

UNITED STATES

v.

AHMED MOHAMMED AHMED  
HAZA AL DARBI

STIPULATION OF FACT

December 20, 2013

This Stipulation of Fact is entered into by the Prosecution and Defense knowingly and voluntarily in the case of United States v. Ahmed Mohammed Ahmed Haza al Darbi ("the Accused"). It is hereby stipulated and agreed, by and between the Prosecution and Defense, with the express consent of the Accused, that the following facts are true:

1. The Accused is an alien unprivileged enemy belligerent, as defined by the Military Commissions Act of 2009 (M.C.A.). The Accused is, and has been at all times relevant to these proceedings, a person subject to trial by military commission under Section 948c of the M.C.A. The Accused has never been a citizen of the United States and is therefore an "alien."

2. The Accused is an "enemy belligerent" because he has engaged in hostilities against the United States or its coalition partners; has purposefully and materially supported hostilities against the United States and its coalition partners; and was part of al Qaeda at the time of the alleged offense. The Accused is an "unprivileged" belligerent because he does not fall within one of the eight categories enumerated under Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War:

(1) He is not a member of the armed forces of a Party to the conflict, including militia or volunteer corps forming part of such armed forces;

(2) He is not a member of some other militia or volunteer corps, including organized resistance movements, belonging to a Party to the conflict and operating in or outside of their own territory, which must fulfill the following conditions:

- (a) being commanded by a person responsible for his subordinates;
- (b) having a fixed distinctive sign recognizable at a distance;
- (c) carrying arms openly; and
- (d) conducting operations in accordance with the laws and customs of war;

(3) He is not a member of regular armed forces who professes allegiance to a government or authority not recognized by the United States;

(4) He did not accompany the armed forces without actually being a member thereof, such as civilian members of military aircraft crews, supply contractors, and others who have received authorization from the armed forces which they accompany, from whom they received some sort of identification card;

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(5) He is not a member of a merchant marine or civil aircraft crew of a Party to the conflict;

(6) He is not an inhabitant of a non-occupied territory who spontaneously took up arms to resist invading forces and who carried arms openly and respected the laws and customs of war;

(7) He is not a person who belonged to the armed forces of the occupied country and has been interned, after being originally liberated due to his allegiance to those armed forces; and

(8) He is not a person belonging to one of the above categories who has been interned by a neutral or non-belligerent Power on its territory.

The Accused's Activities Took Place in the Context of and  
Were Associated with Hostilities

3. In August 1996, Usama bin Laden issued a public "Declaration of Holy War Against the Americans Who are Occupying the Land of the Two Holy Places," in which he called for the murder of U.S. military personnel serving on the Arabian Peninsula.

4. In or about March 1997, in an interview with CNN, Usama bin Laden promised to "drive Americans away from all Muslim countries," and warned the U.S. "to get out" if it did "not want to have its sons who are in the army killed." Usama bin Laden stated that he could "not guarantee" the "safety" of U.S. civilians since they were "not exonerated from responsibility" for U.S. foreign policy "because they chose the government and voted for it despite their knowledge of its crimes." He promised that if his demands were unmet, he would send the U.S. "messages with no words because" the U.S. President "does not know any words."

5. On or about February 1998, Usama bin Laden and others, under the banner of the "International Islamic Front for Jihad against the Jews and the Crusaders," issued a fatwah (purported religious ruling) claiming that it was "God's order" and an "individual duty for every Muslim" to "kill Americans . . . wherever and whenever" found. The fatwah directed all Muslims to "kill the Americans and their allies, civilians and military" and to "plunder their money."

6. On or about May 28, 1998, in an interview with ABC News in Afghanistan, Usama bin Laden reiterated the February 1998 fatwah call for killing Americans, emphasizing that, "We do not differentiate between those dressed in military uniforms and civilians. They are all targets in this fatwah." Usama bin Laden further stated that if his demands were not met, al Qaeda would "send" to the U. S. "the wooden boxes and the coffins" containing "the corpses of American troops and the American civilians." Usama bin Laden also noted that "American civilians were asked to gather information on Muslims and observant Muslim youth and to convey to the security section in the embassy."

7. On or about May 29, 1998, Usama bin Laden issued a statement entitled, "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders,"

in which Usama bin Laden stated that “it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God.”

8. Between 1989 and 2001, al Qaeda established training camps, guest houses, safe houses, and business operations in Afghanistan, Pakistan, the United Arab Emirates (“UAE”), Yemen, and other countries for the purpose of training and supporting violent attacks against the property and nationals (both military and civilian) of the United States and other coalition countries.

9. Since 1989, members and associates of al Qaeda have carried out numerous terrorist attacks, including but not limited to the attacks against the American Embassies in Kenya and Tanzania in August 1998; the attack against USS COLE (DDG 67) in October 2000; and the attacks on the United States on September 11, 2001.

10. Following the attack on USS COLE (DDG 67), al Qaeda released a video titled *The Destruction of the American Destroyer USS COLE*. This was designed to recruit and incite terrorist operatives to violent attacks on the United States and coalition partners. The *USS COLE* video is an extended exposition of the aims and purpose of the al Qaeda organization.

11. On or about October 14, 2002, Usama bin Laden issued a statement claiming responsibility for the attack against MV *Limburg*, a civilian oil tanker registered under the French flag. Usama bin Laden stated, “By exploding the oil tanker in Yemen, the holy warriors hit the umbilical cord and lifeline of the crusader community, reminding the enemy of the heavy cost of blood and the gravity of the losses they will pay as a price for their continued aggression on our community and looting of our wealth.”

12. In mid-November 2001, Usama bin Laden stated that al Qaeda was responsible for the September 11, 2001 attacks on the United States.

13. The Accused performed his activities on behalf of al Qaeda and al Qaeda associates.

14. The acts of the Accused described in this Stipulation of Fact constituted or took place within the context of hostilities occurring during an armed conflict.

#### Overview of the Accused’s Criminal Activities

15. After training and/or working at al Qaeda or al Qaeda affiliated training camps beginning in approximately 1997, and after fighting for al Qaeda against the Northern Alliance, the Accused—in about late 2000 or early 2001—began working with a group of al Qaeda operatives, including its leader Abd al Rahim Hussayn Muhammad Abdu al Nashiri (“Nashiri”), on a plot to attack civilian oil tankers in the Strait of Hormuz and/or off the Yemeni coast in the Gulf of Aden. Following the Accused’s arrest, Nashiri and the Accused’s other co-conspirators successfully attacked a French oil tanker, MV *Limburg*, off the coast of Yemen.

