

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

<b>UNITED STATES OF AMERICA</b>  v.  <b>ABD AL HADI AL-IRAQI</b>	<b>AE 035</b>  <b>Government Motion</b> <i>In Limine</i> To Consider Evidence During Preliminary Matters and To Admit Evidence for Trial On the Merits  21 April 2015
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**1. Timeliness**

This Motion is timely filed pursuant to Military Commissions Trial Judiciary Rule of Court 3.7.c.(1).

**2. Relief Requested**

The Government respectfully moves the Commission *in limine* to consider the following items during the *in personam* jurisdiction hearing in this case (AE 020D), as well as when assessing any motion to suppress the Accused's statements to law enforcement, and to admit the same items into evidence for the trial on the merits: 14 items, including letters, an organizational list, a notebook, journal entries, financial receipts, organizational payroll documents, a flight request, an al Qaeda membership list, and other notes and correspondence specifically relating to the Accused. *See* Attachment B.<sup>1</sup>

**3. Overview**

The Federal Bureau of Investigation ("FBI") acquired the 14 items listed in Attachment B from Kandahar, Afghanistan, in December 2001, and have maintained custody of the items since. The Military Judge should consider these items when determining whether the Government has proved this Commission properly exercises *in personam* jurisdiction over the

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<sup>1</sup> In addition to Attachment B, the Government details the specific items *infra* at pp. 8-12.

Accused, as well as when assessing any motion to suppress the Accused's statements to law enforcement,<sup>2</sup> and should admit the same items into evidence for trial on the merits.

A preliminary ruling on the admissibility of evidence for trial on the merits is a question of law appropriate for the Military Judge, not the members. *See* Military Commission Rules of Evidence ("M.C.R.E.") 104 ("Preliminary questions concerning . . . the admissibility of evidence . . . shall be determined by the military judge."); *see also* Rules for Military Commissions ("R.M.C.") 906(b)(11) (identifying "[p]reliminary rulings on admissibility of evidence" as an appropriate pretrial motion). Thus, it is appropriate for the Military Judge to find this evidence is admissible at trial on the merits during a pretrial hearing.

At that pretrial hearing(s),<sup>3</sup> the Government will authenticate each piece of evidence by a preponderance of the proof through witness testimony and other evidence. Indeed, on the same proof the Government will offer in this Commission, one military commission and three federal district courts have held that items gathered during the December 2001 collection in Kandahar are authentic in satisfaction of the applicable rule. *See United States v. Al-Bahlul* (Military Comm'n Feb. 8, 2008) (Attachment C); *United States v. Al-Moayad*, No. 1:03-cr-01322-SJ (E.D.N.Y. Dec. 15, 2003) (Attachment D); *United States v. Padilla*, 04-60001-CR-Cooke (S.D. Fl. May 15, 2007) (Attachment E); *United States v. Khalid al-Fawwaz*, No. 1:98-CR-1023 LAK (S.D.N.Y. Jan. 26, 2015) (Attachments F&G). This Commission should hold the same in this case.

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<sup>2</sup> The Military Judge is not bound by the rules of evidence when considering preliminary questions, except those rules regarding privileges. *See* Military Commission Rules of Evidence 104(a). The Military Judge may consider these items when determining whether the Commission has *in personam* jurisdiction over the Accused, as well as the admissibility of the Accused's statements to law enforcement, prior to determining they are admissible for trial on the merits.

<sup>3</sup> This is the first of a series of motions *in limine* to admit evidence. Each motion will concern a different place or means of collection.

Further, the Government will prove each item is relevant because each makes “the existence of any fact that is of consequence to a determination of the commission action more probable or less probable than it would be without the evidence.” M.C.R.E. 401.

Finally, none of the items are hearsay because each is either the Accused’s own statement (*see* M.C.R.E. 801(d)(2)(A)) or is “a statement by a coconspirator [made] during the course and in furtherance of the conspiracy. . . .” *See* M.C.R.E. 801(d)(2)(E).

Thus, in addition to considering these items when determining whether the Government has proved this Commission properly exercises *in personam* jurisdiction over the Accused, as well as when assessing any motion to suppress the Accused’s statements to law enforcement, the Military Judge should admit all 14 items into evidence for trial on the merits.

#### **4. Burden of Proof**

As the moving party, the Government must demonstrate by a preponderance of the evidence that the requested relief is warranted. *See* R.M.C. 905(c)(1)-(2). Specifically, to be admitted into evidence for trial on the merits, the Government must prove by a preponderance of the proof that each item is authentic and relevant. *Bourjaily v. United States*, 483 U.S. 171, 175 (1987) (“The preponderance standard ensures that before admitting evidence, the court will have found it more likely than not that the technical issues and policy concerns addressed by the Federal Rules of Evidence have been afforded due consideration.”).

#### **5. Facts**

##### **I. Background Facts**

On 3 February 2014, the Accused was charged with a number of offenses arising out of his decade-long role as a senior member of the al Qaeda terrorist network. *See* Referred Charge Sheet. As alleged in the Referred Charge Sheet, during the course of his conspiracy with members and associates of al Qaeda, the Accused’s leadership took many forms, including commanding an al Qaeda terrorist training camp in Afghanistan; commanding al Qaeda guesthouses in Afghanistan; serving on al Qaeda’s senior advisory council during which he

assisted in setting the terrorist policies and objectives of al Qaeda, which included killing Americans and other civilians; serving as a key al Qaeda liaison to the Taliban; commanding the al Qaeda insurgency in Afghanistan and Pakistan following Operation Enduring Freedom; and aiding the al Qaeda insurgency in Iraq following Operation Iraqi Freedom.

