matter of going through the materials  
2 once to come up with an answer as to what they meant or where  
3 the connections were?

4   A.   No.

5   Q.   Describe the process, please.

6   A.   You would go make a pass-through once.  You might make  
7 certain connections.  You might see the relevance of certain  
8 things.  And you would continue on.  And, then, you would come  
9 across something else that would give meaning to something  
10 that previously seemed innocuous or not significant.

11                So, then you were constantly going back and re-  
12 looking, re-examining things.  I mean, you were -- this was  
13 literally the needle in the haystack.

14   Q.   And did that process of re-review occur continuously  
15 throughout the investigation, after Dr. Ashqar refused to  
16 testify?

17   A.   Yes.  It continued to occur not with just financial  
18 documents, telephone records.  I made the reference to a  
19 needle in a haystack.  We weren't just looking for a needle in  
20 a haystack.  We were looking for a series of needles in a  
21 series of haystacks.  And we were essentially trying to string  
22 them with a common thread, all these needles.

23   Q.   Was there a person who constituted the common thread?

24   A.   Yes.

25   Q.   Who?



1 A. Dr. Ashqar.

2 Q. Would Dr. Ashqar's testimony about these records -- his  
3 own search records and financial records in his possession --  
4 and what they were linked to, would they have eliminated all  
5 of this work that you're describing?

6 A. No, not all of it.

7 Q. What impact would it have had on the work that had to be  
8 done?

9 A. Oh, it would have significantly focused our attention, our  
10 efforts and our resources to transactions, telephone calls,  
11 documents in his apartment, documents that were essentially  
12 for the most part in Arabic that all first had to be  
13 translated.

14 It would have guided us, if you will, to things that  
15 were significant to our investigation, allowing us to focus on  
16 significant relationships versus what we were left with; which  
17 was, trying to look at everything with a limited amount of  
18 resources.

19 Q. All right.

20 You've mentioned in passing phone records. There  
21 were voluminous phone records gathered as part of the  
22 investigation; is that right?

23 A. Yes.

24 Q. And they included records relating to Dr. Ashqar's own  
25 phone and fax line; is that right?



1 A. Yes.

2 Q. Were details about these calls and the records matters for  
3 which the investigation would have benefitted from  
4 Dr. Ashqar's testimony?

5 A. Yes.

6 Q. Would you please describe how?

7 A. Well, the phone records -- as with any phone records, toll  
8 records -- give you either the number that -- your particular  
9 number -- in this case, Dr. Ashqar's number -- who he was  
10 either calling or who was calling him.

11 As I mentioned earlier, we're talking about thousands  
12 of phone calls, many of them international calls.

13 Q. I want to focus your attention -- stop there -- on  
14 international calls.

15 A. Yes.

16 Q. You've got a phone record that reflects a connection here  
17 with Dr. Ashqar's phone to an international number. How does  
18 the FBI go about identifying who the subscriber is of that  
19 number?

20 A. Well, the initial stage is to determine whether we have  
21 previously determined a subscriber to that number, whether  
22 through another investigation, whether we have it in some sort  
23 of database that we would be able to query.

24 If that produces nothing, then we are left to try to  
25 seek the assistance of a foreign government to provide us with



1 subscriber information.

2 Q. And when making requests of foreign governments, do you  
3 always get the subscriber information?

4 A. No.

5 Q. Was it the case in this investigation that many of these  
6 numbers the FBI, at the time that Dr. Ashqar was called into  
7 the grand jury, really didn't know who the subscriber was to  
8 these numbers?

9 A. That's correct.

10 Q. And, so, it would be fair to say, with respect to these  
11 numbers, you're left simply with what is on the face of a  
12 billing statement?

13 A. Correct.

14 Q. That were --

15 A. You have it --

16 Q. Go ahead.

17 A. Someone associated with this number called someone  
18 associated with that number.

19 Q. Okay.

20 So, it was -- at the point in time Dr. Ashqar was  
21 called into the grand jury, what did the FBI believe the phone  
22 -- or Dr. Ashqar's phones -- were, in part, being used for?

23 A. As I --

24 MR. MOFFITT: What time? Objection. At what time?  
25 When?





1 THE COURT: I think he said at the time he was called  
2 into the grand jury.

3 If you did not, clarify it --

4 MR. FERGUSON: I did.

5 THE COURT: -- but that is what I understood your  
6 question to be.

7 MR. FERGUSON: That's what I said, I believe.

8 BY THE WITNESS:

9 A. Repeat your question, please.

10 BY MR. FERGUSON:

11 Q. At the time that Dr. Ashqar was called into the grand  
12 jury, did the FBI have a belief that Dr. Ashqar's phone was  
13 being used in a certain way?

14 A. Yes.

15 Q. What was that belief?

16 A. As almost like a switchboard, as a means for Hamas  
17 leadership abroad to communicate with Hamas membership in the  
18 United States and, in some instances, back to Hamas members  
19 abroad.

20 Q. And we're talking specifically on the basis of records and  
21 other information that related to the period of 1991 to  
22 approximately 1994; is that right?

23 A. Yes, yes.

24 Q. Okay.

25 What did the investigation want to know from



1 Dr. Ashqar about that particular function for which his phone  
2 was being used?

3 A. Again, we get back to the who, what, where, when and why.

4           Who established this need? Why would people in a  
5 foreign country need to call Dr. Ashqar, who would then route  
6 their call back to the same foreign country? What was the  
7 purpose? Who decided that this should be done? Why was it  
8 done? Why was he chosen to be this person to do it.

9 Q. So, what consequences, if any, were there to the  
10 investigation -- investigative or work consequences to the  
11 investigation -- to Dr. Ashqar's refusal to testify about the  
12 subject of communications as reflected in these various  
13 records?

14 A. Again, it's similar to the scenario I gave you with the  
15 financial records. We had to take all these toll records;  
16 generally, they had to be copied, organized, boxed up, sent to  
17 people who would data-entry line by line thousands and  
18 thousands and thousands of telephone calls; which, from a  
19 computer analysis, you would basically get back your target  
20 number, other numbers, if the known subscriber -- if we had  
21 that information, that would be in there.

22           But you would get essentially a frequency report. It  
23 would give frequency of calls between two numbers. You could  
24 group it by date ranges, et cetera. An analytical tool at  
25 best.



1 Q. For calls for which numbers could be identified --  
2 subscribers of these numbers could be identified -- was  
3 Dr. Ashqar's testimony something that could have elucidated  
4 aspects of those calls?

5 A. Yes.

6 Q. What could they have elucidated?

7 A. First of all, who was on the calls. Just because a number  
8 is subscribed to someone doesn't necessarily mean that that's  
9 the party on the phone.

10 Q. And that was the subject of a continuing defense objection  
11 at trial.

12 Okay. So, who actually was on the other end of the  
13 phone, because you don't know that simply from subscriber  
14 information, correct?

15 A. That's correct.

16 Q. Okay.

17 What else could Dr. Ashqar have elucidated?

18 A. The content of the calls. Some calls we had recorded,  
19 many we had not.

20 In addition to just -- again, I'll use the term  
21 "snapshot" -- the snapshot, the content of that call. You  
22 still don't know -- even if you have it recorded, you still  
23 don't know -- the who, why, what, where, when, how.

24 You can see where the call originated from, but you  
25 don't know who decided that that phone call needed to take



1 place; was there some purpose for that phone call; when you  
2 hang up the phone, what that person does with that information  
3 that they gathered.

4 Q. I want to focus, by way of example, your attention on one  
5 period of time for which charts were admitted into evidence  
6 showing a convergence of telephone calls.

7 A. Okay.

8 Q. Specifically, in January of 1993, calls coming from either  
9 Muhammad Salah's phone or Abdelhaleem Ashqar's phone on the  
10 one hand, and calls to numbers that were associated to Mousa  
11 Abu Marzook or to Mohammed Kathem Sawalha, also referred to at  
12 trial as Abu Obadah.

13           Quickly, by way of refresher, who was Abu Obadah in  
14 the context of the case?

15 A. Abu Obadah is a Hamas member based in London. He's the  
16 same individual that both Muhammad Salah -- when he went to  
17 Israel in January of 1993, he stopped in London and met with  
18 Abu Obadah, as well as Mohammad Jarad.

19 Q. All right.

20           And I'm directing your attention to January, 1993 --  
21 a convergence of calls between those numbers in early January  
22 of 1993. What was the significance of that period to the  
23 investigation; particularly, to the investigation of Muhammad  
24 Salah?

25 A. Well, if you look at the backdrop of the time period, in



1 December of 1992, the Israeli government deported  
2 approximately 400 Hamas -- some Islamic Jihad -- leaders,  
3 activists to Lebanon. We know from Muhammad Salah's  
4 confessions that this essentially created a void within the  
5 occupied territories for Hamas.

6 We also know from his confessions that Mousa Abu  
7 Marzook essentially dispatched him from Chicago to Israel to  
8 assess the damage done, and to return and debrief him as to  
9 the conditions for Hamas.

10 Q. And on the way to Israel, he stopped off where?

11 A. In London.

12 Q. And these calls, did they immediately precede his trip?

13 A. Yes.

14 Q. All right.

15 What of interest was Dr. Ashqar believed to be  
16 positioned to tell the investigation at the point in time he  
17 was called into the grand jury, in June of 2003, about this --  
18 these calls?

19 A. We would have attempted to corroborate Muhammad Salah's  
20 statements that, "Mousa Abu Marzook is the one that sent me."

21 Q. First of all, was the investigation interested in knowing  
22 whether Abdelhaleem Ashqar had knowledge of Salah's mission on  
23 the basis of these calls and other information?

24 A. Yes, absolutely.

25 Q. All right.



1                   Given his own phone activity to these same numbers,  
2 was he positioned to answer that question?

3           A.   Yes.

4           Q.   And if he had information, what would the investigation  
5 wanted to have known about it?

6           A.   It would have wanted to know, again, the who, what, when,  
7 where, why. Who initiated the phone calls? For what purpose?  
8 What was discussed?

9                   Again, trying to corroborate other evidence that we  
10 had gathered. What was Muhammad Salah's mission? What was he  
11 instructed to do when he met with Abu Obadah, if anything?

12          Q.   Before moving on, there's one more topic relating to phone  
13 calls I want to have you address.

14                   You've already mentioned the fact that it was clear  
15 from trial that for a period of time, Dr. Ashqar's calls were  
16 recorded; is that right?

17          A.   That's correct.

18          Q.   All right.

19                   In the case of recorded calls, you have the content  
20 of the calls, right?

21          A.   Yes.

22          Q.   Did that mean the investigation had all the information it  
23 wanted or needed about those telephone calls that were  
24 recorded?

25          A.   Absolutely not.



1 Q. Can you give some examples of what Dr. Ashqar could have  
2 provided in the way of information concerning the calls on  
3 which he was recorded?