16. The Accused attempted to commit the following punishable offenses based on his individual efforts to participate in an attack himself, using a ship eventually named *al Rahal* (which he purchased in the UAE), against a civilian tanker in either the Strait of Hormuz or off the coast of Yemen: Attacking Civilians; Attacking Civilian Objects; Hazarding a Vessel; and Terrorism. In

support of this attempted attack, the Accused covertly traveled on several occasions between Pakistan, Qatar, and the UAE to purchase maritime goods and search for a large attack vessel; moved to the UAE; used al Qaeda funds to purchase a large wooden ship, Global Positioning Systems (GPSs), and other equipment for the attack; moved large amounts of al Qaeda money through the *hawala* system (an untraceable money exchange); purchased a large hydraulic crane to insert in the large ship for the purpose of launching smaller attack boats; registered the ship in various names under the flags of different countries; and set out to sail toward al Mukallah, Yemen, believing that his 95-foot ship would be used for an attack there.

17. The Accused committed the above-enumerated acts with the specific intent to Attack Civilians (a civilian oil tanker); Attack Civilian Objects (same); Hazard a Vessel (same); and commit Terrorism, first in the Strait of Hormuz, then off the Yemeni coast. The Accused's acts amounted to more than mere preparation, particularly beginning to sail the ship to Yemen, and the Accused's acts apparently tended to effect the commission of Attacking Civilians, Attacking Civilian Objects, Hazarding a Vessel, and Terrorism.

18. The Accused aided and abetted the following punishable offenses arising from the successful attack on MV *Limburg*: Attacking Civilians, Attacking Civilian Objects, Hazarding a Vessel, and Terrorism. In addition to the Accused's above described actions in furtherance of a maritime attack, in late 2001, the Accused requested travel visas for four Yemeni cell members to travel to the UAE. He received those documents and arranged for their delivery to the cell members in February 2002. The Accused arranged the travel and housing for a number of the Yemeni cell members and picked them up at the UAE airport. The Accused also purchased a smaller boat (the type that could be used as an explosives-laden attack boat), and facilitated the training of the Yemeni members in how to operate that boat and how to swim. Members of the Yemeni cell, helped by the Accused, went on to attack MV *Limburg* by moving explosives for the attacks and rigging attack boats.

19. The Accused knew that Nashiri was directing the Accused to reroute the Yemeni operatives to that country in order to conduct an attack there, and the Accused shared the specific intent to facilitate an attack in Yemen. By following Nashiri's orders and undertaking the acts described above, the Accused assisted in the attack, despite the fact that he did not himself perform the substantive offense, did not know its details, and was not even present for the attack, and the attack on MV *Limburg* was a natural and probable consequence of the criminal venture aided and abetted by the Accused.

#### The Accused's Background

20. The Accused, a Saudi national, was born in Taif, Saudi Arabia circa 1975, and was raised in Jizan, Saudi Arabia. In approximately 1992, the Accused joined the Saudi military where he received infantry training and weapons training, including training on a Saudi rifle known as the G-3, on pistols, and on hand grenades. The Accused also attended armorer school. He rose to the rank of corporal, but deserted after almost two years of his four-year military commitment.

#### The Accused's Involvement with Jihad

21. The Accused's introduction to Jihad began in the mid-1990s, when he began attending a Saudi mosque. During that time, Arabs who returned from the fighting in Afghanistan and the Balkans greatly influenced the Accused. He became more committed to violent extremism and quit his job to travel to the Balkans to fight. The Accused accepted an offer from a terrorist facilitator at the mosque to help arrange his travel to the Balkans.

22. In approximately 1995, the Accused left Saudi Arabia and traveled to the Balkans to engage in the Bosnian conflict on behalf of the Bosnian Muslims. When he arrived, he went to a paramilitary training camp called Arrowchest (phonetic spelling), located in or near Zenica, Bosnia. While there, he received basic military training from Arab fighters in the use of the Kalashnikov series of rifles and rocket propelled grenade launchers.

23. After completing his initial training at Arrowchest, the Accused went to the nearby al Massada Camp. While the Accused was at al Massada, the Bosnian conflict ended with the implementation of the Dayton Accords, which required the expulsion of foreign fighters who had entered the region to engage in hostilities. The Accused was photographed, fingerprinted, and expelled to Saudi Arabia. (Enclosure 1)

#### The Accused Attends Al Qaeda Training Camps

24. After his expulsion from Bosnia in approximately 1996, the Accused returned to Saudi Arabia for about one year. While in Saudi Arabia, he kept in contact with Arab fighters he knew from his time in the Balkans. He also met other Arab fighters who had been to Afghanistan, including Khalid al Mihdhar, one of the al Qaeda hijackers on American Airlines Flight 77, which crashed into the Pentagon on September 11, 2001. The Accused met with Khalid al Mihdhar repeatedly in Mecca. Al Mihdhar had recently returned from Afghanistan and told the Accused about the rigorous training regimen at the Khalden terrorist training camp.

25. In 1996, the Khalden camp was located in Khost Province, Afghanistan. (Enclosure 2) It was one of several military-style terrorist training camps in Afghanistan established to train recruits of different nationalities for the purpose of engaging in violent paramilitary attacks. At Khalden, terrorist recruits had the opportunity to receive small arms training, mountain warfare training, and indirect fire training in mortars and artillery.

26. The Khalden camp was under the principal direction of Ibn Sheikh al Libi and Abu Zubaydah. Ibn Sheikh al Libi was the *emir* (prince or leader) of the Khalden camp. He was in charge of overall camp operations. Abu Zubaydah oversaw the guest houses associated with Khalden and arranged financing and falsified travel documents to maintain a steady flow of trainees to and from the training camp. The camp was fully connected into the network of terrorist training camps and organizations that operated in Afghanistan, including al Qaeda.

27. Around 1996, when he was approximately 22 years of age, the Accused arranged to receive training at Khalden. The Accused requested the aid of terrorist facilitators to provide him with the necessary sponsorship documents and the means to travel to Afghanistan. The Accused then set out for Afghanistan.

28. The Accused traveled with other terrorist recruits from Saudi Arabia to Karachi, Pakistan, and then to Islamabad and Peshawar, two other cities in Pakistan. While in Pakistan, two

Afghan males took the Accused and his group to a local market to purchase traditional Afghan clothing to allow them to blend in with the local population.

29. During this time, the Accused and the others stayed in Abu Zubaydah's guesthouse. Guesthouses in Afghanistan and Pakistan were operated by terrorist groups in conjunction with the terrorist training camps. The guesthouses served as intermediate stops to lodge terrorist recruits and ensured they were suitable for training, to weed out potential spies, and to otherwise control and monitor the flow of trainees. From Abu Zubaydah's guesthouse, the Accused traveled to Afghanistan to receive training at the Khalden training camp.

30. While at Khalden, the Accused successfully completed weapons training, including training on Kalashnikov rifles, PK machine guns, Makarov pistols, hand grenades, and an artillery canon.

31. During his three-month training regimen at Khalden, the Accused saw Usama bin Laden propaganda posted throughout the camp declaring that the Saudi government and the United States military were opposed to Islam.

32. Also during his time at Khalden, the Accused became acquainted with several al Qaeda operatives, including Samir al Hada, Jaffar al Hada, Abdul Aziz bin Attash, and Abdul Aziz's younger brother, Hassan bin Attash.