In his role as a leader of the al Qaeda insurgency in Afghanistan, the Accused issued a number of orders to his insurgent co-conspirators that ran afoul of the law of war, including orders to kill everyone encountered on the battlefield and to leave no survivors; to dress in local civilian attire in order to hide among the local civilian population to gain an unlawful tactical advantage; to commit treacherous and perfidious acts, including using suicide bombers and vehicle borne improvised explosive devices (“VBIEDs”); to use other types of improvised explosive devices (“IEDs”); to view civilian and medical personnel as acceptable targets; and to videotape attacks and victims’ deaths for propaganda purposes.

For his actions, the Accused is charged before this Commission with one Specification of Denying Quarter (Charge I), one Specification of Attacking Protected Property (Charge II), three Specifications of Using Treachery or Perfidy (Charge III), one Specification of Attempted Use of Treachery or Perfidy (Charge IV), and one Specification of Conspiracy to Commit Offenses Triable by Military Commission (Charge V). *See Referred Charge Sheet.*

Charge V alleges that the Accused conspired with a number of senior al Qaeda members, members of other affiliated groups, and other terrorists and insurgents to commit the following war crimes: Terrorism; Denying Quarter; Using Treachery or Perfidy; Murder of Protected Persons; Attacking Protected Property; Attacking Civilians; Attacking Civilian Objects; and Employing Poison or Similar Weapons. Consistent with the stated terrorist aims of al Qaeda—aims the Accused aided in establishing—each of the object crimes of the criminal conspiracy was committed for the purpose of attempting to force the United States, its allies, and non-Muslims out of the Arabian Peninsula, Afghanistan, and Iraq.

The Accused’s criminal conspiracy is alleged to have been an international effort that took place in Afghanistan, Pakistan, Iraq, Turkey, and other places. This global criminal



conspiracy spanned a period beginning in at least 1996 and continuing until at least 1 November 2006, and involved two theaters of insurgency (Afghanistan and Iraq) against the U.S. and its allies. As alleged in the Referred Charge Sheet, the Accused and/or his co-conspirators engaged in at least 63 overt acts in furtherance of the criminal conspiracy, many of which will be proved at trial on the merits to be completed instances of the object offenses.

The Accused was captured in transit while serving as a senior leader of al Qaeda and acting in furtherance of hostilities against the United States and its coalition partners simultaneously in Afghanistan and Iraq.

## **II. Facts Concerning Specific Items of Evidence Recovered**

The Government seeks to admit 14 items of evidence acquired in and around Kandahar, Afghanistan, in December 2001. The Government will authenticate each item of evidence through the testimony of FBI [REDACTED]. At the pretrial hearing, [REDACTED] will testify that she received the items from Afghanistan, in December 2001, and will provide details about how the items were collected, sorted, analyzed, and sent to the United States. [REDACTED] has previously testified under oath to the relevant facts on multiple occasions, including in a military commission (*see* Transcript (“Tr.”) at 429-450, *Al-Bahlul* (Attachment C)), and in at least three federal district court cases. *See* Tr. at 2131-2156, *Al-Moayad* (Attachment D); Tr. at 9-54, *Padilla* (Attachment D); Tr. at 231-248, *Al-Fawwaz* (Attachment F). In *Al-Moayad*, the Second Circuit Court of Appeals stated,

[REDACTED] described how the documents she received from Afghanistan, including the mujahidin form, were collected, received, sorted, analyzed, and sent to the United States. This testimony was sufficient to demonstrate that the form was likely what the government claimed it to be—an application form for admittance to a mujahidin training camp, which had been seized in an area of Afghanistan where al-Qaeda maintained training facilities. The district court correctly concluded that the mujahidin form was properly authenticated.

*United States v. Al-Moayad*, 545 F.3d 139, 173-74 (2nd. Cir. 2008) (finding SA Keenan’s testimony satisfied the requirements of Federal Rule of Evidence 901). The Government

anticipates [REDACTED] testimony before this Commission will be consistent with her prior testimony.

To that end, the Government anticipates [REDACTED] will testify as follows: She currently serves as the [REDACTED] of the FBI, in Washington, D.C. *See* Tr. at 2131, *Al-Moayad*. In July 2001, she was assigned to Islamabad, Pakistan, as the FBI assistant legal attaché. *See* Tr. at 2131, 2133, *Al-Moayad*. The legal attaché's office was housed in the United States Embassy compound and served as the interface, or the point of contact, between U.S. law enforcement personnel and host-country law enforcement. *See* Tr. at 2133, 2135, *Al-Moayad*. In July 2001, the United States did not have a formal diplomatic relationship with Afghanistan, therefore, the Pakistan office maintained oversight for both countries. *See* Tr. at 2134-35, *Al-Moayad*. After the al-Qaeda attacks of 11 September 2001, the focus of the entire FBI shifted from generally conducting criminal investigations to preventing another attack, including uncovering imminent threats to the United States, as well as piecing together an investigation into the attacks. *See* Tr. at 2136, 2139, *Al-Moayad*. Once the United States invaded Afghanistan, various U.S. government personnel began collecting items of law enforcement value in Afghanistan, including documents, letters, videotapes, passports, photographs, and the like. *See* Tr. at 2136-2137, *Al-Moayad*. Since the United States Embassy in Islamabad was the closest office to Afghanistan, [REDACTED], by virtue of proximity, received many documents and items seized in Afghanistan. *See* Tr. at 2137-2139, *Al-Moayad*. [REDACTED] became the custodian of those items, and therefore, began the chain of custody for the FBI through an inventory and review process looking for items of interest for preventing attacks and imminent threats to the United States. *See* Tr. at 2138-2139, *Al-Moayad*.