4 A. Sure.

5 In some calls, you don't know who the party is at the  
6 other end. They may refer to themselves by a first name only.  
7 In many instances, the calls that were monitored of  
8 Dr. Ashqar's, individuals referred to themselves as their Abu  
9 names. Some of them were common, so you couldn't always  
10 tell -- even though you had the recording -- who that was on  
11 the other end of the line.

12 In addition to that, again, that is just a snapshot  
13 in time. You don't know events leading up to that phone call  
14 or events taking place after that phone call is terminated.  
15 That would have been important information to us.

16 Q. Did any of the calls contain coded language?

17 A. Yes.

18 Q. Did they contain aliases?

19 A. Yes.

20 Q. Did Dr. Ashqar use various aliases?

21 A. Yes.

22 Q. Is that all facets of these calls that the FBI was --  
23 would have been interested in knowing from Dr. Ashqar?

24 A. Yes.

25 Q. Could you give an example -- I would like to actually have



1 you focus on an example of one such instance; and, these were  
2 calls that were introduced at trial in the Ashqar Call Log --  
3 Call Binder -- and they were Calls 25, 26 and 29 -- between  
4 Dr. Ashqar and an individual by the name of Mr. Constantine or  
5 who was identified on the phone by the name Mr. Constantine.

6 In summary, would you refresh the Court on what the  
7 general topic of the conversation between Dr. Ashqar and  
8 Mr. Constantine was?

9 A. Yes. In summary form, their discussions were concerning  
10 the killing of a Hamas operative and videotaping this killing.  
11 Apparently, the Hamas operative had deviated from Hamas  
12 orders, and the purpose was to send a message.

13 Q. And Call 27 that was introduced into evidence, did  
14 Dr. Ashqar relay the information from this Mr. Constantine --  
15 the proposal to kill an operative and videotape it -- to a  
16 Damascus, Syria, telephone number?

17 A. Yes, to an individual -- I believe we knew him -- or he  
18 was referred to as Abu Hamam.

19 Q. Would the FBI have wanted to know who this Mr. Constantine  
20 was that Ashqar was discussing engaging in a possible murder  
21 of an operative?

22 A. Yes.

23 Q. Does the FBI today know who Mr. Constantine is?

24 A. No.

25 Q. All right.





1                   We've had -- there's been a few references to the  
2 Ashqar search documents. I want to focus your attention on  
3 some of those specific documents. But before doing so, I just  
4 want to ask you, generally, were these documents in English?  
5 A. Some were, but the vast majority were not.  
6 Q. All right.  
7                   What needed -- what language were they in?  
8 A. Arabic.  
9 Q. And what needed to be done with them to understand and  
10 organize them?  
11 A. They needed to be translated.  
12 Q. At the point in time that Dr. Ashqar was called into the  
13 grand jury in June of 2003, had these documents all been  
14 translated verbatim?  
15 A. No.  
16 Q. Had certain of them been summarized?  
17 A. Yes.  
18 Q. In light of that, what was Dr. Ashqar in a position to do  
19 to immediately further the FBI's understanding of those  
20 materials and what was in them?  
21 A. Again, I mean, these were documents found in his  
22 possession at his residence. He could have guided us as to  
23 which documents -- I believe there were 1611 -- which  
24 documents were important, significant; why they were  
25 significant.



1 We could have targeted our limited Arabic translator  
2 resources to focus on those. We could have triaged what we  
3 had; put the ones that he might have said, "These aren't  
4 significant" -- we would still need somebody to take a look at  
5 them to corroborate them, but we wouldn't necessarily need to  
6 go full-bore verbatim on everything.

7 Q. From your involvement in this investigation, was it the  
8 case that in going through the verbatim translation process,  
9 there are instances where translators indicated there are  
10 multiple possible meanings to various terms in documents?

11 A. Yes.

12 Q. What process would have to be gone through to try to glean  
13 what the best interpretation of them was?

14 A. Their translations would be passed up, if you will;  
15 quality controlled. Others would look at them to see their  
16 interpretation of the meaning -- meaning of certain words or,  
17 you know -- and, again, there were certain things we just  
18 couldn't tell. They were illegible.

19 So, various passes were made by different  
20 individuals -- translators -- examining these documents.

21 Q. Okay.

22 Dr. Ashqar -- would Dr. Ashqar's testimony on these  
23 sorts of things have saved time and effort by the FBI?

24 A. A significant amount of time and effort.

25 Q. Again, by way of example, I want to turn your attention to



1 one document in particular that was suggestive of Dr. Ashqar's  
2 contact with a person of high significance to the  
3 investigation, Mohammad Jarad.

4 Let me just ask you, was Mohammad Jarad a subject of  
5 the investigation?

6 A. Yes.

7 Q. All right.

8 And just to refresh the Court briefly, who is  
9 Mohammad Jarad?

10 A. He is a Chicago resident who also, in January of 1993,  
11 departed Chicago, stopped in London and made his way to  
12 Israel. He was arrested by Israeli authorities around the  
13 same time as Muhammad Salah. He was jailed and returned to  
14 Chicago at the end of July, 1993.

15 Q. All right.

16 And was there an event of significance indicated from  
17 Dr. Ashqar's documents that occurred within a couple weeks of  
18 Mr. Jarad's return from jail in Israel?

19 A. Yes.

20 Q. And what was that?

21 A. There was a summary -- a debriefing, if you will -- by  
22 Dr. Ashqar of Mohammad Jarad concerning Mohammad Jarad and  
23 Muhammad Salah's mission to Israel.

24 Q. And was that summary found in Dr. Ashqar's documents  
25 obtained in the search?



1 A. Yes.

2 MR. FERGUSON: Permission to approach, Judge?

3 THE COURT: You may.

4 MR. FERGUSON: I'm handing the witness and the  
5 Court -- and I've handed it to defense counsel -- a document  
6 previously admitted into evidence at trial that was admitted  
7 in the Ashqar Search Binder at Tab 3 and, specifically, Pages  
8 ASH 044 to 049 -- or at least the translation of them.

9 (Document tendered to the Court and witness.)

10 BY MR. FERGUSON:

11 Q. Agent Bray, just very briefly, what is this document?

12 A. Again, it's a summary report. The first sentence after  
13 the caption there indicates that the writer met with Mohammad  
14 -- Abu Anas, which we know to be Mohammad Jarad -- on two  
15 days, August 6th and 7th of 1993; and, then, it goes into  
16 saying, "He provided me the following information."

17 Q. All right.

18 In general -- we're going to get to some of the  
19 specifics in a moment; but, in general, when Dr. Ashqar was  
20 called into the grand jury in June of 2003, what was the FBI  
21 interested in knowing about this document?

22 A. In general, again, the who, what, where, when and why.

23 Who instructed Mohammad Jarad to have this meeting with  
24 Dr. Ashqar? Why was he instructed to have this meeting, for  
25 what purpose? Where did it take place? When did it take



1 place?

2 We had the dates. Did it take place all day?

3 Certainly, we would want to know who else may have been  
4 present during this meeting, and of significant importance  
5 would have been what was done with this information after the  
6 meeting.

7 Q. Was this report signed in Dr. Ashqar's own name?

8 A. No, it was not.

9 Q. What name was it signed in?

10 A. Samir.

11 Q. Would you have wanted to know anything about the use of  
12 that name?

13 A. Yes.

14 Q. What would you have wanted to know?

15 A. Why Dr. Ashqar used an alias of Samir on this report.

16 Q. I want to turn your attention to some of the aspects of  
17 this document, more particularized things that the FBI was  
18 interested in knowing from Dr. Ashqar.

19 Specifically, I want to turn your attention to the  
20 last page, which, at the top, has the marking "ASH 048-049,"  
21 and it's captioned, "Follow-Ups, Comments, Recommendations  
22 (Abu Al-Anas and the Brothers)."

23 "Item 1. The people of Chicago are disturbed and  
24 very upset that Abu Ahmad was chosen for these duties. They  
25 all agree, and God is the witness, that his intellect does not



1 match the strength of his body. They have not been consulted  
2 about them. Had they been consulted, they would not have  
3 recommended him because of his naivete and lack of scheming  
4 and trickery."

5           What would the FBI have wanted to know about this  
6 summary item written by Dr. Ashqar?

7 A. Many things. I mean, "the people of Chicago," start  
8 there. Who? Are these other Hamas people in Chicago?

9           Why are they disturbed and very upset that Abu Ahmad  
10 was chosen for these duties? What duties are they referring  
11 to?

12           Clearly, they agreed that he was the wrong person for  
13 this mission. What mission? Specifically, what did they know  
14 about his mission?

15           They had not been consulted about him. Who needed to  
16 consult with them? Why would they have needed to consult with  
17 them?

18           And, again, had they been consulted, they say they  
19 would have not recommended him. Under whose authority?

20 Q. "Item 2. Brothers on the inside are upset because someone  
21 like Abu Ahmad was sent with this much information and within  
22 such a short time, and to all the regions and for various  
23 matters."

24           What would the FBI have been interested in knowing  
25 from Dr. Ashqar about this summary line that he wrote?



1 A. Again, who are the brothers on the inside? Why are they  
2 upset?

3 I glean from this the brothers on the inside are  
4 mindful of compartmentalization, which clearly it looks like  
5 in this instance that was not adhered to because one  
6 individual had a lot of information and went to various  
7 regions. And it could be for those reasons that they were  
8 susceptible to intelligence agents.

9 Q. "No. 3, Saleh Al-Arouri had requested Abu Ahmad not be  
10 sent."

11 Was this suggestive to the FBI of any sort of  
12 relationship between Muhammad Salah and Saleh Al-Arouri?

13 A. Yes.

14 Q. And was that a matter of interest to corroborate or  
15 confirm in any way, shape or form possible at the time that  
16 Dr. Ashqar was called into the grand jury?

17 A. Yes.

18 Q. "No. 6, the attorney, Jawad, says, 'You want to send a  
19 person that not like this one.'"

20 What of significance was there to the FBI that they  
21 wanted to know from Dr. Ashqar, when they called him to the  
22 grand jury in June of 2003, about this summary statement that  
23 he wrote?

24 A. The reference to the attorney, Jawad. Mohammad Jarad's  
25 attorney while he was in Israel was Jawad Boulus. Clearly, it



1 appears as if this attorney is giving them advice on people to  
2 select and send for Hamas missions.

3 Q. And what did that suggest about -- to the FBI about --  
4 Jawad in relationship to Hamas?

5 A. He was a co-conspirator.

6 Q. And did the name "Jawad Boulus" appear on other documents  
7 and in telephone calls conducted by Dr. Ashqar that the FBI  
8 had in its possession?

9 A. Yes.

10 Q. And would the FBI have wanted to know everything that  
11 Dr. Ashqar himself knew about Jawad Boulus as a possible Hamas  
12 co-conspirator helping people in the United States?