#### The Accused Meets With and Asks Usama bin Laden for Advanced Terrorist Training

33. Toward the end of his training at Khalden, Ibn Sheikh al Libi told the Accused that he was good friends with Usama bin Laden, and that the Khalden camp provided Usama bin Laden's camps with trained fighters. Ibn Sheikh al Libi offered the Accused the opportunity to meet Usama bin Laden. Ibn Sheikh al Libi selected the Accused because Usama bin Laden was interested in meeting Saudi nationals. The Accused accepted the offer. The Accused went to Usama bin Laden's compound outside of Jalalabad, Afghanistan. There, he met with Usama bin Laden personally for over an hour. Usama bin Laden explained that the Saudi government was corrupt and allied with the infidels, specifically the United States. The Accused agreed with Usama bin Laden and believed that the United States was improperly occupying Muslim lands.

34. The Accused was aware that al Qaeda terrorist training camps were selective and required sponsorship from a known affiliate in order to be accepted into a camp. For this reason, when asked by Usama bin Laden what he could do for the Accused, the Accused requested sponsorship and assistance in getting additional training at al Qaeda camps. To that end, Usama bin Laden wrote a personal recommendation for the Accused.

#### The Accused Trains at the Al Qaeda Jihad Wahl Camp

35. Several days after his meeting with Usama bin Laden, the Accused went to al Qaeda's Jihad Wahl training camp (also known generically as "al Farouq") near Khost, Afghanistan. The Accused presented his letter from Usama bin Laden to the camp leaders when he arrived. The camp leaders immediately accepted him based on Usama bin Laden's recommendation.

36. Jihad Wahl was an al Qaeda training camp. The manuals at the camp had al Qaeda markings. At Jihad Wahl, al Qaeda terrorists received advanced paramilitary training in small arms, anti-aircraft guns, explosives, maps, and tactics.

37. The Accused spent three months at Jihad Wahl, during which time he received advanced military and ideological training, which included working with small arms, mortars, artillery, and maps.

#### The Accused Assumes *Kunyas* to Conceal His Identity

38. A central aspect of the operational environment of the terrorist training camps and al Qaeda organization is the use of *kunyas* (aliases or *noms de guerre*), which conceal the true identities of trainees, camp staff, and ultimately, terrorist operators. Often, the passports of trainees and operatives were collected at the guesthouses to protect terrorists' identities, and were falsified to conceal where they had been, whom they were, and/or enable them to travel internationally.

39. Throughout the time relevant to these charges, the Accused was known by and/or used the following names and/or *kunyas*: Abd al Aziz, Abd al Aziz al Janoubi, Abd Aziz al Makki, Abdel al Aziz, Abdel Aziz al Makki, Abdel Rahim Abu Hudaifa al Makki, Abdel Rahim al Janoubi, Abdul al Aziz al Makki, Abed al Aziz, Abed al Aziz al Makki, Abed Rahim al Janoubi, Ahmad Mohamed A. Haza, Ahmad Mohamed A. Hazaifa, Ahmad Muhammed Ahmad Haza, Ahmed Muhammad Ahmed Haza al Darbi, Ahmed Mohamed al Darbi, Ahmed Mohammed al Darbi, Ahmed Mohd al Darbi, and Ahmed Mohd Ahmed al Darbi.

#### The Accused Fights for and Deepens His Ties to al Qaeda

40. In the spring of 1997, the Accused volunteered for combat against the Northern Alliance, which was fighting against the Taliban and al Qaeda for control of Afghanistan. When the Accused and his fellow al Qaeda fighters arrived at the battlefield, they came under the direction of senior al Qaeda leader Abd al Hadi al Iraqi. The Accused and other al Qaeda fighters participated in a major engagement against the Northern Alliance outside of Kabul. After the Northern Alliance began their advance on the city of Kabul, the Accused fled Afghanistan and traveled back to his parents' home in Saudi Arabia sometime in the spring or early summer of 1997.

41. In 1998, one of the Accused's al Qaeda associates was arrested in Saudi Arabia. At about the same time, the Accused knew that the Saudi government was scrutinizing passports for Pakistani visa stamps, because Pakistani stamps were indicative that an individual had traveled to Afghanistan to attend terrorist training camps. Fearing that he might also get arrested, the Accused intentionally damaged his passport and obtained a new passport in Jeddah, Saudi Arabia. He then fled to Yemen.

42. In Yemen, the Accused made his way to the home of Abu Jaffar al Hada ("Abu Jaffar") whom the Accused knew from the Khalden training camp in Afghanistan. Abu Jaffar's family had strong connections to al Qaeda. During the period of time the Accused remained in Abu Jaffar's family home, Usama bin Laden communicated regularly with individuals at that residence.

43. During the Accused's time at Abu Jaffar's home, Khalid al Mihdhar was present. Khalid al Mihdhar was scheduled to marry Abu Jaffar's sister, Huda al Hada. Khalid al Mihdhar advised the Accused to marry into Abu Jaffar's family so the Accused married Abu Jaffer's sister, seventeen-year-old Muna al Hada, in a joint ceremony with Khalid al Mihdhar and Huda al Hada. Once married, the Accused returned to Saudi Arabia with Muna al Hada and lived with his parents. In Saudi Arabia, the Accused remained in contact with Khalid al Mihdhar; the two men met approximately three or four times in Mecca.

#### The Accused Becomes an al Qaeda Trainer

44. In June 1998, the Accused and his wife returned to the home of her parents in Yemen. On August 7, 1998, al Qaeda operatives used vehicle-borne improvised explosive devices to attack the United States Embassies in Nairobi, Kenya, and Dar al Salam, Tanzania. In response to the attack, President Bill Clinton ordered a series of cruise missile strikes against al Qaeda facilities in Afghanistan and Sudan. Aware of the attack on the U.S. embassies and the subsequent U. S. missile strikes, the Accused embarked to rejoin his cell in Afghanistan.

45. After his marriage, the Accused obtained a Yemeni passport in the name of Ahmed Mohammed A. Haza for the purpose of traveling to Afghanistan. (Enclosure 3) In about September 1998, the Accused traveled through Pakistan and returned to Afghanistan with his wife. When he arrived in Afghanistan, the Accused became a trainer at al Qaeda's al Farouq training camp. As a trainer, the Accused knew he was preparing violent extremists whose mission was to take part in future terrorist operations against the United States and/or its coalition partners. The Accused trained terrorists in the use of small arms, to include the Kalashnikov rifle, and provided support as a supplier for the camp. When the camp moved to Kandahar, the Accused first continued as a weapons trainer in Kabul at the Logar training camp before moving down to Kandahar. The *emir* of the al Farouq camp during this time was senior al Qaeda member Abu Faraj al Libi. The Accused received 60 Pakistani rupees a month as salary for training and supporting terrorist operatives.

46. Shortly after the birth of his first child in Kabul around March 2000, the Accused moved with his wife and child to the al Qaeda compound near Kandahar Airport, where he worked as a guard at the compound. The compound was the epicenter for al Qaeda personnel and activity, as it was Usama bin Laden's main base of operations. In addition to providing housing, al Qaeda continued to pay the Accused's salary.