In December 2001, while in the Pakistan Office, U.S. government personnel<sup>4</sup> provided [REDACTED] with two separate shipments of materials they collected from various locations in

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<sup>4</sup> In *Al-Fawwaz*, Command Sergeant Major David Karnes testified concerning his role in the acquisition and transfer of items gathered in Kandahar to [REDACTED] in December 2001. *See* Tr. at 1619-1643, *Al-Fawwaz* (Attachment G). Specifically, CSM Karnes testified that as a U.S. Special Forces NCO, he was a member of a team deployed to Afghanistan on 18 November




Kandahar, Afghanistan. *See* Tr. at 2138-2139, *Al-Moayad*. First, on 15 December 2001, [REDACTED] received a shipment of 22 containers, which included boxes, knapsacks, envelopes, and trunks of documents, photographs, videotapes, maps, and the like. Most of the containers came from the area surrounding the airport in Kandahar, including an Arab office building, an al Qaeda safe house, and Tarnak Farms—an al Qaeda training facility. *See* Tr. at 2138, *Al-Moayad*. Of those initial 22 containers, five items specifically related to the Accused have been identified and preserved as potential evidence for this case. Attachments B1-B5. Also in December 2001, [REDACTED] received a smaller shipment of four containers with an additional 12 boxes. *See* Tr. at 2138, *Al-Moayad*. Of those boxes, nine items related to the Accused have been identified and preserved as potential evidence for this Commission. *See* Attachments B6-B14.




[REDACTED] will testify that after her initial “triage” of the materials, all of the December 2001 items were securely flown out of Islamabad by FBI plane to an FBI office established after the attacks of 11 September 2001 to review such materials for law enforcement value. *See* Tr. at 2137, 2140, *Al-Moayad*. Once back in the United States, the materials were properly distributed to a multiagency group for full exploitation. *See* Tr. at 2137, 2140, *Al-Moayad*. In sum, the following 14 items, including letters, a notebook, journal entries, financial receipts, organizational payroll documents, an al Qaeda charter membership list, and other correspondence specifically related to the Accused have been identified and preserved as potential evidence:


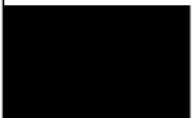

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2001. *See* Tr. at 1621-1622, *Al-Fawwaz*. While operating with an indigenous force of Pashtun tribesmen to locate members of al Qaeda and Taliban in Kandahar, Afghanistan, CSM Karnes was responsible for collecting tactical intelligence on the battlefield. *See* Tr. at 1621-1624, *Al-Fawwaz*. CSM Karnes testified he collected a number of handwritten documents, notebooks, VHS tapes, CDs, airline tickets, receipts, passport photos, and passports during various raids. *See* Tr. at 1632-1633, *Al-Fawwaz*. He also found lists of names, maps, edicts, and letters from senior al Qaeda leadership that appeared to have been sent to Taliban leadership and to other al Qaeda operatives. Because he was fluent in Arabic (*see* Tr. at 1622, *Al-Fawwaz*), CSM Karnes typically “triaged” the materials in a secured room for tactical intelligence value and then packaged them to be shipped out of Afghanistan. *See* Tr. at 1633, *Al-Fawwaz*. He personally transported the materials by truck to U.S. government personnel at Kandahar Airfield to be flown to the United States Embassy in Islamabad, Pakistan. *See* Tr. at 1638-1639, *Al-Fawwaz*.

Attachment/Description	Date of Item	Custodian	Additional Forensic Analysis
<b>Attachment B1:</b> Letter which describes a leadership conflict over the Al-Farouq and Al-Furqan training camps, involving the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-024378 – HADI-1-024384  <b>Attachment B1A:</b> (English Translation) Bates Numbers: HADI-1-024385 – HADI-1-024392	June 1994		N/A
<b>Attachment B2:</b> Letter written by the Accused to Abu Muhammad al-Zayyat, dated 11 March 2000, about how to deal with an internal spy. (Photocopy of the original Document) Bates Numbers: HADI-1-017995 – HADI-1-018283  <b>Attachment B2A:</b> (English Translation) Bates Numbers: HADI-1-018284 – HADI-1-018601	11 March 2000		Handwriting analysis is positive for the Accused.
<b>Attachment B3:</b> Letter from the Accused, dated 9 June 1994, discussing mountain guerilla warfare training. (Photocopy of the original Document) Bates Numbers: HADI-1-006324 – HADI-1-006325  <b>Attachment B3A:</b> (English Translation) Bates Numbers: HADI-1-006429 – HADI-1-006430	9 June 1994		N/A
<b>Attachment B4:</b> List of names in the “Bamiyan Group,” including the Accused.	March 2001		N/A