13 A. Yes.

14 Q. The heading "Requests," "No. 1: Increase of monetary  
15 support."

16 What of interest -- what of there -- let me try that,  
17 again.

18 What was there of interest to the FBI they wanted to  
19 know from Dr. Ashqar at the time they called him into the  
20 grand jury, in June of 2003, about that summary statement of  
21 his?

22 A. Who was requesting an increase of monetary support? Was  
23 Hamas in the occupied territories requesting that someone in  
24 the United States attempt to increase monetary support  
25 provided there?





1                   And for what purpose? Were these military activities  
2 that they were looking to have increased monetary support for?  
3 Who were they looking to get money from?

4 Q. And this is monetary support to Hamas?

5 A. To Hamas.

6 Q. At the bottom of the page, there's a line that says,  
7 "Finally," and then there's three items -- enumerated items --  
8 below that.

9                   "No. 2, Abu Ahmad informed Abu Al-Anas that he still  
10 has a large amount of money in his account. However, Um Ahmad  
11 denied the matter. So, what is the truth of the matter?"

12                   What would the FBI have wanted to know from  
13 Dr. Ashqar about that summary statement that he wrote?

14 A. Well, from the statement, Abu Ahmad is a reference to  
15 Muhammad Salah, who is informing Mohammad Jarad that he still  
16 has a large amount of money in his account.

17                   We know that money was deposited in Muhammad Salah's  
18 account before he left in January of 1993, money that we  
19 traced back to be from Mousa Abu Marzook.

20                   The reference, "However, Um Ahmad -- " is a reference  
21 to Muhammad Salah's wife " -- denied the matter." So, they're  
22 seeking the truth. Essentially, they're wanting to know what  
23 happened to their money.

24 Q. Did the FBI want to know what happened to their money in  
25 relationship to Hamas?



1 A. Yes.

2 Q. Ultimately, Muhammad Salah or his family maintained  
3 control of that money, based on the bank records; is that  
4 right?

5 A. Yes.

6 Q. All right.

7           Was the FBI interested in knowing from Dr. Ashqar  
8 whether that was an authorized act and whether Hamas, in fact,  
9 agreed to allow that family to keep that money to support the  
10 family while Mr. Salah was in jail?

11 A. Yes.

12 Q. Last line on this Page 3, "Abu Al-Anas will write in  
13 detail in the next few weeks."

14           What was the FBI curious to know from Dr. Ashqar  
15 about that line?

16 A. Whether he actually did; and, if he did it, where it was  
17 and for what purpose was it to be used? Did Dr. Ashqar  
18 receive such a communique; and, if he did, who did he give it  
19 to?

20 Q. Was the issue of Muhammad Salah's treatment while he was  
21 in custody in Israel, the voluntariness and the accuracy of  
22 his statements, a subject of interest to the FBI in this case?

23 A. Absolutely.

24 Q. I want to direct your attention to passages on ASH 045 and  
25 046, which read -- the middle of ASH 045. Again, these



1 are the Samir summary statements of Dr. Ashqar.

2 "Abu Ahmad confessed about the spreading of Islam and  
3 Hamas within the first few days, although he had not been  
4 beaten or tortured and the bag was not placed over his head  
5 except once."

6 Turn to ASH 046: "Approximately two weeks later, Abu  
7 Ahmad was brought into the birds room. They told him, 'You  
8 have ruined us. You have destroyed all the work we have done.  
9 You have confessed about 40 persons. You're a spy.'

10 "He told them, 'I have only confessed about trivial  
11 matters and not the -- not about the rest of the positive  
12 matters.'

13 "So, they said, 'Let's salvage what we can. Write  
14 down everything, so we can send it to the leadership.'

15 "Indeed, he did write down almost everything he knew  
16 about the positive matters. The investigators became  
17 exceedingly happy. They said, 'We didn't think we could get  
18 this much in such a short time.'

19 "He stayed with them for five days."

20 Last paragraph: "After the first three weeks, when  
21 Abu Ahmad wrote everything, he felt regret for the wrong he  
22 had done. So, he tried to provoke the Army to beat him to  
23 prove the brothers that he is strong and dependable. The  
24 brothers advised him to stop doing that. He told them, 'I put  
25 out the effort but erred.' It's important to note that the



1 brain convinced him he's a big official and a leader, so he  
2 started acting accordingly."

3           When Dr. Ashqar was called into the grand jury in  
4 June of 2003, was one of the things the FBI attempting to do,  
5 to try to get evidence that would permit this document to be  
6 admitted at trial as a co-conspirator statement?

7 A. Yes.

8 Q. And, in fact, it wasn't, because there was no testimony to  
9 support it?

10 A. That's correct.

11 Q. So, these are statements from one Hamas co-conspirator to  
12 another about what Muhammad Salah said about his treatment in  
13 Israel?

14           MR. MOFFITT: I'm going to object.

15 BY MR. FERGUSON:

16 Q. What --

17           MR. MOFFITT: I'm going to object. He was found not  
18 guilty of the conspiracy. I still object on that basis to the  
19 question because the question is argumentive.

20           THE COURT: Rephrase your question.

21 BY MR. FERGUSON:

22 Q. In the absence of witness testimony in the United States  
23 from people with immediate or once-removed knowledge of  
24 Muhammad Salah's treatment in Israel and the circumstances of  
25 his confessions, what did the FBI have to do to try to get his



- 1 confessions admitted?
- 2 A. We expanded extraordinary efforts to get those confessions  
3 admitted into evidence. We -- "we" being FBI agents,  
4 prosecutors alike -- made numerous trips to Israel, meeting  
5 with interrogators, interviewing interrogators, meeting with  
6 representatives -- legal representatives -- in an effort to  
7 corroborate the nature and circumstances for which Muhammad  
8 Salah's confessions were obtained.
- 9 Q. And were there hearings on that subject in this courtroom?
- 10 A. Yes, there were.
- 11 Q. And did the FBI have to expend resources in order to bring  
12 witnesses from Israel over for those hearings?
- 13 A. Yes, we did. Significant resources.
- 14 Q. And if there were individuals in the United States --  
15 co-conspirators -- who either saw or had information about  
16 what Muhammad Salah said and how he was treated, would all of  
17 those efforts have been needed?
- 18 A. Not all of them, no.
- 19 Q. You indicated that Mohammad Jarad was a subject of the  
20 investigation. Was he someone that the investigation was  
21 looking into possibly charging?
- 22 A. Yes.
- 23 Q. Did Dr. Ashqar's refusal to testify have any impact on  
24 Jarad's status in the investigation?
- 25 A. Yes, it did.



1 Q. What impact did it have?

2 A. His failure to comply with the Judge's order and provide  
3 the grand jury with information deprived us of information  
4 that we could use to confront Mohammad Jarad with.

5 Q. And did the investigation attempt to get the information  
6 from Mohammad Jarad, himself?

7 A. Yes.

8 Q. And would you describe the outcome of those attempts?

9 A. He was called to the grand jury on numerous occasions.  
10 His wife was also called. During his grand jury testimony, he  
11 appeared to have failed memory of events that did not seem  
12 logical, that he could not remember. He appeared to be  
13 purposely evasive.

14 Q. And with information in hand from Dr. Ashqar about Jarad  
15 and his dealings with Jarad and the information received from  
16 Jarad, would the investigation have been able to handle  
17 Mr. Jarad differently?

18 A. Yes.

19 I mean, we had credit card statements of Mohammad  
20 Jarad that showed he rented a car, he stayed in a hotel in  
21 Mississippi around the time this meeting took place. However,  
22 that was really it.

23 We had nothing to confront him. Details that  
24 Dr. Ashqar certainly knows. Details about the meeting,  
25 whether or not there was anybody else present at this meeting



1 that we could talk to.

2           We were looking for leads. Leads that would provide  
3 us with information so we would be in a much better position  
4 to confront Mohammad Jarad and, hopefully, flip him and have  
5 him testify.

6 Q. You mentioned a number of names that the FBI was  
7 interested in at the outset. One of them was Anwar Hamdan?

8 A. Yes.

9 Q. Was an attempt made to approach Anwar Hamdan for  
10 information and testimony?

11 A. Yes, in Louisiana.

12 Q. And what was the result of that attempt?

13 A. He, as well, was evasive. He claimed, I believe -- I  
14 wasn't the agent that went on the interview, but he claimed --  
15 to not understand English or have a limited understanding of  
16 English.

17 Q. Where was Anwar Hamdan born?

18 A. United States.

19 Q. Where was he raised?

20 A. United States.

21 Q. Okay.

22           So, he had failure of understanding of English in the  
23 interview, and what else? Was his memory equally failed on  
24 critical events?

25 A. Yes. Yes.



1 Q. And in the absence of information and testimony from  
2 Dr. Ashqar, what ultimately happened with the attempts to  
3 investigate Mr. Hamdan as part of the conspiracy?

4 A. They failed, and Anwar Hamdan left the country.

5 Q. And never returned?

6 A. Never returned.

7 Q. One final category of documents I want to have you briefly  
8 direct your attention to.

9 In Dr. Ashqar's documents obtained in the search of  
10 his residence, there were confessions of other Hamas members.

11 Do you recall that?

12 A. Yes.

13 Q. Were some of those Muhammad Salah's confessions?

14 A. Yes.

15 MR. FERGUSON: And those were, for the record, Ashqar  
16 Search Documents, Tabs 8, 9 and 13.

17 BY MR. FERGUSON:

18 Q. Were those confessions as they were held in Dr. Ashqar's  
19 papers in exactly the same form and condition as the official  
20 statements taken from him by Israeli National Police officers?

21 A. No, they were not.

22 Q. What was different about them?

23 A. These were Arabic translations.

24 Q. What would you have wanted to know from Dr. Ashqar about  
25 these confessions?





1 A. Where he got them, who he got them from. Why were they  
2 sent to him? What did he do with them? Did he send them to  
3 anybody else? And for what purpose might he'd sent them to  
4 somebody else?

5 Q. There were confessions of other Hamas figures, as well, in  
6 Dr. Ashqar's papers; is that right?

7 A. Yes.

8 Q. I want to direct your attention to the confession of an  
9 individual -- or confessions of an individual -- by the name  
10 of Mahmoud Ramahia that were introduced into evidence as  
11 Ashqar Search Documents Tab 11.

12 And those were admitted into evidence in redacted  
13 form.

14 MR. FERGUSON: Permission to approach, Judge?

15 THE COURT: You may.

16 MR. FERGUSON: I'm handing counsel, the witness and  
17 the Court a copy of Ramahia confessions --

18 (Document tendered to the Court, witness and counsel.)

19 MR. FERGUSON: -- in the redacted form in which they  
20 were admitted into evidence. They're found at Tab 11 of the  
21 Ashqar Search Documents.