#### The Accused Joins the al Qaeda Boats Plot under Nashiri's Leadership

47. On October 12, 2000, USS COLE (DDG 67) was refueling in the port of Aden, Yemen. Two men dressed in civilian clothes drove a small boat alongside USS COLE (DDG 67). After the two men waved in a friendly gesture to a U.S. Navy Sailor on board USS COLE (DDG 67), the men detonated concealed explosives and ripped a hole approximately 30-foot by 30-foot in the side of USS COLE (DDG 67). Seventeen U.S. Navy Sailors were killed and thirty-seven U.S. Navy Sailors were injured in the attack, and USS COLE (DDG 67) suffered severe damage.

48. The Accused was residing in a small family compound in or around Kandahar, Afghanistan, at the time of the USS COLE (DDG 67) attack. After the attack, Usama bin Laden fled his own



residential compound, which was also located in or around Kandahar, Afghanistan, and told his followers to take security measures. Around this same time, an individual surprised the Accused at his door, in the small family compound, yelling "God is great," and "We blew up a ship in Yemen." There was a large celebration in response to the attack. As a precaution, the compound was evacuated in anticipation of a retaliatory U.S. military attack. In January 2001, Usama bin Laden, on behalf of al Qaeda, publicly claimed credit for the attack on USS COLE (DDG 67). After the attack, al Qaeda members and associates in Afghanistan widely exalted Nashiri as a hero for successfully leading the attack.

49. Between in or about late 2000, and in or about early 2001, the Accused traveled with his wife and child to Karachi, Pakistan, and met with Nashiri. The Accused had met Nashiri while fighting the Northern Alliance in 1996 and again in 1997 in Yemen. At the time of his meeting, the Accused knew that Nashiri was a high-level al Qaeda terrorist who was responsible for planning and conducting terrorist acts, including the bombing of the USS COLE (DDG 67). Before the bombing, the Accused had seen Nashiri in Afghanistan and noticed that Nashiri was excited, as if expecting a bombing or attack. After the attack, the Accused was aware that others regarded Nashiri as a hero for his success in the attack. Later, when the Accused was assisting Nashiri with another boats plot (described below), Nashiri boasted that the terrorists he had selected for the attack on USS COLE (DDG 67) had performed well. Nashiri also described an instance in which a boat intended for a similar operation had become stuck in the mud and that Nashiri had difficulty pulling it free. This was consistent with the events of January 2000, during which al Qaeda operatives, led by and including Nashiri, attempted to attack USS THE SULLIVANS (DDG 68) while it was refueling in Aden, Yemen. When the operatives' explosive-laden boat foundered in the surf, the attack on January 3, 2000, on USS THE SULLIVANS (DDG 68) failed. The two would-be suicide bombers could not immediately free the boat and Nashiri and his co-conspirators had to come back later to retrieve the boat and explosives.

50. During their meeting in Karachi, Nashiri told the Accused that he needed his assistance with a terrorist operation. With financial assistance from Nashiri, the Accused continued with his initial decision to send his family to the home of his wife's relatives. Once his family departed, the Accused met with Nashiri in an apartment in Karachi, Pakistan. Also present were Mu'awiya, Ahmed Muhammad Husayn Ghulam Rabbani ("Abu Badr"), and Hassan Bin Attash. The apartment was an al Qaeda safe house run by Abu Badr. The Accused understood that Abu Badr and Hassan Bin Attash would assist in a plot Nashiri envisioned and that Abu Badr would stand in for Nashiri when Nashiri was in Afghanistan.

51. Abu Badr was instrumental to Nashiri's operations during this period. Abu Badr provided safe houses, vehicles, communication equipment, and other logistics for Nashiri when Nashiri was in Pakistan. Nashiri relied heavily on Abu Badr in Pakistan. When Nashiri traveled to Afghanistan, Abu Badr relayed instructions and information between Nashiri and the Accused. Hassan Bin Attash traveled with Nashiri when he went to Afghanistan and at times relayed messages between Nashiri and senior al Qaeda members.

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### The Accused Acts to Advance the Boats Plot

52. During this time, the Accused began to learn the contours of what would be Nashiri's boats plot. Nashiri had commercial boats in Pakistan. Abu Badr and Hassan Bin Attash periodically took one of these boats into the waters and would say that they were going out fishing. The Accused believed that some of these "fishing trips" were most likely trips to conduct plot-related work at the behest of Nashiri. Also, Abu Badr requested an ocean depth finder or fish finder to use during these trips. Thus, on a trip to Qatar at the direction of Nashiri, the Accused purchased an ocean depth or fish finder for Abu Badr to use.

53. On another occasion, Nashiri directed the Accused to travel from Karachi, Pakistan, to Doha, Qatar, to purchase GPS equipment and search for a boat for the plot. Nashiri provided the Accused with approximately \$1,500 to \$2,000 and instructions to purchase a fiberglass boat 10 meters long and 2 to 3 meters wide. Nashiri took the Accused's Saudi passport and had it altered to conceal his time in Afghanistan by placing entry and exit stamps for Malaysia, Singapore, Saudi Arabia, and Pakistan. (Enclosure 4) Pursuant to Nashiri's direction, the Accused traveled to Doha, Qatar, to purchase a boat. Nashiri did not tell the Accused the exact reason for these purchases, though the Accused knew that they were for a terrorist attack similar to the attack conducted by al Qaeda against USS COLE (DDG 67).

54. In April 2001, while in Doha, Qatar, the Accused telephoned Nashiri, who instructed the Accused to purchase both English and Arabic language GPS systems. The Accused and Nashiri also discussed the prices of the boats that the Accused had found. The Accused purchased the GPS devices, but did not purchase a boat on this trip. The Accused returned to Karachi and gave Nashiri the GPS equipment and the receipts.

55. In 2001, in furtherance of the boats plot, the Accused made three more trips to/from Karachi at Nashiri's behest. When taking these trips, Nashiri instructed the Accused to avoid transiting Dubai or processing through Bahrain because the customs officials in these countries were cracking down on Arab travelers who had been to Pakistan or Afghanistan.

56. The Accused traveled to Sharjah (also referred to as Ash/Al Shariqah or Sharika), Abu Dhabi, and Rasalkhemia (all port locations in the UAE), and Doha, Qatar. On these trips, the Accused obtained prices and catalogs for ships that met Nashiri's specifications. Per Nashiri's direction, the Accused purchased naval charts, a watch, a flashlight, and a Leatherman-type device. When the Accused returned to Karachi, he provided Nashiri with the boat brochures he obtained. Nashiri was impressed with the Accused's performance on the trip and, the Accused believed, took the brochures to Usama bin Laden. During this time, the Accused remained in Karachi with Abu Badr until Nashiri returned with further instructions.