(Photocopy of the original Document) Bates Numbers: HADI-1-006316  <b>Attachment B4A:</b> (English Translation) Bates Numbers: HADI-1-006421			
<b>Attachment B5:</b> Al Qaeda membership list which includes the Accused ( <i>See</i> #46 on list). (Photocopy of the original Document) Bates Numbers: HADI-1-024058 – HADI-1-024062  <b>Attachment B5A:</b> (English Translation) Bates Numbers: HADI-1-024063 – HADI-1-024068	Created between Aug 1998 and Dec 2001		N/A
<b>Attachment B6:</b> Two sets of receipts for drilling equipment: one set from Al-Riaz International and one set from Irfan & Sons. (Photocopy of the original Document) Bates Numbers: HADI-1-024069 – HADI-1-02476  <b>Attachment B6A:</b> (English Translation) Bates Numbers: HADI-1-024077 – HADI-1-024078	17 March 2001		N/A
<b>Attachment B7:</b> Receipt for the release of funds addressed to Hamzah written by Abu Hafs. Requests the release of \$1,650 received by the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-006533 – HADI-1-006534	9 January 2001		Handwriting Analysis

<b>Attachment B7A:</b> (English Translation) Bates Numbers: HADI-1-006521 – HADI-1-006523			
<b>Attachment B8:</b> Al Qaeda receipt written by Abu Hafs for the release of funds to the Accused for the medical care of another al Qaeda member. (Photocopy of the original Document) Bates Numbers: HADI-1-006537 – HADI-1-006538  <b>Attachment B8A:</b> (English Translation) Bates Numbers: HADI-1-006509 – HADI-1-006511	7 January 2001		Handwriting Analysis
<b>Attachment B9:</b> Document of budgets and salaries for al Qaeda employees working at Al-Ansar guesthouse in Kabul received by the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-005378 – HADI-1-005381  <b>Attachment B9A:</b> (English Translation) Bates Numbers: HADI-1-005932 – HADI-1-005936	Unknown Date		N/A
<b>Attachment B10:</b> Request written by the Accused to the Coordinator of Hawa'i field, dated 26 September 1999, requesting to send two al Qaeda members to Kandahar via an official flight. (Photocopy of the original Document) Bates Numbers: HADI-1-006539 – HADI-1-006540  <b>Attachment B10A:</b> (English Translation)	26 September 1999		Handwriting analysis is positive for the Accused.

Bates Numbers: HADI-1-006512 – HADI-1-006514			
<b>Attachment B11:</b> Letter from the Accused to Abd-al Salam al-Hadrami, dated 22 June 1999, discussing al Qaeda's membership selection process and personnel matters, including an internal questionnaire for potential members. (Photocopy of the original Document) Bates Numbers: HADI-1-006535 – HADI-1-006536  <b>Attachment B11A:</b> (English Translation) Bates Numbers: HADI-1-006395 – HADI-1-006397	22 June 1999		
<b>Attachment B12:</b> Letter written by the Accused discussing personnel lists and reconnaissance assignments of al Qaeda members. (Photocopy of the original Document) Bates Numbers: HADI-1-006296 – HADI-1-006297  <b>Attachment B12A:</b> (English Translation) Bates Numbers: HADI-1-006398 – HADI-1-006400	Late 1990s		Handwriting analysis is positive for the Accused.
<b>Attachment B13:</b> Notes written by Abu Ayman al-Yemeni listing weapons, personnel, and financial statements. Specifically mentions \$8,000 for a bulldozer for the Accused and lists 18 other al Qaeda members assigned under to the Accused's command. (Photocopy of the original Document) Bates Numbers: HADI-1-011421 – HADI-1-011508	March/April 1999		N/A

<b>Attachment B13A:</b> (English Translation) Bates Numbers: HADI-1-011509 – HADI-1-011598			
<b>Attachment B14:</b> Al-Bahlul's journal entry, dated 27 September 2000, including notes of senior al Qaeda leadership meetings to discuss the bombing of <i>USS Cole</i> , identifying the Accused as a person in attendance. (Photocopy of the original Document) Bates Numbers: HADI-1-018617 – HADI-1-018948  <b>Attachment B14A:</b> (English Translation) Bates Numbers: HADI-1-018949 – HADI-1-019281	27 September 2000		N/A

In September 2012, the Government submitted a number of items of evidence, including some listed above, to two Arabic handwriting experts for analysis and comparison to known handwriting exemplars of the Accused. The experts concluded that handwriting on certain of the items of evidence, including B2, B10, and B12 above—as well as others that will be the subject of future motions *in limine*—matched the Accused's known exemplars.

Finally, beginning on 8 May 2007, the Accused participated in a series of voluntary law enforcement interviews conducted by Special Agents from the FBI and the DoD Criminal Investigation Task Force ("CITF"). The Accused was interviewed intermittently from 8 May to 28 May 2007; from 29 June to 2 July 2007; from 30 November to 3 December 2007; on 2 April 2008; and on 22 January 2009. Over the course of these interviews, the Accused made substantial admissions, and the interviews produced over 130 pages of FBI reporting. Specific to this motion, the Accused discussed his history with al Qaeda, including his various leadership roles; his relationships with al Qaeda leaders such as Usama bin Laden, Ayman al-Zawahiri, and



Muhammed Atef (Abu Hafs al Masri); and his role in the destruction of the giant Buddha statues at Bamiyan, Afghanistan, among other relevant details corroborated by the items listed *supra*.