22 BY MR. FERGUSON:

23 Q. There are numerous redactions on here. Why were these  
24 documents redacted?

25 A. The redactions are of Abdelhaleem Ashqar's name.



1 Q. And Muhammad Salah's name?

2 A. Yes.

3 Q. So, in unredacted form, these confessions contain  
4 statements regarding activities of Abdelhaleem Ashqar; is that  
5 fair?

6 A. Yes.

7 Q. All right.

8           What would you have wanted to know from Dr. Ashqar  
9 about these documents relating activities of his involvement  
10 with Mahmoud Al-Ramahia, Mousa Abu Marzook and others?

11 A. Again, we're looking at the nature of his activities, the  
12 scope of Hamas in the United States. He talks about setting  
13 up meetings with Mahmoud Al-Ramahia with Mousa Abu Marzook in  
14 Tennessee. I would look to corroborate that those events took  
15 place, why those meetings took place, what was discussed.

16 Q. I want to focus your attention on one specific passage of  
17 many pages. It's on the second page, ASH 263, about 80  
18 percent of the way down the page beginning, "There are two  
19 other committees abroad, a Political and an Informational  
20 Committee"; and, then, after that, "In 5-92, I was in Chicago,  
21 in America, where I opened a bank account -- illegible,  
22 illegible -- in America by himself. This individual requested  
23 from me that we directly and together contact America, but I  
24 refused. The Coordination Committee in the central region was  
25 founded by Muin Shabib."



1                   Was Muin Shabib an individual of interest to the  
2 investigation?

3 A. Yes.

4 Q. And was there evidence in the case of direct  
5 communications and contact between Muin Shabib and Abdelhaleem  
6 Ashqar?

7 A. Yes.

8 Q. Was that information about the relationship and those  
9 activities something that the investigation sought from Muin  
10 Shabib, who, on the basis of this document, had connections to  
11 the Hamas terrorist organization?

12 A. Yes.

13 Q. All right.

14                   I turn your attention to the last page, ASH 255, the  
15 top.

16                   "On 4-92, I opened an account in Chicago, and then I  
17 received a deposit of \$10,000 a month. The total amount  
18 deposited reached \$100,000."

19                   Did the investigation have in its possession  
20 documents relating to an account opened in the United States  
21 by Mahmoud Ramahia that were introduced into evidence at  
22 trial?

23 A. Yes.

24 Q. And as introduced into evidence at trial, that account was  
25 funded with money that came from Mousa Abu Marzook and his



1 associates.

2           In the absence of testimony from Dr. Ashqar about  
3 Mahmoud Ramahia -- who, on the basis of this document, he was  
4 in direct communication and contact with -- did the  
5 investigation ever figure out exactly what all those  
6 structured transfers in and structured transfers out were  
7 about?

8 A. No.

9 Q. The purpose why they were transferred in structured  
10 fashion from Marzook's associates?

11 A. No.

12 Q. The reason why they were structured to a greater degree  
13 out of the United States, so that they could be received in  
14 Israel and the West Bank?

15 A. No.

16 Q. You mentioned that one of the things that you would want  
17 to know from Dr. Ashqar about these confessions was who he  
18 sent them to?

19 A. That's correct.

20 Q. At a later stage -- in fact, after the case was charged --  
21 did the FBI come into possession of documents that reflected,  
22 in fact, that Dr. Ashqar had transferred or directed these  
23 confessions and other materials to other individuals in the  
24 United States?

25 A. Yes.



1 Q. Who received the documents from Dr. Ashqar?

2 A. Mohammad Shorbagi.

3 Q. And as admitted into evidence, that bundle was with a  
4 cover letter from Dr. Ashqar; is that correct?

5 A. Yes.

6 Q. With Dr. Ashqar's return address on it?

7 A. Yes.

8 Q. And to refresh the Court, was Dr. Shorbagi charged and  
9 convicted with any crime in 2006?

10 A. Yes. He was charged with material support.

11 Q. Of terrorism?

12 A. Of terrorism.

13 Q. And was that in connection with the Holy Land Foundation?

14 A. Yes.

15 Q. If Dr. Ashqar had answered the questions about all the  
16 individuals to whom he sent these documents, would the FBI  
17 have known of Mohammad Shorbagi -- who now stands convicted of  
18 material support of terrorism -- at a much earlier time than  
19 actually occurred?

20 MR. MOFFITT: Objection. Objection. In fact,  
21 Shorbagi's conviction occurred well after -- and his  
22 admissions about when he sent money to Hamas occurred after --  
23 Hamas was actually designated. That was a point that was made  
24 during the course of the argument, that he was not charged  
25 with any offenses prior to the designation of Hamas. The



1 designation of Hamas occurred well after the transfer of these  
2 documents.

3 THE COURT: But I think the question was: If  
4 Dr. Ashqar had answered their questions about who he sent the  
5 documents to, would they have known -- would the FBI had known  
6 -- that such documents went to Shorbagi?

7 MR. MOFFITT: Well, would they have known--

8 THE COURT: Not that --

9 MR. MOFFITT: The question was whether they would  
10 have known that Shorbagi was giving material support to Hamas.  
11 What Mr. Shorbagi pledged to -- pled to -- was --

12 THE COURT: That was not the question. I am reading  
13 it now.

14 You can rephrase, Mr. Ferguson.

15 But that was not the way the question was phrased.

16 BY MR. FERGUSON:

17 Q. If Dr. Ashqar testified truthfully and completely, would  
18 the FBI have known of Mohammad Shorbagi as an individual  
19 associated with Hamas at a much earlier time than they did?

20 A. Yes.

21 MR. FERGUSON: No further questions.

22 THE COURT: Let us take a ten-minute break, and then  
23 we will begin with cross-examination.

24 (Brief recess.)

25 THE COURT: Mr. Moffitt, cross-examination.



CROSS- EXAMINATION

1  
2 BY MR. MOFFITT:

3 Q. Good morning, Mr. Bray.

4 A. Good morning, Mr. Moffitt.

5 Q. You've now testified for, I guess, about an hour-and-a-  
6 half or two hours, correct?

7 A. Correct.

8 Q. And you've told us a lot of things. I would like to ask  
9 you, before you came to testify today, what were -- what did  
10 you look at in order to prepare yourself for your testimony  
11 today?

12 A. I looked at previous grand jury transcripts.

13 Q. Of whom?

14 A. Dr. Ashqar.

15 Q. Okay.

16 A. Mohammad Jarad.

17 Q. All right.

18 A. Mrs. Jarad.

19 Q. Okay.

20 (Brief pause.)

21 BY MR. MOFFITT:

22 Q. Who else?

23 A. I think that was it.

24 Q. What other documents did you look at?

25 A. I looked at search documents from Dr. Ashqar's apartment.



- 1 I looked at telephone call transcripts.
- 2 Q. Uh-huh.
- 3 A. Recorded calls.
- 4 Q. You also --
- 5 A. Confessions. I looked at part of the confessions.
- 6 Q. Mr. Salah's confessions?
- 7 A. Mr. Salah's confessions, Mr. Ramahia's confession.
- 8 Q. Uh-huh.
- 9 What else?
- 10 A. Oh, I looked at the credit card statements -- statement --
- 11 for Mohammad Jarad concerning his trip to Mississippi.
- 12 Q. Uh-huh.
- 13 You talked about a conversation that you had with
- 14 some translator about documents and about how things were
- 15 translated and how statements were -- could have many
- 16 meanings?
- 17 A. Conversations I had with translators -- I mean, we would
- 18 get a document translated. At times, one translator might see
- 19 or have something phrased --
- 20 Q. Well, I --
- 21 A. -- differently.
- 22 Q. I want to know where you -- how you remember those
- 23 conversations. What -- did you look at any documents --
- 24 A. No, no.
- 25 Q. -- concerning those conversations?





- 1 A. No.
- 2 Q. What other documents did you look at?
- 3 A. I think what I've just given you was essentially it.
- 4 Q. That's all the documents you looked at?
- 5 A. To the best of my knowledge, yes.
- 6 Q. Now, you know that Dr. Ashqar didn't testify in front of
- 7 the grand jury, right? He was called into the grand jury, but
- 8 provided no testimony?
- 9 A. He did provide answers to certain things.
- 10 Q. What did he answer?
- 11 A. His name.
- 12 Q. What else?
- 13 A. I can't remember in certain instances if he provided his
- 14 address. He provided certain things and, then -- up to a
- 15 point; and, then, he had his statement, which he read to the
- 16 grand jurors.
- 17 Q. Statement concerning what he believed people were fighting
- 18 for in Palestine, right?
- 19 A. Yes.
- 20 Q. And that he wasn't going to turn on a people who were
- 21 fighting for their freedom in Palestine, right?
- 22 A. Yes.
- 23 Q. That's the statement you're talking about?
- 24 A. Yes.
- 25 Q. All right.



1                   Now, Mr. El-Barasse, he -- what did he say in the  
2 grand jury? He couldn't remember, right?

3 A. I -- in preparation for today, I didn't look at  
4 Mr. El-Barasse's grand jury testimony.

5 Q. All right.

6                   But you were able to testify to what you recalled  
7 about it?

8 A. I recalled that he went into a grand jury, he was  
9 immunized and he did not provide any substantive information.

10 Q. He said something about he couldn't remember; is that  
11 right?

12 A. I don't recall.

13 Q. Okay.

14                   Did you look at anything else?

15 A. To the best of my knowledge, no.

16 Q. All right.

17                   Now, in -- you testified that your -- you became  
18 involved in 2002; am I right?

19 A. Correct.

20 Q. All right.

21                   And in 2002 -- or when did you -- your attention  
22 focus on Dr. Ashqar?

23 A. Almost immediately.

24 Q. Almost immediately in 2002?

25 A. In 2002.



- 1 Q. All right.
- 2 Did you know whether Dr. Ashqar was a citizen of the
- 3 United States?
- 4 A. Yes, I did.
- 5 Q. Did you know where he was born?
- 6 A. Yes.
- 7 Q. Where was he born?
- 8 A. I don't know how you pronounce it. Tulkarim, I believe.
- 9 He said it was in Jordan.
- 10 Q. Who said it was in Jordan?
- 11 A. Dr. Ashqar.
- 12 Q. Dr. Ashqar told you --
- 13 A. Uh-huh.
- 14 Q. -- he was born in Jordan?
- 15 A. Uh-huh.
- 16 Q. Told you that?
- 17 A. Yes. I remember distinctly when we were fingerprinting
- 18 Dr. Ashqar, concerning country of birth, he did not want
- 19 Israel to be his country of birth. He told me the city. And
- 20 I said -- he wanted Palestine to be his country of birth.
- 21 That wasn't available in our -- as a country that we could
- 22 select in the computer. So, I told him Israel or Jordan,
- 23 and --
- 24 Q. So, it was as a result of what you told him wasn't in your
- 25 computer that he told you Jordan?