57. In 2001, the Accused was in Karachi, Pakistan. After meeting with Usama bin Laden, Nashiri briefed the Accused, Hassan bin Attash, and Abu Badr on the boats plot, explaining their individual responsibilities and roles in the operation. Together they agreed to support Nashiri in conducting maritime terrorist attacks. Initially, the plot the Accused was involved in focused only on the Strait of Hormuz. However, over the course of time that the Accused worked with

Nashiri and traveled to the UAE, he became aware of a cell in Yemen under Nashiri's control, which was also preparing another maritime operation.

58. The Strait of Hormuz is a narrow, strategically important strait that joins the Gulf of Oman and the Persian Gulf. On the north coast is Iran and on the south coast is the UAE and Musandam, an enclave of Oman. At its narrowest, the Strait is 54 kilometers (34 miles) wide and its depth ranges from 25 to 40 meters (82 to 131 feet). The sea lanes—the area where ships must pass—in the Strait consist of 2-mile wide channels for inbound and outbound tanker traffic as well as a 2-mile wide buffer zone.

59. The Strait of Hormuz is the world's most important oil chokepoint. In 2011, 17 million barrels of oil were transported through it daily. It is the only sea passage to the open ocean for large areas of the petroleum-exporting Persian Gulf.

60. In 2002, the Persian Gulf countries (Bahrain, Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and the UAE) produced about 25% of the world's oil, while holding nearly two-thirds of the world's crude oil reserves. The Organization for Economic Co-operation and Development (OECD) estimates gross oil exports from Persian Gulf countries averaged about 10.6 million barrels per day during 2002, accounting for 27% of the OECD's total gross oil imports. The majority of oil leaving this region passes through the Strait of Hormuz. Closure of the Strait of Hormuz would require the use of longer alternate routes at significantly increased transportation costs.

61. Initially, Nashiri's plan was to conduct an attack similar to the attack on the USS COLE (DDG 67), in that a smaller boat would maneuver into position alongside oil tankers and detonate. Their plan evolved over time, from having one small boat attack an oil tanker, to having multiple explosive-laden boats attack the target tanker in a coordinated effort to sink the ship. The purpose of the attack was to block the narrow straits in the area by sinking a very large oil tanker, which would disrupt the flow of oil and damage the U.S. and world economies. While in Pakistan, the Accused and the others discussed the availability of explosives and that explosives were easier to acquire in Pakistan.

62. The Accused knew that the plan called for attacking a civilian oil tanker, which was not a military target, and that civilians would be seriously injured or killed in the attack. Additionally, he understood that crashing explosive-laden boats into an oil tanker would cause a large oil spill that would cause environmental damage to the ocean and surrounding coastal areas. Finally, the Accused understood that such an attack would disrupt the world oil markets and negatively impact the U.S. economy. The conspirators, to include the Accused, all agreed on the plan and its goals.

63. The Accused's primary task was purchasing a large wooden ship with a hydraulic crane. The hydraulic crane was necessary in order to load smaller explosive-laden boats on board the larger vessel and to unload them for an attack on the oil tanker. The Accused knew his role was crucial to the plan's success. In June 2001, the Accused traveled to the UAE and Doha, Qatar, to find and purchase a large ship. During this trip, the Accused looked at the shorelines and searched the area for a large ship that fit Nashiri's specifications. He informed Nashiri that he had found several large ships that fit the requirements; however, Nashiri was concerned about their prices.

64. In June 2001, pursuant to Usama bin Laden's wishes, Nashiri dispatched the Accused and Mu'awiya to Dubai. In June and August 2001, both the Accused and Mu'awiya received \$10,000 in \$100 bills to advance the boats plot.

65. Mu'awiya liked to boast of his involvement with the attack on USS COLE (DDG 67). Mu'awiya also told the Accused that he and Nashiri moved the explosives used in the USS COLE (DDG 67) attack around Yemen in a Toyota Land Cruiser. Mu'awiya bragged that Nashiri's initial plan called for Mu'awiya to be one of the attackers. However, Nashiri called him back to Karachi, and when he attempted to return to Yemen, Mu'awiya had issues with his passport, so that prevented him from being a part of the attack. Mu'awiya went on to say that Nashiri promised him a role in the next maritime attack that Nashiri was planning in the Strait of Hormuz.

66. At around this time, Nashiri sent the Accused and Mu'awiya an additional \$100,000 to \$150,000 via a *hawala* in Dubai to be used for operational purposes, including purchasing the ship. The Accused and Mu'awiya split the money and opened two bank accounts each. The Accused used his Saudi Arabian passport to open an account in the Arab Bank and an account in the Emirate National Bank. (Enclosure 5) The Accused knew that the money he received was from al Qaeda and was to be used to support the boats plot.

67. A *hawala* is an informal money transferring system based on performance and honor amongst the money brokers. The *hawala* system operates outside the normal or traditional banking channels. Money is transferred via a network of brokers without the money ever moving between locations. A terrorist can go to a *hawala* broker in one city and provide that broker with a sum of money that needs to be transferred to a terrorist in another city and/or country. The *hawala* broker then contacts a *hawala* broker in the recipient terrorist's location and provides the recipient's name and transfer instructions. The recipient terrorist goes to the *hawala* in his location, undertakes the transfer instructions, and receives the funds absent any traceable receipts.

68. The Accused and Mu'awiya initially rented a room in Ajman, UAE. It was approximately a fifteen-minute drive from Dubai, which allowed them to continue to carry out the boats plot. Approximately one month later, the Accused and Mu'awiya moved to nearby Sharjah, UAE, and rented a second apartment.

69. Up to that point, the Accused and Mu'awiya used taxis to travel to various ports to scout for ships. In order to make their search easier, they purchased a 1992 Pontiac Tempest from a used car dealership. Foreigners were not permitted to register vehicles in the UAE, so the Accused registered the vehicle in the name of the dealership, Khartoum Used Cars Trading.

70. The Accused and Mu'awiya did not always get along. As a result, Nashiri sent Abu Badr to Dubai in an attempt to quell the dispute between the two. Abu Badr traveled to the UAE on a fifteen-day visa procured for him by the Accused. [REDACTED]

[REDACTED] Nashiri ordered the three (the Accused, Mu'awiya, and Abu Badr) to return to Karachi after an argument nearly ended in a physical altercation between the Accused and Mu'awiya. Once they were in Pakistan, Nashiri decided that only the Accused

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should return to Dubai because he had a genuine passport which allowed him to travel without suspicion.

71. In or about June 2001, during his visit to Karachi, the Accused met Walid al Shaybah ("Walid"), Munir al Shorabi ("Munir"), and four other Yemenis at Nashiri's apartment. Two of the Yemenis were from Aden, and two were from Hadramawt. Within a week, Walid, Munir, and the four Yemenis traveled back to Yemen.

72. Nashiri arranged for the Accused to receive an additional \$50,000 through another *hawala* transaction. Nashiri sent Mu'awiya back to the UAE to turn over all the bank accounts, telephones, and contact numbers for boat dealers to the Accused. At that point, the Accused was in control of all al Qaeda operational funds in the UAE, approximately \$160,000, to be used for the boats plot.