## **6. Law and Argument**

In addition to considering the items identified in Attachment B when determining whether the Government has proved this Commission properly exercises *in personam* jurisdiction over the Accused, as well as when assessing any motion to suppress the Accused's statements to law enforcement,<sup>5</sup> the Military Judge should admit each into evidence for trial on the merits. During a pretrial hearing(s), the Government will demonstrate by a preponderance of the proof that these items are authentic, relevant, and are not hearsay. For the same reasons a military commission and three federal district courts found the items gathered during this December 2001 collection in Kandahar admissible, this Commission should hold the same.

### **I. It Is Appropriate for the Military Judge To Admit Evidence for Trial on the Merits as a Preliminary Matter**

The Military Judge should admit the 14 items listed in Attachment B into evidence in advance of trial on the merits, consistent with the practice endorsed by all courts from the Supreme Court down. *See, e.g., Luce v. United States*, 469 U.S. 38, 40 n.2 (1984); *United States v. Douglas*, 482 F.3d 591, 593-94 (D.C. Cir. 2007) (affirming order granting the government's motion *in limine* to admit evidence of defendant's prior arrest); *United States v. Kadir*, 718 F.3d 115, 121-22 (2d Cir. 2013) (affirming order granting the government's motion *in limine* to admit testimony from an expert on terrorism); *United States v. Washington*, No. 2094, 2013 WL 4437604 at \*1, 5-6 (3d Cir. Aug. 21, 2013) (affirming order granting the government's motion *in limine* to admit physical evidence seized by the Drug Enforcement Agency during an arrest);

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<sup>5</sup> As noted above, the Military Judge is not bound by the rules of evidence when considering preliminary questions, except those rules regarding privileges. *See* M.C.R.E. 104(a). The Military Judge may consider the items in Attachment B when determining whether the Commission has *in personam* jurisdiction over the Accused, as well as the admissibility of the Accused's statements to law enforcement, prior to determining they are admissible for trial on the merits.

*United States v. Siddiqui*, 699 F.3d 690, 697-98, 701-03 (2d Cir. 2012) (affirming order granting government's motion *in limine* to admit documents and other evidence recovered from defendant at the time of her arrest by foreign officials); *United States v. Miller*, 227 F. App'x. 446, 457 (6th Cir. 2007) (affirming order granting the government's motion *in limine* to admit evidence of defendant's prior drug conviction); *United States v. LaFlora*, 146 F. App'x. 973, 974-75 (10th Cir. 2005) (affirming order granting the government's motion *in limine* to admit evidence of defendant's prior bank robbery convictions); *United States v. Sutton*, 31 M.J. 11, 16-17 (C.M.A. 1990) (affirming that Rules of Courts-Martial ("R.C.M.") 905(b) provides that any defense, objection, or request which is capable of determination without the trial of the general issue of guilt may be raised before trial and questions concerning the admissibility of evidence on . . . grounds [other than involuntary confessions and admissions, unlawful searches and seizures, and eyewitness identification] may be raised by objection at trial or by motions *in limine* and affirming that R.C.M. 906(b)(13) lists a "[p]reliminary ruling on admissibility of evidence" as one of the matters that "may be requested by motion for appropriate relief").

Similar practice is authorized in military commissions. M.C.R.E. 104(a), which is entitled "Questions of admissibility and procedure generally," states:

Preliminary questions concerning . . . the admissibility of evidence . . . shall be determined by the military judge. In making these determinations the military judge is not bound by the rules of evidence, except those with respect to privileges.

When resolving preliminary issues under M.C.R.E. 104(a), the Military Judge should apply the "more probable than not" standard. *See Bourjaily*, 483 U.S. at 175 ("The preponderance standard ensures that before admitting evidence, the court will have found it more likely than not that the technical issues and policy concerns addressed by the Federal Rules of Evidence have been afforded due consideration."). Once a party lays a proper foundation, the Military Judge should find the evidence admissible—a matter completely within the Military Judge's discretion and not appropriate for the members' consideration. *See* M.C.R.E. 104(a).

The Government and the Accused – as well as the members – benefit from the Military Judge making admissibility determinations prior to trial. The parties benefit from knowing what evidence may be admitted during trial, thus maximizing predictability and minimizing surprise. The Defense also benefits by having notice of the potential evidence the Government intends to use during its case-in-chief so that it can prepare sufficiently in advance of trial to meet that evidence. Additionally, the integrity of the process benefits from ensuring that the members are not exposed to inadmissible evidence. R.M.C. 906(b)(11), Discussion (describing the purpose of motions for preliminary rulings on admissibility of evidence as “avoid[ing] the prejudice which may result from bringing inadmissible matters to the attention of court members”). By making admissibility determinations before trial, the Commission will be able to ensure “that [the] proceedings are conducted in a fair and orderly manner, without unnecessary delay or waste of time or resources.” R.M.C. 801(a), Discussion.<sup>6</sup>

The Commission should conduct an appropriate pretrial hearing and admit items attached to this motion upon finding the Government has met all of the appropriate standards.