- 1 A. Yes.
- 2 Q. He told you that his home where he was born was Palestine?
- 3 A. Correct.
- 4 Q. But that's not a country according to you, so he
- 5 couldn't -- you couldn't use it?
- 6 A. Not according --
- 7 Q. Okay.
- 8 A. It's not a country not according to me. I don't -- the
- 9 program that I was using --
- 10 Q. So, he didn't --
- 11 A. -- I didn't make.
- 12 Q. He didn't lie to you about where he was born, right?
- 13 A. I don't think so, no.
- 14 Q. He told you he was born in Palestine --
- 15 A. Correct.
- 16 Q. -- correct?
- 17           You know that Palestine is an occupied territory,
- 18 right?
- 19 A. I know there are occupied territories in Israel, yes.
- 20 Q. All right.
- 21           Do you know the difference between the West Bank and
- 22 the Gaza Strip, sir?
- 23 A. Yes.
- 24 Q. Have you ever been to the West Bank or Gaza Strip?
- 25 A. No.



1 Q. Have you ever seen how people live in the West Bank or  
2 Gaza Strip?

3 A. From newspaper media I've seen, television. But I am not  
4 allowed to go there.

5 Q. You are not allowed to go there.

6                   Okay. Let me ask you another question.

7                   ... You knew that he was born in Palestine... Did you know  
8 whether -- at the time he was born, whether -- it was  
9 occupied?

10 A. No, I don't -- I don't recall off the top of my head his  
11 date of birth.

12 Q. All right.

13                   And in your investigation of Dr. Ashqar, did you  
14 determine how many members of his family had been jailed by  
15 the Israelis?

16 A. No.

17 Q. Did you determine how many members of his family had been  
18 tortured by the Israelis?

19 A. No.

20 Q. Did you determine how many members of his family had been  
21 killed by the Israelis?

22 A. No.

23 Q. Do you know today as you sit there?

24 A. How would I know? He wouldn't tell me.

25 Q. Well, sir, you were involved in an investigation; were you



1 not?

2 A. Yes.

3 Q. And part of your investigation involved the Israelis,  
4 correct?

5 A. Our investigation focused on Hamas in the United States.

6 Q. Part of your investigation involved talking to the  
7 Israelis; did it not?

8 A. Yes.

9 Q. Did you ever discuss with the Israelis Dr. Ashqar and his  
10 origins?

11 A. No.

12 Q. You weren't curious as the investigating officer?

13 A. No.

14 Q. Okay.

15 Now, the documents you've talked about -- all the  
16 documents you've talked about -- all the documents you've  
17 talked about being recovered from Dr. Ashqar, correct? You've  
18 talked about documents that were recovered as part of a  
19 search?

20 A. Yes.

21 Q. That search took place when?

22 A. In December of 1993.

23 Q. December of 1993.

24 That was 11 years before your grand jury started,  
25 correct?



1 A. That is correct.

2 Q. That was nine years before your investigation started,  
3 correct?

4 A. Correct.

5 Q. Okay.

6 Now, according to you, these were all very important  
7 documents, correct?.....

8 A. Some were very important, not all.

9 Q. Well, important to your investigation, which you began in  
10 2002 --

11 A. Yes.

12 Q. -- correct?

13 A. Yes.

14 Q. Where had they been for nine years?

15 A. They had been in Mississippi and, also, in Washington.

16 Q. Well, where in Mississippi?

17 A. At the Oxford resident agency, which is a satellite office  
18 of our Jackson, Mississippi, office.

19 Q. And where in Washington?

20 A. The Washington field office.

21 Q. Now, they had sat there for nine years and there wasn't an  
22 invest- -- nobody investigated?

23 A. That's not true.

24 Q. All right.

25 Well, for nine years, they had sat there and nothing



1 had been translated?

2 A. That's not true, either.

3 Q. Okay.

4 Well, can you tell me the quantum of documents that  
5 had been translated prior to 2002, when you began your  
6 investigation?

7 A. They had been translated in various degree, summary form.  
8 They were translated with an eye towards gathering  
9 intelligence value.

10 Q. I don't know what that means.

11 A. Well, at the time the investigation was conducted, the  
12 investigation concerned Dr. Ashqar as an agent of a foreign  
13 power, Hamas. So, these translations of these documents  
14 obtained in this search were translated in summary fashion for  
15 what you would call or deem intelligence purposes.

16 It wasn't until much later -- the time period that  
17 you're referring to, 2002 -- that these documents were  
18 available for criminal use.

19 Q. Well, wait a minute. Wait a minute. Let me see if I  
20 understand.

21 You had the documents, and you had the documents for  
22 nine years before you began your investigation, right?

23 A. Yes. Roughly, nine years.

24 Q. Nine years.

25 And yet these documents you had had since 1993, and





1 they had been translated for intelligence purposes.

2           When had they been translated for an intelligence  
3 purpose? What year?

4 A. During the years after they were recovered.

5 Q. Well, can you tell me what year they were translated?

6 A. I would surmise 1994.

7 Q. 1994. ....

8           So, that's eight years before you began your  
9 investigation, correct?

10 A. Yes.

11 Q. All right.

12           And this included the documents from the search,  
13 correct?

14 A. Yes.

15 Q. From the search -- the 1600 documents --

16 A. Yes. Yes, sir.

17 Q. -- that you talked about --

18 A. Yes, sir.

19 Q. -- regarding the search?

20           Were any of those documents completely translated in  
21 those eight years?

22 A. I'm sure that some of them were completely. When you say  
23 "completely," I'm assuming you mean as a verbatim.

24 Q. Yes.

25 A. I'm assuming that they were. Again, they were done in



1 various degrees of completion. Some were summary form.

2 Q. Well, what quantum of these documents -- since we've  
3 talked about them in the way that we've talked about them --  
4 were translated at that time? How many of them?

5 MR. FERGUSON: I'm sorry, Judge, I'm unclear as to  
6 what "that time" is referring to.

7 BY MR. MOFFITT: .....

8 Q. I'm talking about 1993, 1994, eight years before your  
9 investigation began.

10 A. Again, I can't tell you. I wasn't there in 1994. I don't  
11 know when specifically they were translated. I don't know  
12 what time period in which they were translated, all of them.

13 I do know in 2002, we did have -- we obtained these  
14 documents, in addition to documents, records, from various  
15 investigations; combined them here in Chicago under one roof  
16 for our criminal investigation.

17 Q. Okay.

18 A. We had those documents. I know there were translations  
19 done of them. We essentially re-translated all of them  
20 verbatim for the purposes of use in criminal proceedings.

21 Q. Well, you didn't tell Mr. Ferguson that you re-translated  
22 them, did you? You didn't say that at all in your direct  
23 examination, did you?

24 A. I don't know that he asked me.

25 Q. Okay. Well, let me be sure that I make sure I ask you all



1 the right questions.

2           Okay. So, now your investigation begins and you have  
3 documents from 1992 and 1993, correct?

4 A. That --

5 Q. Those are documents regarding Dr. Ashqar -- the search of  
6 Dr. Ashqar's home.

7 A. The search was conducted in December of 1993. I don't  
8 know -- as far as documents from 1992, I don't know when the  
9 documents in Dr. Ashqar's possession, when they were created.

10 Q. Well, you talked about a document today that discusses the  
11 events that occurred in 1992; am I right?

12 A. Correct. Like I said, I don't know when all the documents  
13 were created. I know you can look at some of them and  
14 determine approximate dates of when they were created.

15 Q. Well, you certainly know that they were not created post  
16 the search of his home, right?

17 A. That's correct.

18 Q. Which was nine years before your investigation started,  
19 right?

20 A. Roughly nine, yes.

21 Q. Okay.

22           Now, there was also, as you said, a wiretap, correct?

23 A. Yes.

24 Q. A wiretap on Dr. Ashqar's telephones?

25 A. Yes.



1 Q. There was a bug, correct?

2 A. Yes.

3 Q. A bug of Dr. Ashqar's home?

4 A. Yes.

5 Q. All right.

6 And when was that information and when did that  
7 occur? .....

8 A. When did the bugging of his apartment occur? When did the  
9 telephone?

10 Q. Yes.

11 A. I can give you approximate dates. Again, it would have  
12 been 1994 time period.

13 Q. Okay.

14 That's eight years before your investigation,  
15 correct?

16 A. Yes.

17 Q. And when you bug someone's home, you hear every  
18 conversation that goes on in the home, correct?

19 A. No.

20 Q. Okay.

21 Well, tell me what happens.

22 A. The technical difficulties involved -- you can't hear  
23 everything that happens in a house. You could go in a corner  
24 of a house, you could have a quiet conversation. Sometimes  
25 during technical difficulties, you can't pick everything up.



1 But --

2 Q. Help me, sir. You have seen the product of that bugging;  
3 have you not?

4 A. It's been years since I've seen it; yes. But I have seen  
5 it.

6 Q. Well, tell me how many years it's been since you've seen  
7 it.

8 A. I probably looked at it in 2000- -- late 2002/2003 time  
9 period.

10 Q. Okay.

11 And this was, I guess, a surreptitious bugging,  
12 correct? No one told Dr. Ashqar that there was a bug in his  
13 house?

14 A. That's correct.

15 Q. The idea was to secretly record what was going on in  
16 Dr. Ashqar's house?

17 A. Correct.

18 Q. So, if the bug was working, it would have picked up the  
19 conversations that occurred in the house --

20 A. Yes.

21 Q. -- correct?

22 And if there were meetings in the house and there  
23 were other things that happened in the house, all of those  
24 things would have been picked up?

25 A. Yes.



1 Q. And that would have occurred -- how long was that bug in  
2 Dr. Ashqar's house?

3 A. I don't have to -- I don't recall. I'd have to go back  
4 and look at the orders.

5 Q. Well, you knew you were going to testify today, right?

6 A. Yes.

7 Q. But you didn't bother to look at that?

8 A. I did not look at that.

9 Q. All right.

10 Now, there was also -- because the bug wasn't enough,  
11 there was also a wiretap on the telephone, correct?

12 A. That is correct.

13 Q. So, not only were you recording the conversations inside  
14 the house and at least one side of the conversations on the  
15 telephone by the bug, you were also recording his  
16 conversations on the telephone, correct?

17 A. Correct.

18 Q. All right.

19 And when was the telephone wiretap placed on Dr.  
20 Ashqar's home?

21 A. Again, I'd have to go back and look for specific dates.

22 Q. You didn't --

23 A. 1993/1994 time period.

24 Q. You didn't look at that, either?

25 A. Not the dates of when they were -- it was initiated and



1 terminated, no.

2 Q. All right.

3 Is it fair to say -- well, let me ask you this: How  
4 long was the bug in Dr. Ashqar's house -- was it maintained?  
5 How long did it stay on?