The Accused Purchases a Large Ship and a Crane to Carry Out Attacks at Sea

73. In about mid-August 2001, Nashiri sent Abu Badr to aid the Accused again. [REDACTED] Nashiri instructed Abu Badr to make sure he and the Accused purchased a large wooden ship that was at least 8 to 10 meters wide, with an overhead crane that had at least a 5-ton cargo capacity.

74. The Accused and Abu Badr conducted an exhaustive search for the vessel, hired mechanics and carpenters to inspect the ships they found, and visited numerous locations to find a crane large enough to meet Nashiri's specifications.

75. The Accused and Abu Badr located a ship that met Nashiri's specifications. The Accused, Abu Badr, and the ship's owner negotiated a sales price. Before the sale was finalized, Abu Badr departed. Abu Badr contacted Nashiri who approved of the purchase price.

76. On September 11, 2001, al Qaeda attacked the United States. On that day, nineteen al Qaeda members including the Accused's brother-in-law, Khalid al Mihdhar, hijacked four civilian airlines in the United States and crashed them into the World Trade Center towers in New York City, the Pentagon, and Somerset County, Pennsylvania. In total, 2,976 people died as a result of these attacks, not including the hijackers. In September and October of that year, Usama bin Laden and other al Qaeda leaders released videotapes claiming responsibility for the attacks. The Accused knew the attacks had occurred, but nonetheless, continued to work in furtherance of al Qaeda's boats plot.

77. After the September 11, 2001 attacks, but before the United States' response in October 2001, the Accused purchased the large ship (named *Adnan*) that he and Abu Badr located in Dubai. (Enclosure 6) The Accused paid the negotiated price of 475,000 Emirati Dirhams (about \$130,000 in 2001) for the ship. (Enclosure 7) The Accused withdrew the money from two of his bank accounts, paid with a bank check, and received the bill of sale. The ship had a 250-ton capacity, was approximately 95 feet long, 30 feet wide, and rode 12 feet out of the water. The entire ship was wooden with a blue colored cabin that accommodated a captain and three to four crew members. It had a non-hydraulic crane which was intended to be replaced by a hydraulic crane capable of lowering and raising the smaller attack boats into the water. Because the plot required a hydraulic crane, the Accused traveled to Sharjah, where he located a hydraulic crane

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in a scrap yard. The crane was capable of lifting 15 tons. The Accused purchased the crane from an individual named Mansoor. The ship was outfitted with a radio and radar and GPS equipment. The Accused also brought his personal hand held GPS unit(s) on the ship.

78. In October 2001, in response to the September 11, 2001 attacks, the United States and its coalition partners launched Operation Enduring Freedom in Afghanistan to find and destroy terrorist compounds and facilities, capture members of al Qaeda and affiliated terrorist organizations, and to put an end to terrorist attacks against the United States stemming from Afghanistan. Despite knowing that the United States had invaded Afghanistan, the Accused knowingly and voluntarily continued to aid al Qaeda in its goal of attacking the United States and/or its coalition partners in a maritime plot.

79. In October 2001, the Accused hired and paid an Emirati citizen named Abdullah Batti Thani Tarish al Shamsi ("al Shamsi") to officially register the ship in al Shamsi's name. (Enclosure 8) On October 24, 2001, al Shamsi registered the ship in his name in Dubai and changed the name of the ship to *Al Shamsi*. The Accused paid him 10,000 Dirhams (about \$2,723 in 2001).

80. In November 2001, the Accused also had al Shamsi assist him with purchasing a vehicle and a cellular telephone. (Enclosure 9) The Accused sold the Pontiac Tempest and later purchased a 1988 Mercedes 180E from the Al Marwa Motors automobile dealership. (Enclosure 10)

81. Nashiri arranged for another \$120,000 to be transferred to the Accused by hand delivery. To that end, a cell member in Pakistan called the Accused and explained that another individual would contact the Accused with the time and place for the money exchange, via the *hawala* system. When the Accused received the information, he went to the meeting place. At the meeting place, an individual asked the Accused if his name was Abd al Aziz. The Accused acknowledged it was his *kunya* and received the money. The Accused deposited the money into two accounts. During this time, the Accused kept a ledger of all the purchases and payments he made on behalf of, and using, al Qaeda funds.

82. Nashiri had initially planned to use Pakistani crew for the attack. Nashiri believed a Pakistani crew was less conspicuous since many of the seamen in the UAE were from South Asia. Nashiri told the Accused to find a Pakistani crew and Nashiri attempted to send two Pakistani al Qaeda members to the Accused to help operate the ship. However, after the Accused filed the necessary paperwork for the Pakistanis to enter the UAE on work visas, their applications were refused.

#### The Accused Aids the Yemeni Cell in the Boats Plot

83. After the Pakistani crew fell through, Nashiri sent the Accused passport photos for four Yemeni cell members who would be part of the *Al Shamsi* crew for the attack in the Strait of Hormuz. (Enclosure 11) In late 2001, the Accused requested the visas for the cell members. Pursuant to Nashiri's direction, in February 2002, the Accused received the visas and entry documents for the Yemenis and conveyed word to Abu Badr. The Accused ultimately arranged for several of the Yemeni cell members to travel to the UAE to be a part of the crew of the 95-foot ship, *Al Shamsi*.

84. On or about February 5, 2002, three of the four Yemeni cell members, for whom the Accused acquired visas, arrived: Munir al Shorabi, Bassam Wajih ("Bassam"), and Fayiz ali Najjar (a.k.a. Abu Shahid), all of whom the Accused knew from Kandahar. (Enclosure 12) The Accused met the three at the airport and introduced himself as "Abd al Aziz," which is one of the Accused's *kunyas*. The fourth cell member, Gharib al Taizi, was wanted by authorities, so he did not travel. During a raid in Afghanistan, coalition forces discovered Gharib al Taizi's and Mu'awiya's martyrdom videos. This video and Taizi's picture appeared in media broadcasts throughout the world. Minwar al Khaladi arrived at around the same time as the Yemenis. Minwar al Khaladi was to replace the Accused.

85. When the Yemeni cell and Minwar al Khaladi arrived, the Accused provided them housing in Ash Sharjah, UAE. The Accused rented the apartment in his name and, after Minwar al Khaladi moved in, the Accused arranged for a telephone line to be installed in the apartment so Minwar al Khaladi would have internet access. Eventually, Nashiri directed the three Yemeni operatives to live on *Al Shamsi*. On approximately February 8, 2002, the three Yemenis moved onto *Al Shamsi*.

86. The Accused knew that the boats plot he was involved in included multiple boats executing an attack in the Strait of Hormuz. He later learned that there was an additional plot to attack a ship off the coast of Yemen. The Accused learned from Bassam that the plan called for the two Yemeni cell members from Aden, whom the Accused had met in Karachi, to crash and detonate boats into an oil tanker off the coast of Yemen. The Yemeni crew the Accused was aiding was ultimately part of the crew that executed the attack on the MV *Limburg* off the coast of Yemen. The Accused overheard Nashiri tell the Yemenis that if they were unable to carry out the attack on water they should obtain Kalashnikov rifles and kill Americans in Yemen.