## **II. Each Item the Government Seeks To Admit Is Authentic and Relevant**

When proffering a piece of evidence for admission, the Government must satisfy the twin requirements of authentication and relevance. *See, e.g., United States v. Dhinsa*, 243 F.3d 635, 658 (2d Cir. 2001) (discussing the requirement of authenticity as condition precedent to admissibility); *United States v. Blackwell*, 694 F.2d 1325, 1329-30 (D.C. Cir. 1982) (stating “[a]uthentication and identification are specialized aspects of relevancy that are necessary conditions precedent to admissibility”); *United States v. Lawson*, 494 F.3d 1046, 1052 (D.C. Cir. 2007) (stating, “[t]o be admissible, evidence must be relevant, and its probative value must not be substantially outweighed by the danger of unfair prejudice or misleading the jury”); *United States v. Blanchard*, 48 M.J. 306, 309-10 (C.A.A.F. 1998) (affirming the well-established view that authentication is a component of relevancy and requires a preliminary determination by the

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<sup>6</sup> The Defense will have the opportunity to challenge the weight of the evidence before the panel of members during trial on the merits. *See* M.C.R.E. 901(b); M.C.R.E. 104(e).

judge that sufficient evidence of authenticity exists to present the authenticity question to the members for their ultimate factual determination).

As detailed below, the Government will demonstrate by a preponderance of the proof that each of the 14 items offered is both authentic and relevant.

**A. Each Item the Government Seeks To Admit Is Authentic**

With respect to the items acquired from Kandahar in December 2001, the Government will prove each is authentic through the testimony of [REDACTED] as detailed above.

M.C.R.E. 901 provides,

Evidence shall be admitted as authentic if: (a) the military judge determines that there is sufficient basis to find that the evidence is what it is claimed to be; and (b) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

The equivalent Federal Rule of Evidence (“Fed. R. Evid.”) 901<sup>7</sup> identifies specific means by which a party may authenticate evidence, including direct “testimony of a witness with knowledge,” circumstantial proof, distinctive characteristics such as appearance, contents, substance, and internal patterns, and circumstances of discovery, and comparisons by expert witnesses or the trier-of-fact. *See* Fed. R. Evid. 901(b); *Al-Moayad*, 545 F.3d at 172 (“The proof of authentication may be direct or circumstantial.”); *United States v. Bowles*, 751 F.3d 35, 40 (1st Cir. 2014) (circumstantial evidence is permitted to authenticate an item); *United States v. Young*, 753 F.3d 757, 773 (8th Cir. 2014) (the proponent of the evidence may use circumstantial evidence to satisfy the authentication standard); *United States v. Jackson*, 636 F.3d 687, 693 (3d Cir. 2011) (“A proponent may authenticate a document with circumstantial evidence, including the document’s own distinctive characteristics and the circumstances surrounding its

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<sup>7</sup> Because the Federal Rules of Evidence and the Military Rules of Evidence (“M.R.E.”) relevant to this issue are substantially the same, all references to the Federal Rules of Evidence are intended to refer to their Military Rules of Evidence counterparts as well. *See Blanchard*, 48 M.J. at 309 (explaining M.R.E. 901 and Fed. R. Evid. 901 are the same, and thus the “federal court of appeals decisions applying [authenticity] principles would be most helpful”).

discovery.”); *United States v. Bruner*, 657 F.2d 1278, 1284 (D.C. Cir. 1981) (circumstantial evidence of authenticity can be sufficient). Each of these factors is present here.

Courts interpreting Fed. R. Evid. 901 universally hold “[t]he bar for authentication of evidence is not particularly high.” *United States v. Gagliardi*, 506 F.3d 140, 151 (2d Cir. 2007); *United States v. Safavian*, 435 F. Supp. 2d 36, 38 (D.D.C. 2006) (holding “[t]he threshold for the Court’s determination of authenticity is not high”); *United States v. Tin Yat Chin*, 371 F.3d 31, 37-38 (2d Cir. 2004) (holding “Rule 901 does not erect a particularly high hurdle, and that hurdle may be cleared by circumstantial evidence”); *United States v. Reilly*, 33 F.3d 1396, 1404 (3d Cir. 1994) (holding, “the burden of proof for authentication is slight”). Indeed, “the burden to authenticate under Rule 901 is not high—only a prima facie showing is required,” and a “district court’s role is to serve as gatekeeper in assessing whether the proponent has offered a satisfactory foundation from which the jury could reasonably find that the evidence is authentic.” *United States v. Vidacak*, 553 F.3d 344, 349 (4th Cir. 2009).

Specifically, M.C.R.E. 901 “is satisfied if sufficient proof has been introduced so that a reasonable juror could find in favor of authenticity or identification.” *Dhinsa*, 243 F.3d at 658; *United States v. Fadayini*, 28 F.3d 1236, 1241 (D.C. Cir. 1994). “If in the court’s judgment it seems reasonably probable that the evidence is what it purports to be, the command of Rule 901(a) is satisfied, and the evidence’s persuasive force is left to the jury.” *Dhinsa*, 243 F.3d at 659; *United States v. Tropeano*, 252 F.3d 653, 661 (2d Cir. 2001) (holding, “[a]uthentication of course merely renders [evidence] admissible, leaving the issue of [its] ultimate reliability to the jury”); *Ricketts v. City of Hartford*, 74 F.3d 1397, 1411 (2d Cir. 1996) (holding the trial court erred in excluding a tape recording on authentication grounds where a rational juror could have concluded the defendant had made the statements at issue); *United States v. Holmquist*, 36 F.3d 154, 168 (1st Cir. 1994) (holding, “the standard for authentication, and hence for admissibility, is one of reasonable likelihood”); *United States v. Coohy*, 11 F.3d 97, 99 (8th Cir. 1993) (holding, “the proponent need only demonstrate a rational basis for its claim that the evidence is what the proponent asserts it to be”); *United States v. Blanchard*, 48 M.J. 306, 309-10 (C.A.A.F. 1998)

(explaining that “[M.R.E.] 104 gives discretion to the trial judge as to the manner in which he makes preliminary determinations concerning admissibility of evidence” and “reject[ing] appellant’s general argument that the military judge erred by failing to strictly follow selected federal decisions in making his authenticity determination”). The proponent of the evidence is not required to “rule out all possibilities inconsistent with authenticity, or to prove beyond any doubt that the evidence is what it purports to be.” *Gagliardi*, 506 F.3d at 151.