6 A. What, do you mean? Throughout the day or the week?

7 Q. No, I mean, what was the duration of the bugging of his  
8 house? How many months, how many days, how many years?

9 A. Again, I would have to go back and review that.

10 Q. You don't know?

11 A. I don't know.

12 Q. All right.

13 And with regard to the wiretap, what was the duration  
14 of the wiretap?

15 A. I would have to go back and review to give you the actual  
16 dates.

17 Q. Now, it is fair to say that if Dr. Ashqar is involved in  
18 espionage and counter-intelligence and what have you, you can  
19 extend a bug and a wiretap; am I right? You go and get an  
20 extension --

21 A. Yes.

22 Q. -- from a court?

23 How many extensions were involved with Dr. Ashqar?

24 A. I would have to go and look --

25 Q. You don't know?



1 A. -- to see.

2 I don't know.

3 Q. All right.

4 Do you know when the bug was removed from Dr.  
5 Ashqar's house?

6 A. No.

7 Q. Was it in 2002?

8 A. It would have been before then.

9 Q. Well, was it in 1995, 1994?

10 MR. FERGUSON: Objection. The witness said he  
11 doesn't know.

12 THE COURT: Overruled.

13 You can answer, if you can.

14 BY THE WITNESS:

15 A. I don't know.

16 BY MR. MOFFITT:

17 Q. When was the wiretap removed from Dr. Ashqar's house?

18 A. It wouldn't have been done at his house, but I don't know  
19 when the monitoring of his telephones ended, either.

20 Q. Would you say to me that it was years before you began  
21 your investigation?

22 A. Yes.

23 Q. You just don't know how many years?

24 A. Correct.

25 Q. All right.





1                   And all of the documents -- well, let me ask you  
2 this: The bank records that you talked about -- and you  
3 talked about voluminous bank records, correct?

4 A. Yes, sir.

5 Q. What were the years of these voluminous bank records that  
6 you talked about?

7 A. Some from the late '80s --

8 Q. Okay.

9 A. -- through the 1990s.

10 Q. Through what era in the 1990s?

11 A. There would be various.

12 Q. Let's speak about Dr. Ashqar for a moment.

13                   What years did you have his bank records for?

14 A. I would have to go and look at the actual statements.

15 Q. Do you have any bank records for Dr. Ashqar beyond 1994?

16 A. I believe we do, yes.

17 Q. What year?

18 A. I remember looking at certain transactions. It was  
19 involved around the time that he was running for president  
20 of -- so, that --

21 Q. What year was that?

22                   UNKNOWN SPEAKER 1: 2005.

23                   UNKNOWN SPEAKER 2: 2005.

24                   (Laughter.)

25 BY MR. MOFFITT:



1 Q. What year was that? You don't know, do you?

2 A. I can give a guess now.

3 (Laughter.)

4 BY MR. MOFFITT:

5 Q. All right. Well, don't guess for me.

6 Help me with this a second: The bank records that  
7 were introduced at the trial were not for 2005, were they?

8 A. No, I don't believe so.

9 Q. All the bank records that were introduced during the  
10 course of the trial were before -- on or before -- 1994,  
11 correct?

12 A. I believe that is correct, yes, sir.

13 Q. All right.

14 Now, in fact, Hamas was not designated until when?

15 A. There were two designations: One in 1995 and one in 1997.

16 Q. And all the bank records that were introduced at trial  
17 were prior to either of those designations; am I right?

18 A. Correct.

19 Q. Now, let's go to the telephone records for a second. You  
20 talked about extensive telephone records, correct?

21 A. Yes, sir.

22 Q. All right.

23 What were the years of the telephone records that you  
24 were talking about?

25 A. Again, I would have to go and look at the actual records



1 themselves. My estimate would be from the late '80s at least  
2 through the mid-'90s.

3 Q. Okay.

4 And all of the telephone records that were introduced  
5 at trial were prior to the designation of Hamas as a terrorist  
6 organization, correct?

7 A. Again, without knowing the actual dates, I don't know if  
8 there were records obtained in 1995 that were introduced at  
9 trial. I just don't recall.

10 Q. All right.

11 Well, if you're starting in the '80s -- and you  
12 introduce records, a lot of -- voluminous, as you described  
13 them, right?

14 A. Yes, sir.

15 Q. And maybe some of them were in 1995.

16 Would it be fair to say that most of them were before  
17 1995?

18 A. Yes, that would be fair.

19 Q. And would it, then, be fair to say that most of the  
20 telephone records that were produced in the trial were before  
21 the designation of Hamas?

22 A. Yes.

23 Q. And as you sit there, can you recall one phone call to  
24 Mousa Abu Marzook from Dr. Ashqar post the designation of  
25 Hamas?



1 A. No.

2 Q. Can you recall one bank transfer between Mousa Abu Marzook  
3 and Dr. Ashqar post the designation of Hamas?

4 A. No.

5 Q. Okay.

6 So, the bank records and the telephone calls that you  
7 talked about today, most of them occurred before the  
8 designation of Hamas?

9 A. Yes, sir.

10 Q. Okay.

11 And your investigation began in 2002?

12 A. Correct.

13 Q. That was seven years after the designation of Hamas,  
14 correct?

15 A. Correct, after the 1995 designation.

16 Q. So, all these inquiries about phone calls, about documents  
17 and about people relate to events that occurred in the 1993 to  
18 1995 period of time, correct?

19 A. Roughly that time period, yes, sir.

20 Q. Okay.

21 So, you were looking back in time to talk to  
22 Dr. Ashqar allegedly about these so-called relationships?

23 MR. FERGUSON: Judge, I'm unclear. Are we talking  
24 about the investigation? Are we talking about Dr. Ashqar's  
25 appearance in the grand jury?



1 MR. MOFFITT: I'm talking about the investigation.  
2 I'm obviously talking about his investigation.

3 THE COURT: Overruled.

4 You can answer.

5 BY THE WITNESS:

6 A. Yes. We were going back in time to investigate phone  
7 records, financial records that showed relationships to  
8 Dr. Ashqar and those individuals.

9 Many of those individuals --

10 BY MR. MOFFITT:

11 Q. Hold on.

12 A. -- were still here.

13 Q. In those years, right?

14 A. Yes.

15 Q. Now, you didn't know what those -- if those relationships  
16 were maintained, or if they continued, or if they changed over  
17 the eight years from 1994 to 2002?

18 A. Correct. Due to Dr. Ashqar's refusal to comply with the  
19 Judge's order and testify before the grand jury, you're right,  
20 I did not know whether he continued those relationships;  
21 whether he maintained any type of contacts with those  
22 individuals.

23 Q. Okay.

24 A. You're correct. I did not know.

25 Q. Well, I want you to look at ASH 185. You have that in



1 front of you?

2 A. I do not.

3 MR. MOFFITT: Did you take it back from him?

4 THE COURT: That is the list of names; correct, Mr.  
5 Moffitt?

6 MR. MOFFITT: That is the list of phone calls and  
7 names.

8 (Document tendered.)

9 BY MR. MOFFITT:

10 Q. Would you look at this with me?

11 A. Yes, sir.

12 Q. How many names are on here?

13 A. 35.

14 Q. How many of those names live in the United States?

15 A. Well, as you can see, the second column lists the country  
16 and city. Most of these -- some don't have any. At the time  
17 this document would have been created, it appears that most of  
18 these -- I do see one reference to Canada. Again, there are  
19 some that have no country or city identified on the document.

20 Q. Let me ask you this: How many of them don't have phone  
21 numbers next to them?

22 A. All but two.

23 Q. Everybody has a phone number, right?

24 A. It has a phone number associated with that name, yes.

25 Q. All right.



1                   And all of them have area codes, correct?

2   A.   Yes, sir.

3   Q.   Some of them even have fax numbers, correct?

4   A.   Yes, sir.

5   Q.   And the majority of them have cities, correct -- and  
6   countries?

7   A.   Yes, sir.

8   Q.   Now, on the first page, at least, the vast majority of  
9   those countries are in the United States, correct?

10                THE COURT:   You mean cities, Mr. Moffitt?

11                MR. MOFFITT:   Cities.   I'm sorry.

12   BY THE WITNESS:

13   A.   Yes, sir.

14   BY MR. MOFFITT:

15   Q.   Okay.

16                Now, in 2002, when your investigation began, where  
17   was Mousa Abu Marzook?

18   A.   He was either in Jordan or Syria.

19   Q.   He had been, in fact, deported in 1996; am I right?

20   A.   Correct.   I'm not sure about the date and whether or not  
21   "deported" is the correct term.

22   Q.   Well, had the United States government done anything to  
23   force Mousa Abu Marzook to leave the country?

24   A.   Yes.

25   Q.   When did that occur?



1 A. I want to say around the mid-1990s. 1995.

2 Q. Okay.

3 A. 1996.

4 Q. 1995. All right.

5           But you -- he had been forced to leave the country by  
6 the United States; but you, as an agent of the United States,  
7 had begun an investigation of him in 2002, seven years after  
8 he had been asked to leave the country by the United States,  
9 correct?

10 A. Correct. I mean, he was extradited, I think, would have  
11 been -- would have been -- the proper term.

12 Q. Well, he wasn't in the country, right, when you began your  
13 investigation of him, correct?

14 A. No, he was not.

15 Q. All right.

16           And where and in what country was he in in 2002, when  
17 you began your investigation?

18 A. I think I already answered that. I'm not sure. It was  
19 either perhaps Jordan or maybe Syria.

20 Q. All right.

21           And you weren't going to get him back from Syria,  
22 were you?

23 A. No.

24 Q. Okay.

25           So, you were conducting a grand jury investigation of





1 a man in 2002 that had left the country in 1995 and was then  
2 in Syria, and you had no hope of getting him back, correct?

3 A. I wouldn't say that. I mean, I can't foretell the future.  
4 I don't know if he were to ever -- I think there are instances  
5 where he has traveled out of Syria.

6 Q. Okay.

7 ..... Now, the next name on here is "Mohammad Akram,"  
8 right?

9 A. Yes, sir.

10 Q. The country -- the city that he lives in or lived in, in  
11 1993, was Chicago, correct?

12 A. Correct.

13 Q. There was a phone number, correct?

14 A. Yes, sir.

15 Q. And, of course, you went out and interviewed Mohammad  
16 Akram?

17 A. I don't recall that we did, no.

18 Q. Okay.

19 ..... And, of course, you subpoenaed him -- because he was  
20 living in Chicago, correct? -- in your grand jury?

21 A. No, we did not subpoena him to the grand jury, that I'm  
22 aware.

23 Q. And that was because you weren't curious why his name  
24 would have appeared on a list with Mousa Abu Marzook, right?

25 A. What was your question, again?



1 Q. You weren't at all curious about why his name would have  
2 appeared on a list with Mousa Abu Marzook?

3 A. I would have been curious, certainly. I don't know if at  
4 the time, in 2002, that I knew where this individual was. I  
5 just don't recall.

6 Q. Oh, I see.

7 Let me see. You weren't sure in 2002 that this list  
8 that you had gotten in 1992 or '93 had any validity at all in  
9 terms of addresses or anything, correct?