87. During a conversation with Nashiri, Walid, the Yemeni cell leader, was eager to conduct an operation and argued with Nashiri that he and his team were ready to attack an oil tanker off the coast of Yemen. In May 2002, the Accused, Minwar al Khaladi, and Nashiri were riding in the Accused's Mercedes when Nashiri discussed the idea of merging the two operations into one. Nashiri believed the operation planned in the Strait of Hormuz was more important, but that the Yemen operation appeared to be further along.

#### The Accused Purchases a Smaller Attack Boat

88. Around April 2002, the Accused purchased a smaller boat, called *Bilal*, for 27,000 Dirhams (approximately \$7,352 in 2002). The boat was approximately 2.5 to 3 meters in width, 9 to 10 meters in length, constructed of fiberglass, white with an orange stripe, and had two motors. The Accused purchased the boat at Nashiri's direction. The Yemenis, who arrived in the UAE in February 2002, were to use this boat to learn how to swim and how to perform operations on this size of boat. The Accused knew that the boat would likely be filled with explosives and off-loaded from *Al Shamsi* with a crane during the Strait of Hormuz attack.

89. In April 2002, Nashiri sent Bassam to Yemen to obtain maritime documents. Upon Bassam's return to the UAE, the Accused was present for a meeting between Nashiri and Bassam. During that meeting, the Accused learned that the Yemeni cell was ready to proceed with its operation. The cell in Yemen had purchased a fiberglass boat with a cabin. Bassam also

informed Nashiri that the men in Yemen had explosives and were ready to carry out the attack once Nashiri gave the signal. Nashiri decided to wait as he was determining whether to proceed with both attacks or to combine them into one attack. Nashiri was concerned that there were not enough trained individuals who knew how to operate a boat and did not want to use all of his trained individuals in a single operation.

90. During the May 2002 conversation with Minwar al Khaladi and Nashiri in the Accused's Mercedes, Nashiri raised the idea of transferring the operation from Yemen to the UAE and merging the two operations into one. Minwar al Khaladi responded that it would cause too great a delay and stated that the operation in Yemen was ready for execution, contrary to the one in the UAE. Nashiri believed the operation planned in the Strait of Hormuz was more important, but agreed with Minwar al Khaladi that the Yemen operation appeared to be further along. Nashiri had tried to teach the Yemenis how to operate the boat, but it was too difficult. Faced with what appeared to be insurmountable obstacles including the increased security after the attacks of September 11, 2001, an inexperienced crew, and the inability to get the explosives out of Pakistan and into the UAE, Nashiri focused on an attack in Yemen. Nashiri dispatched the Yemenis to Yemen, instructed the Accused to deliver his ship (*Al Shamsi*) to Walid in al-Mukallah, a port in southern Yemen, and to hire an Indian crew to operate the ship (*Al Shamsi*). The Yemeni cell was eventually to replace the Indian crew hired by the Accused. The Accused believed the operation in the UAE was likely canceled once Nashiri instructed him to deliver the ship (*Al Shamsi*) to Yemen.

91. Following Nashiri's instructions, the Accused hired a local crew of Indian nationals to pilot and operate the 95-foot ship (*Al Shamsi*). (Enclosure 13) The Accused paid the crew 1,500 Dirhams, a higher rate than most crews received. When the Indian crew saw the hydraulic crane the Accused had purchased, they informed him that it was too heavy for *Al Shamsi*. The Accused then sold the crane.

#### The Accused Stages the 95-Foot Ship for an Attack in the Strait of Hormuz

92. In April 2002, per Nashiri's directions, the Accused had *al Shamsi* remove the ship's registration from the UAE and execute paperwork to register the ship in the Accused's name. (Enclosure 14) In May 2002, in accordance with his discussions and agreements with Nashiri, the Accused made final preparations to deliver of the 95-foot ship to Walid in Yemen. The Accused registered the 95-foot ship in his name under the São Tomé and Príncipe flag and changed the name to *Al Rahal*. (Enclosure 15) The Accused also took *Bilal* to the Al-Harjour Marine Repair shop for maintenance.

93. In May 2002, having already turned over control of the operation funds, the Accused executed a Power of Attorney ("POA") giving Minwar al Khaladi the authority to sell the smaller boat, *Bilal*, on the Accused's behalf. Minwar al Khaladi had already taken possession of the Mercedes.

94. The three Yemeni cell members, Munir al Shorabi, Bassam, and Fayiz ali Najjar, were initially tasked to conduct an attack on commercial vessels. Their visas, however, were dependent on the 95-foot ship being registered in the UAE. The Accused registered the large ship under the São Tomé and Príncipe flag so that he could have the ship in his name and leave



the UAE. This re-registration of the ship in a different country invalidated the cell members' visas. In May 2002, Nashiri directed the three Yemeni cell members to return to Yemen.

95. Nashiri directed the Accused to take *Al Rahal* to al Mukallah, Yemen, and give it to Walid (the cell leader in Yemen). At Nashiri's direction, the Accused took a cell phone and two satellite phones for the trip. (Enclosure 16) Nashiri instructed the Accused to call Walid prior to the Accused's arrival so that Walid could have the operatives in position to take possession of *Al Rahal*. (Enclosure 17) Nashiri directed the Accused to register the ship in a Yemeni's name when he arrived in Yemen. The Accused was to turn over the ship to Walid and his cell, which likely included experienced sailors who could replace the Indian crew and eventually carry out an attack on a civilian oil tanker.

96. Prior to his departure, the Accused knew there was to be an attack in Yemen as part of the boats plot. The Accused knew that the operatives in Yemen had purchased a small attack boat that was similar in size to *Bilal*, the boat he purchased and that the Yemeni crew in the UAE used for training. He also knew from conversations that the explosives in Yemen were ready. The Accused had reason to believe that the attack would be in al Mukallah, Yemen, since Walid was there. The Accused also had reason to believe that *Al Rahal*, the 95-foot ship he purchased, was likely going to be used to launch the smaller boat the Yemeni cell had purchased for an attack off the coast of Yemen.

97. At that time, the Accused concealed the truth about his actions from his friends by telling them that he was going to Qatar for approximately one month, when he knew he was traveling to Yemen instead.