Finally, the Government does not need to call every witness in the chain of custody because any challenge to the chain of custody goes to the weight of the evidence rather than its admissibility. *See, e.g., Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 311 n.1 (2009); *United States v. Mejia*, 597 F.3d 1329, 1335 (D.C. Cir. 2010) (finding challenges to the chain of custody go to the weight rather than admissibility, even where the gap in the chain is at the original point of collection); *United States v. Lee*, 502 F.3d 691, 697-98 (7th Cir. 2007), cert. denied, 552 U.S. 1219 (2008) (observing arguments regarding the chain of custody and potential contamination of the evidence go to weight, not admissibility); *United States v. Harris*, 55 M.J. 433, 440 (C.A.A.F. 2001) (quoting *United States v. Maxwell*, 38 M.J. 148, 150 (C.M.A. 1993), cert. denied, 510 U.S. 1112 (1994)) (“[T]o establish chain of custody, the Government is not required to exclude every possibility of tampering.”); *see also* M.C.R.E. 901(b).

Notably, and likely dispositive of the issue in this case, the Second Circuit specifically found [REDACTED] attached testimony regarding this documentary evidence to be “sufficient to demonstrate that the form was likely what the government claimed it to be . . . .” *Al-Moayad*, 545 F.3d at 173-74. As in *Al-Moayad*, [REDACTED] will testify concerning how she collected, received, sorted, analyzed, and sent the items back to the United States. [REDACTED] will testify that once U.S. law-enforcement investigators seized the evidence, the evidence was never outside the control of the U.S. law-enforcement investigators. As the Second Circuit found, [REDACTED] testimony alone satisfies the authentication standard under traditional Fed. R. Evid. 901 analysis.

Though [REDACTED] testimony is sufficient, the Government nonetheless anticipates calling Arabic handwriting experts to further authenticate items in Attachment B. After being properly qualified,<sup>8</sup> the Arabic handwriting experts will testify regarding their analyses of Attachments B2, B10, and B12. Their testimony will confirm these documents are the Accused's handwritten letters and requests. As it is "comparison evidence by an expert," this further authenticates these items in satisfaction of M.C.R.E. 901. *See* Fed. R. Evid. 901(b)(3). When combined with the contents, substance, distinctive characteristics, and mutual circumstances of discovery of the other documents (*see* Fed. R. Evid. 901(b)), such evidence proves that an objective juror could conclude that the evidence is what the Government asserts it to be.

For the foregoing reasons, as well as those previously found in the military commission of *Al-Bahlul*, as well as the federal district court cases of *Al-Moayad*, *Padilla*, and most recently, *Al-Fawwaz*, the Military Judge in this Commission should find the Government has sufficiently authenticated the documents in Attachment B.

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<sup>8</sup> In applying the Supreme Court's analysis under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993), and *Kumho Tire Co. v. Carmichael*, 119 S.Ct. 1167 (1999), courts have generally admitted testimony by handwriting experts for the purpose of comparing handwriting of an accused against handwriting on a document in question. In addition, courts have held that handwriting experts may testify over the equivalent of an M.C.R.E. 403 objection. *See United States v. Jones*, 107 F.3d 1147, 1160 (6th Cir. 1997) (citation omitted) ("The ability of jurors to perform the crucial visual comparisons relied upon by handwriting experts cuts against the danger of undue prejudice from the mystique attached to experts.") Moreover, courts have found that cross-examination of a handwriting expert on the limitations of handwriting analysis and proper jury instructions limits any potential unfair prejudicial effect of expert handwriting testimony. *See United States v. Oskowitz*, 294 F. Supp. 2d 379, 384 (E.D.N.Y. 2003) (holding "[t]his type of testimony may be aggressively cross-examined about why some differences between the two samples are significant while other differences are not, and the jury can reach its own conclusion about who wrote the disputed document-the jury is quite capable of understanding these arguments, unlike biochemistry, perhaps, or string theory").

Notably, one of the handwriting experts the Government intends to call in this case, Ms. [REDACTED] testified in federal district court in *United States v. Tisona*, 99-11824-CR (S.D. Fl. 2000).

## **B. Each Item the Government Seeks To Admit Is Relevant**

There can be little debate that each of the 14 items is relevant. M.C.R.E. 402 states, “All evidence having probative value to a reasonable person is admissible . . . .” M.C.R.E. 401 states, “Evidence has ‘probative value to a reasonable person’ when a reasonable person would regard the evidence as making the existence of any fact that is of consequence to a determination of the commission action more probable or less probable than it would be without the evidence.” *See also United States v. Wuterich*, 67 M.J. 63, 77 (C.A.A.F. 2008) (holding the same under the M.R.E.). The Government must demonstrate by a preponderance of the evidence (more probable than not) that the evidence is relevant. *See Bourjaily*, 483 U.S. at 175.<sup>9</sup> The Government’s proof readily meets this relatively low bar as well.