10 A. Correct. I mean, I know that some addresses were not  
11 correct.

12 No. 3, "Ahmad Yousif" -- Yousif Saleh -- city,  
13 Chicago. I knew that he was not in Chicago.

14 Q. I see.

15 Now, did you call 312-563-0937 to determine whether  
16 it was accurate with regard to Mohammad Akram?

17 A. I don't recall doing that, no.

18 Q. Okay.

19 Now, you knew that Mr. Yousif was no longer in  
20 Chicago, correct?

21 A. Correct.

22 Q. When had he left?

23 A. I'm not sure of the date of when he left, but I knew he  
24 was in Virginia.

25 Q. Well, when did he go to Virginia?



1 A. I don't know.

2 Q. Okay.

3 He was also reachable, then, by subpoena; was he not?  
4 If he lived in Virginia, you could serve a grand jury subpoena  
5 on him, correct?

6 A. That's correct.

7 Q. Did you?

8 A. No. We served a subpoena on Dr. Ashqar shortly  
9 thereafter, as I --

10 Q. I know you served a subpoena on Dr. Ashqar. I asked you  
11 did you serve a subpoena on Ahmad Yousif?

12 A. We did not.

13 Q. All right. Okay.

14 "Yassir Bushnaq." You know that name?

15 A. Yes.

16 Q. He was one of the people that was discussed to come to the  
17 Philadelphia meeting; was he not?

18 A. I believe so, yes.

19 Q. All right.

20 And did you attempt to find Mr. Bushnaq?

21 A. Yes.

22 Q. All right.

23 Where was Mr. Bushnaq located?

24 A. I don't recall specifically where he was located. I know  
25 that other agents -- another agent assigned to our



1 investigation -- attempted to interview him.

2 Q. He was located in Virginia, running an organization in  
3 Virginia; was he not?

4 A. I don't recall.

5 Q. Did you issue a grand jury subpoena for Mr. Bushnaq?

6 A. I would have to go back and see.

7 Q. Well, as you sit there, do you recall issuing a grand jury  
8 subpoena for Mr. Bushnaq?

9 A. I do not recall, no.

10 Q. All right.

11 No. 5, "Mohammad El-Mezzain." He's listed in New  
12 Jersey, correct?

13 A. Correct.

14 Q. 201-279 as a fax number, correct? 279-6362?

15 A. Yes, sir.

16 Q. And 201-279-3574, correct --

17 A. Correct.

18 Q. -- as a phone number?

19 A. Correct.

20 Q. Were you able to locate Mr. El-Mezzain?

21 A. I believe Dallas was focused on Mr. El-Mezzain.

22 Q. Okay.

23 Was he called before a grand jury?

24 A. I don't know if he was or not.

25 Q. Did you call him in front of your grand jury?



1 A. I do not believe so.

2 Q. Okay.

3 And you didn't call him because Dallas was focused on  
4 him?

5 A. I know he was the subject, yes, of Dallas investigation.

6 Q. Well, did you not call him because you knew he was a focus  
7 of the Dallas investigation?

8 A. I don't recall.

9 Q. All right.

10 "Ismael El-Barasse," right? That's No. 6?

11 A. Yes, sir.

12 Q. All right.

13 That has Washington, D.C.?

14 A. Yes, sir.

15 Q. In 2002, where was Mr. El-Barasse?

16 A. I don't know if he was on the East Coast, Virginia-  
17 Washington, D.C., area.

18 Q. Did you interview him or attempt to interview him?

19 A. I believe information we had at the time, we did not feel  
20 he was in the country. I'd have to go back and, again, look  
21 to see what led us to believe that. I do know within a day or  
22 two of our indictment, he was located.

23 Q. Okay.

24 Well, I'm talking about 2002 through 2004, before  
25 your indictment.



1 A. Okay.

2 Q. Did you interview him?

3 A. No.

4 Q. All right.

5 How about "Ghassan Dahdoli" or delo (phonetic)?

6 That's No. 7.

7 I may be mispronouncing the name.

8 A. Yes, sir. I can't help you there, either.

9 Q. Okay.

10 THE COURT: Mr. Moffitt or Mr. Ferguson, can I ask

11 one of you for an extra copy of this for Joe, please, so he

12 can get all these names?

13 MR. MOFFITT: I only got the one copy Mr. Ferguson

14 gave me.

15 THE COURT: Mr. Ferguson, do you have an extra copy?

16 (Document tendered.)

17 THE COURT: Thank you.

18 I am sorry, Mr. Moffitt. Go ahead.

19 MR. MOFFITT: That's quite all right.

20 THE COURT: Trying to make the record look better.

21 BY MR. MOFFITT:

22 Q. There was a phone number and a fax number for him, right?

23 A. Yes, sir.

24 Q. And I guess this is an attempt to spell "Tucson." That's

25 what I came up with.



- 1 A. I would agree with you.
- 2 Q. Seems to me that's the area code for that.
- 3 Did you make any effort to interview him?
- 4 A. No.
- 5 Q. Okay.
- 6 And No. 8, that's Los Angeles, right? "Ghassan
- 7 El-A'she" or A'she?
- 8 A. Correct.
- 9 Q. With a hyphen in between?
- 10 A. Uh-huh.
- 11 Q. You have both a phone number and a fax number, correct?
- 12 A. Correct.
- 13 Q. Any effort to interview him?
- 14 A. Ghassan El-A'she, as I understand, was, again, part of a
- 15 Dallas investigation. I believe he had also been indicted on
- 16 an InfoCom investigation that concerned financial dealings
- 17 with Mousa Abu Marzook.
- 18 Q. So, you knew that somebody was suggesting that he had
- 19 information concerning Mousa Abu Marzook, correct?
- 20 A. Yeah, that would be a safe assumption.
- 21 Q. Did you make any effort to get him to cooperate at all in
- 22 your investigation?
- 23 A. I don't know what his status was -- his legal status. As
- 24 far as whether or not he was willing to -- I'm sure he had
- 25 representation.



1 Q. Did you make any effort to get him to cooperate in your  
2 investigation?

3 A. Not that I recall.

4 Q. "Isam El-Saraj." Do you see that?

5 A. Yes, sir.

6 Q. Washington, right?

7 A. Yes.

8 Q. And, then, there's a 703 phone number, correct?

9 A. Yes, sir.

10 Q. You know 703 is a Virginia area code, correct?

11 A. Correct.

12 Q. All right.

13 Did you speak with him?

14 A. No.

15 Q. Did you make any effort to speak with him?

16 A. No.

17 Q. All right.

18 "Omar El-Sobani," East Lansing. There is a phone  
19 number there, correct?

20 A. Yes, sir.

21 Q. Did you make any effort to contact Mr. Saboni?

22 A. No.

23 Q. No. 11 is "Ismael Jaber," right?

24 A. Yes, sir.

25 Q. Chicago --





1 A. Yes, sir.

2 Q. -- right?

3 Phone number and fax number, correct?

4 A. Correct.

5 Q. Did you try to contact him?

6 A. I don't recall. I don't believe so. The name's not  
7 familiar.

8 MR. FERGUSON: Judge, let me see if I -- I don't want  
9 to steal Mr. Moffitt's thunder here, but --

10 MR. MOFFITT: Why did you get up if you didn't want  
11 to steal my thunder?

12 (Laughter.)

13 MR. FERGUSON: I think we can save us some time and  
14 some trouble.

15 There were not efforts to -- with the exception of  
16 Yassir Bushnaq and Ismael El-Barasse and Fawaz Mushtaha, there  
17 were not efforts undertaken to contact, interview in this  
18 investigation any of these other people, either because they  
19 could not be found; they were the subject of investigation;  
20 they had charges pending on them; or, because we simply don't  
21 confront everybody that we're looking at. No effort was made  
22 except for those three people.

23 THE COURT: Mr. Moffitt?

24 MR. MOFFITT: Now, the problem is that I have asked  
25 him several questions. He said he made no effort. He didn't



1 say he made no effort because they had charges on them. He  
2 mentioned one or two people that may have had charges. Then  
3 that prompted another series of questions from me. I'd like  
4 to continue.

5 THE COURT: You may continue.

6 MR. MOFFITT: Thank you.

7 BY MR. MOFFITT: .....

8 Q. We were at Isam El-Saraj, right? With the 703 phone  
9 number, correct?

10 A. No, I think we had gotten past him, actually. We were  
11 down to number --

12 THE COURT: 11.

13 BY THE WITNESS:

14 A. -- 11.

15 BY MR. MOFFITT:

16 Q. Okay.

17 Ismael Jaber, right?

18 A. Yes, sir.

19 Q. Right here in Chicago was his phone number and fax number,  
20 right?

21 A. Yes, sir.

22 Q. What did you do with respect to contacting him?

23 A. I don't believe we attempted to contact him at all.

24 Q. What kind of charges did he have against him?

25 A. I'm not aware of any charges against him.



- 1 Q. Okay.
- 2 Was there any impediment at all, that you were aware
- 3 of, in contacting Mr. Jaber?
- 4 A. No, other than not having -- other than this list -- a
- 5 backdrop for any reason to give him a call.
- 6 Q. Okay.
- 7 Now, "Mohammad Abbas" has a phone number, correct?
- 8 801-583- --
- 9 A. Correct.
- 10 Q. -- 3325, right?
- 11 A. Correct.
- 12 Q. Did you phone Mr. Mohammad Abbas?
- 13 A. No.
- 14 Q. Okay.
- 15 Did you attempt to contact him in any way?
- 16 A. No.
- 17 Q. Okay.
- 18 Was he under criminal indictment?
- 19 A. Not that I'm aware.
- 20 Q. Okay.
- 21 How about "Fawaz Mushtaha"?
- 22 A. Mushtaha.
- 23 Q. Mushtaha.
- 24 A. Yes.
- 25 Q. Thank you.



1 A. You're welcome.

2 Q. He has a phone number. Another 703 number, correct?

3 A. Correct.

4 Q. Did you contact him?

5 A. He was subject of FBI investigation.

6 Q. Oh, I see.

7 ..... Was he subpoenaed before your grand jury? .....

8 A. No.

9 Q. Where was the investigation?

10 A. I'm trying to think if it was out of our Washington field  
11 office. And perhaps it may have had ties to another field  
12 office.

13 Q. I see.

14 Did you make any efforts to see if he would cooperate  
15 in your investigation?

16 A. I'm trying to remember. I think he may have left the  
17 country.

18 Q. You're not sure?

19 A. I'm pretty sure he did, but --

20 Q. When did he leave the country?

21 A. That, I don't recall.

22 Q. All right.

23 Do you recall whether it was before or after you  
24 began your investigation?

25 A. No -- I would surmise it was after.



1 Q. Okay.

2 "Izzat Mansour," okay? You see that name?