98. Pursuant to the plan, on May 10, 2002, the Accused set sail from Dubai, UAE, for al Mukallah, Yemen. The Accused had previously overheard Nashiri stating there were explosives in Yemen. Nashiri provided the Accused with two handheld GPS devices that were to be used in furtherance of the plot. While traveling, he plotted the course of *Al Rahal* on the GPS. (Enclosure 18)

99. Before his trip, the Accused was aware that there was an arrest warrant out for him in Saudi Arabia, and that Yemeni authorities were looking for him. Additionally, as the Accused was leaving the port, UAE officials stopped him and accused him of having two passports in different names: a Saudi passport in the name of Ahmed Mohaamed Ahmed Haza al Darbi and a Yemeni passport in the name of Ahmed Mohammed Ahmed Haza. The Accused denied having two passports. The UAE officials allowed the Accused to depart, but warned him that he would be arrested if he returned to the UAE. The Accused also learned at that time that he was on Interpol's wanted list. For these reasons, the Accused became concerned he may be arrested.

100. Out of fear of being exposed and arrested in Yemen, the Accused contacted Nashiri and expressed reluctance to continue to Yemen. Nashiri agreed and instructed the Accused to travel to Somalia. Nashiri told the Accused that there was no government in Somalia that could monitor the Accused's actions. Nashiri directed the Accused to wait in Somalia while Nashiri devised a new plan to either get the ship delivered to Yemen or at least make some money off the ship by using it to transfer cargo between Africa and the Gulf States. As directed by Nashiri, the Accused diverted course and arrived in Bossaso, Somalia, on May 20, 2002. (Enclosure 19)

101. The Accused remained loyal to Nashiri because he considered Nashiri to be his *emir*. As his leader, the Accused followed what Nashiri said. While in Somalia, the Accused also purchased a local "SIM" card so that he could make telephone calls. The Accused spoke to Nashiri three to four times. During their telephone conversations, Nashiri advised the Accused not to worry about the Yemeni "brothers," as they were doing their job. At Nashiri's direction, the Accused instructed the Indian crew to use *Al Rahal* for commercial transport to make money. To that end, prior to his departure from Somalia, the Accused scheduled the large ship to deliver 2,000 sheep to Oman.

102. The Accused was arrested in June 2002, while traveling, and transferred to United States custody in August 2002. (Enclosure 20)

103. At no time from his involvement with al Qaeda through the successful attack on MV *Limburg* did the Accused seek to voluntarily withdraw or abandon the crime of attempting to conduct his own terrorist attack with *Al Rahal*, either in the Strait of Hormuz or off of the coast of Yemen, nor did he voluntarily withdraw from aiding and abetting the attack on MV *Limburg*.

#### The Yemeni Cell Members Succeed with the Boats Plot

104. In the UAE, three Yemeni cell members, who later were involved in the attack on the MV *Limburg*, met with the Accused, a person they knew by the *kunya* Abd al Aziz. Walid al Shaybah was the Yemeni cell leader. When the three Yemeni cell members returned to Yemen, Walid instructed them to go to al Mukallah, Yemen. Sometime in mid-2002, members of the Yemeni cell aided the transport of the explosives that were ultimately used in an attack against the French oil tanker, MV *Limburg*. The explosives were stored in a villa where the boat was kept. Members of the Yemen cell then started rigging the boat in the backyard of the villa.

105. On August 9, 2002, Walid (the Yemeni cell leader) and Munir al Shorabi (the Accused's associate) accidentally killed themselves in a residential apartment in Sanaa, Yemen, while attempting to modify an anti-tank missile into an explosive device. In the apartment, authorities located over 600 pounds of explosives. These explosives were to be used in a separate, but related, plot to blow up the embassies of the United States or coalition partners in Yemen.

106. On October 6, 2002, off the coast of al Mukallah, Yemen, the Yemeni cell successfully attacked MV *Limburg*. While transiting, MV *Limburg* was attacked in a style similar to the attack on USS COLE (DDG 67): a small civilian boat came alongside the ship, detonated its load of explosives, and blew a hole in the side of MV *Limburg*. One crewmember, Atanas Atanasov (a Bulgarian national), died, twelve others were injured, approximately \$45 million in damage was done to the vessel, and oil was spilled into the coastal waters. Additionally, the economic impact to Yemen included the loss of \$3.8 million a month in port revenue, and employment for 3,800 workers. Worldwide oil prices rose by 48 cents a barrel due to the increase in shipping insurance.

107. Shortly thereafter, three of the Yemeni cell members, Bassam, Abdullah Gharib, and Fayezi al Najjar, were captured and tried in Yemen for, among other crimes, this attack. All three confessed to their involvement in the boats plot and the attack on the MV *Limburg*. In furtherance of their plot, the Accused had obtained their visas to the UAE, and facilitated the

training of Bassam and Fayez ali Najjar in how to swim and operate a boat in the UAE .  
(Enclosure 21)

108. The Accused voluntarily chose to aid and abet terrorist operations to kill or significantly injure United States and coalition citizens, both military and civilian, and to damage or destroy United States or coalition member property.

### **The Accused Pleads Guilty to the Charged Offenses**

109. The Accused, by aiding and abetting others, intentionally engaged in an attack on individual civilians not taking a direct or active part in hostilities, and knew or should have known of the factual circumstances that established their civilian status, and the conduct took place in the context of and was associated with hostilities.

110. The Accused, by aiding and abetting others, intentionally engaged in an attack on civilian property, property which was not a military objective, and knew or should have known of the factual circumstances that established the civilian status of the property, and the conduct took place in the context of and was associated with hostilities.

111. The Accused, by aiding and abetting others, intentionally endangered the safe navigation of a vessel, not a legitimate military target, which conduct took place in the context of and was associated with hostilities.

112. The Accused, by aiding and abetting others, intentionally killed a protected person and/or inflicted great bodily harm on one or more protected persons in a manner calculated to influence or affect the conduct of a government or civilian population by intimidation or coercion, or to retaliate against government conduct, which killing or inflicting great bodily harm took place in the context of and was associated with hostilities.

113. The Accused attempted to intentionally endanger the safe navigation of a vessel, not a legitimate military target, which conduct took place in the context of and was associated with hostilities. The acts of the Accused amounted to more than mere preparation and were apparently tended to effect the commission of the intended offense.

114. The Accused attempted to intentionally kill a protected person and/or inflict great bodily harm on one or more protected persons in a manner calculated to influence or affect the conduct of a government or civilian population by intimidation or coercion, or to retaliate against government conduct, which killing or infliction of great bodily harm took place in the context of and was associated with hostilities. The acts of the Accused amounted to more than mere preparation and were apparently tended to effect the commission of the intended offense.

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SO STIPULATED.

20 Dec 2013

Date



Accused

We certify that we advised the Accused of the effect of the foregoing and we witnessed his voluntary signature to this document.

20 Dec 2013

Date



Prof. Ramzi Kassem

Member of the Bar of the State of New York

20 DEC 13

Date

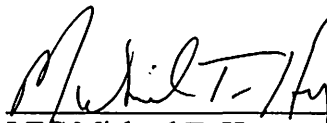


LT Theresa Champ, JAGC, USN

Certified under Article 27(b) UCMJ

20 DEC 13

Date



LTC Michael T. Hosang, USAR

Certified under Article 27(b) UCMJ

Date

~~MAJ Charlotte M. Emery, USA.~~

~~Certified under Article 27(b) UCMJ~~