3 A. Yes, sir.

4 Q. And there are -- and there's a fax number and a phone  
5 number, correct?

6 A. Correct.

7 Q. Did you contact him?

8 A. I do not believe so. The name is very familiar to me;  
9 but, sitting here right now, I can't put into context where.  
10 I don't believe we attempted to contact him, but --

11 Q. Was it --

12 A. -- the name is familiar to me.

13 Q. Well, was he under charges or --

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

15 Q. Okay.

16 "Hamood Salem." You have a number for him, as well,  
17 correct?

18 A. Yes, sir.

19 Q. Stillwater, Oklahoma, right? 405?

20 A. Yes, I see "Stillwater." I --

21 Q. All right.

22 You're not familiar with the area code for Oklahoma?

23 A. No, sir, I'm not.

24 Q. Okay.

25 Did you make an effort to contact him?



- 1 A. No.
- 2 Q. What charges was he under that didn't -- that you didn't
- 3 want to contact him?
- 4 A. I'm not aware of any charges he was under.
- 5 Q. Did you issue a subpoena for him to the grand jury?
- 6 A. No.
- 7 Q. "Nader Jawad," Washington, D.C., right -- or Washington?
- 8 A. Yes, sir.
- 9 Q. Another 703 phone number?
- 10 A. Yes, sir.
- 11 Q. Did you contact him?
- 12 A. No.
- 13 Q. What charges was he under?
- 14 A. I'm not aware of any.
- 15 Q. Did you subpoena him before your grand jury?
- 16 A. No.
- 17 Q. "Rasheed Qarman," Alabama, right?
- 18 A. Yes, sir.
- 19 Q. Phone number there, too?
- 20 A. Correct.
- 21 Q. Okay.
- 22 Did you contact him?
- 23 A. No, not that I'm aware of.
- 24 Q. What charges was he under?
- 25 A. None that I'm aware of.



- 1 Q. Okay.
- 2 Now, "Shukri Abu Baker," right?
- 3 A. Yes, sir.
- 4 Q. Indianapolis?
- 5 A. Yes, sir.
- 6 Q. Now, you knew that was wrong?
- 7 A. Correct.
- 8 Q. Because Shukri Abu Baker was living in Dallas, Texas,
- 9 right, at that time? Or Fort Worth or Dallas?
- 10 A. I believe so, correct. You're correct.
- 11 Q. Right?
- 12 A. Yes.
- 13 Q. And you knew him to be associated with the Holy Land
- 14 Foundation, correct?
- 15 A. Correct.
- 16 Q. And you also knew that -- well, let me ask you this: When
- 17 you were beginning your grand jury investigation, amongst the
- 18 things that you listened to was the Philadelphia -- what was
- 19 described as the Philadelphia meeting, right?
- 20 A. Yes. I mean, there were recordings of the meeting in
- 21 Philadelphia. The actual translation of that meeting was
- 22 conducted by linguists at our Dallas field office.
- 23 Q. But when your investigation started in 2002, that had
- 24 already been translated; had it not?
- 25 A. There were probably summary translations of it; but, no,



1 not in verbatim. I'm not aware.

2 Q. Well, that was -- that meeting occurred when?

3 A. October of 1994.

4 Q. '94.

5 So, it was in all of that evidence that was either in  
6 Mississippi or in Washington and had sat there for all those  
7 years, right?

8 A. Or Philadelphia.

9 Q. Oh, Philadelphia.

10 There was evidence in Philadelphia, too?

11 A. Yes, sir.

12 Q. Okay.

13 And how did the evidence get to Philadelphia?

14 A. That's where the meeting was.

15 Q. Oh, okay.

16 So, it was maintained in the Philadelphia field  
17 office?

18 A. Yes, sir.

19 Q. All right.

20 When you started your investigation, you must have  
21 read the summaries, right, at least?

22 A. Yes, sir.

23 Q. And, so, you were aware that Shukri Abu Baker was at the  
24 Philadelphia meeting?

25 A. Correct.





1 Q. You were also aware from the wiretap -- well, let me --  
2 you had a bug at the meeting, right?

3 A. Yes, sir.

4 Q. The FBI had a bug in the Philadelphia meeting?

5 A. Yes.

6 Q. So, it heard most, if not all, of what was going on in the  
7 Philadelphia meeting in 1993?

8 A. Yes. As with any meeting, there were overlapping  
9 conversations; but, yes.

10 Q. And, so, you knew -- you also had at that time a wiretap  
11 on Dr. Ashqar's telephone, right?

12 A. Yes.

13 Q. So, you knew that there were conversations between  
14 Dr. Ashqar and Shukri Abu Baker, right?

15 A. Correct. And I believe there was one conversation about  
16 whether or not to invite Mohammad Jarad to the Philadelphia  
17 meeting.

18 Q. There was also a conversation about inviting Yassir  
19 Bushnaq, right?

20 A. I don't recall.

21 Q. Okay.

22 When did you become aware of the Dallas or Fort Worth  
23 or Texas investigation?

24 A. That would have probably been in 2002.

25 Q. When you initiated your investigation?



1 A. I don't remember if at the time I initiate- -- well, at  
2 the time I was brought onboard this investigation. But it  
3 would have been probably shortly thereafter.

4 Q. Well, in fact, evidence was shared between these two  
5 investigations; was it not?

6 A. Yes. I mean, Dallas certainly had an interest in some of  
7 the evidence that we had. As a matter of fact, I believe in  
8 their trial, evidence from the Ashqar search and also  
9 evidence -- the Philadelphia meeting was entered as evidence  
10 in their trial.

11 Q. How about evidence from the El-Barasse search?

12 A. Yes, that, as well.

13 Q. All right.

14 So, you and Dallas -- or Fort Worth -- were  
15 proceeding along parallel lines, correct?

16 A. Things overlapped. I wouldn't say they were parallel  
17 lines.

18 Q. Okay.

19 And I'm sure that you had discussions with them,  
20 correct, about your investigation and their investigation?

21 A. From time to time.

22 Q. And decisions about who to subpoena and talk to sometimes  
23 were made in discussions with them, correct?

24 A. Correct.

25 Q. All right.



1                   And I'm sure what information you got that you  
2 thought was relevant to their investigation, you gave them;  
3 and, what information they got that you thought was -- they  
4 thought was -- relevant to your investigation, they gave you,  
5 correct?

6   A. To the best of our abilities, yes, we shared information.

7   Q. All right.

8                   And the Dallas/Fort Worth investigation was the  
9 investigation into Holy Land, correct?

10   A. Correct.

11   Q. And that's the case that resulted recently in the hung  
12 jury, correct?

13   A. Correct.

14   Q. All right.

15                   Now, Shukri Abu Baker was a target of their  
16 investigation?

17   A. Yes.

18   Q. When did you become aware of that?

19   A. It would have been around the same time. I knew -- I  
20 would say 2002.

21   Q. And Abdelhaleem Ashqar was a target of your investigation?

22   A. Correct.

23   Q. And he was -- he remained a target of your investigation,  
24 whether he spoke to you or not; did he not?

25   A. Correct.



1 Q. In fact, when he came to the grand jury, he was informed  
2 that he was, indeed and in fact, a target of the  
3 investigation, correct?

4 A. I'm not so sure in so many words. I'd have to go back and  
5 look.

6 Q. Okay.

7 ..... And essentially what would happen with the immunity  
8 is only statements that he made could not be used against him,  
9 directly or indirectly, if he made any statements, right?

10 A. Truthful statements.

11 Q. Truthful statements.

12 A. Uh-huh.

13 Q. He never lied to you about anything, did he?

14 A. I'm not aware that he did, no.

15 Q. Okay.

16 But he could still be prosecuted with evidence that  
17 was independent of his statements, right?

18 A. Yes. I mean, I don't think -- I've seen the term -- I'm  
19 not a lawyer -- "transactional immunity." I believe --

20 Q. He wasn't given transactional immunity. He was given only  
21 use immunity on under 6001, 6002, correct?

22 A. That, I couldn't answer.

23 Q. All right.

24 Were you aware of whether or not he had been given  
25 transactional immunity?



1 A. Well, I was aware of that. I'm -- I'm -- when I said I'm  
2 not aware, I'm -- you're talk -- citing statutes or --

3 Q. Okay.

4 Well, do you know whether he was given transactional  
5 immunity or not?

6 A. He was not given transactional immunity.

7 Q. All right.

8 So, he could still have been prosecuted?

9 A. Correct.

10 Q. Okay.

11 And did you make any effort to contact Shukri Abu  
12 Baker?

13 A. No, I did not.

14 Q. And that was because of his status in the Dallas  
15 investigation?

16 A. Yes.

17 Q. Did you make any attempt to see if Shukri Abu Baker was  
18 willing at all to cooperate?

19 A. I did not.

20 Q. Okay.

21 "Mohamad Abu Ameriyeh," okay? That's -- and I  
22 butchered that name.

23 A. You did as well as I would.

24 Q. Okay.

25 Had a phone number for him, right?



1 A. Yes, sir. It looks like a Los Angeles number.

2 Q. All right.

3 Did you contact him?

4 A. I did not.

5 Q. What impediment was he acting under? Was he being  
6 charged? Was he being a target of anything?

7 A. I'm not aware of any.

8 Q. Okay.

9 "Jamal Said." Chicago, right?

10 A. Yes, sir. Yes, sir.

11 Q. Do you know where Jamal Said was in 2002 when you began  
12 your investigation?

13 A. Yes, sir.

14 Q. Where was he?

15 A. Chicago. Bridgeview.

16 Q. All right.

17 Did you subpoena him?

18 A. No.

19 Q. Did you talk to him?

20 A. No.

21 Q. Any impediment in talking to him?

22 A. Not that I can answer to.

23 Q. What do you mean not that you can answer me. I don't know  
24 what that means, sir. Why can't you answer?

25 MR. FERGUSON: Can I have a sidebar, Judge?



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BY MR. MOFFITT:

Q. I want to know in 2002, when you began your investigation, and through 2004, were you aware of any impediment in talking to this man?

THE COURT: Sidebar?

MR. FERGUSON: Yeah.

THE COURT: Yes, we can have a sidebar.

(Proceedings had at sidebar, consisting of Pages 120 through 125, were ordered sealed by the Court:)



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(Proceedings had in open court:)

THE COURT: Mr. Moffitt, you have indicated you have approximately an hour left on your cross-examination.

Is that correct, sir?

MR. MOFFITT: Yes, ma'am.

THE COURT: Okay.

In light of that, we will take about an hour break for lunch and pick up here at about five after 2:00.

We will not be able to go this evening past 4:00 o'clock. So, I hope we can conclude everything by 4:00 o'clock. If not, I will give you a date next week to come back and conclude this. But my hope -- and I think it is your hope, as well -- is to conclude things by 4:00 o'clock today.

So, we will break until about five after 2:00.

(Whereupon, a recess was taken at 1:06 o'clock p.m., until 2:05 o'clock p.m., of the same afternoon.)