On 3 February 2014, the Accused was charged with a number of offenses arising out of his decade-long role as a senior member of the al Qaeda terrorist network. *See Referred Charge Sheet*. As alleged in the Referred Charge Sheet, during the course of his conspiracy with members and associates of al Qaeda, the Accused’s leadership took many forms, including commanding an al Qaeda terrorist training camp in Afghanistan; commanding al Qaeda guesthouses in Afghanistan; serving on al Qaeda’s senior advisory council during which he assisted in setting the terrorist policies and objectives of al Qaeda, which included killing Americans and other civilians; serving as a key al Qaeda liaison to the Taliban; commanding the al Qaeda insurgency in Afghanistan and Pakistan following Operation Enduring Freedom; and aiding the al Qaeda insurgency in Iraq following Operation Iraqi Freedom.

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<sup>9</sup> “The weight of the evidence, however, is for the jury to decide. Judges may not weigh the evidence when determining its relevance. Thus, arguments about the quality or probative value of the evidence advanced to defeat its admissibility are inapplicable to the inquiry.” *Adams v. Indiana Bell Telephone Co.*, 2 F.Supp.2d 1077, 1088 (S.D. Ind. 1998); *Manson v. Brathwaite*, 432 U.S. 98, 116 (1977) (“[E]vidence is for the jury to weigh. We are content to rely upon the good sense and judgment of American juries. for evidence with some element of untrustworthiness is customary grist for the jury mill.”); *Gunning v. Cooley*, 281 U.S. 90, 94 (1930) (“Issues that depend on the . . . weight of evidence are to be decided by the jury.”); *Baltimore & Ohio R. Co. v. Groeger*, 266 U.S. 521, 524 (1925) (“the weight and probative value of evidence are to be determined by the jury and not by the judge”).



The letters, organizational list, notebook, journal entries, financial receipts, organizational payroll documents, flight request, al Qaeda charter membership list, and other notes and correspondence recovered in December 2001 are relevant because they make “the existence of any fact that is of consequence to a determination of the commission action more probable or less probable than it would be without the evidence.” Specifically, such evidence tends to prove allegations that the Accused was a senior al Qaeda leader involved in an international criminal conspiracy. Among other things, the proposed evidence establishes the Accused’s leadership roles over al Qaeda training camps; his management over personnel matters and assignments involving al Qaeda fighters; his role in establishing asymmetrical guerilla warfare training of Arabs and Tajiks first in the mid-nineties; his membership in al Qaeda’s “Bamiyan Group” that destroyed the Buddha statues in Bamiyan, Afghanistan; his leadership in Kabul; and his financial planning and decision-making on behalf of al Qaeda.

The Accused is charged with Conspiracy in violation of 18 U.S.C. § 950t(29), and vicarious criminal liability for Charges II-IV as a co-conspirator, an aider and abettor, and a commander. *See* Referred Charge Sheet. As set forth more fully in the Government’s Response to the Defense Motion To Strike the Common Allegations (AE 019A), each of the Common Allegations of the Referred Charge Sheet addresses one or more elements of each crime and theory of vicarious liability. Likewise, in the ways described above, each of each of the 14 pieces of evidence makes one or more “fact of consequence”—one or more of the Common Allegations—“more probable or less probable than it would be without the evidence.” *See* M.C.R.E. 401. Thus, each item of evidence is relevant.

CITF SA James Hodgson will provide testimony at the pretrial hearing concerning his long-term investigation of this case that will establish the connection between each of the 14 items of evidence and the allegations in this case. Further, FBI Supervisory [REDACTED] and [REDACTED] will testify to substance and circumstances surrounding the series of voluntary statements the Accused made to them during which the

Accused provided significant details and context that further underscore the relevance of each of these items.

Finally, with respect to the Accused's own personal writings, the Arabic handwriting experts will confirm that Attachments B2, B7, B8, B10, B11, and B12 are the Accused's handwritten letters, requests, and receipts. This will further corroborate the Accused's role as a longtime, senior leader within al Qaeda, who was intricately involved in the day-to-day financial and personnel planning, as well as the decision-making, of the organization, thus further underscoring the relevance of these items.<sup>10</sup>

### **III. The Items of Evidence Are Not Inadmissible Hearsay**

None of the 14 items of evidence are inadmissible hearsay. M.C.R.E. 801(d)(2)(A) specifically exempts admissions by a party from the category of statements that are hearsay. M.C.R.E. 801(d)(2)(E) further provides that "a statement by a coconspirator of a party during the course and in furtherance of the conspiracy" is not hearsay. Because each of the 14 items of evidence is specifically exempted by M.C.R.E. 801(d)(2)(A) or by M.C.R.E. 801(d)(2)(E), none are inadmissible hearsay.

#### **A. Many of the Items of Evidence Are the Accused's Own Statements**

M.C.R.E. 801(d)(2)(A) provides that a statement that "is offered against a party and is . . . the party's own statement" is not hearsay. This is consistent with its counterparts at M.R.E. 801(d)(2)(A) and Fed. R. Evid. 801(d)(2)(A). The letters, requests, and receipts, written by the Accused are not hearsay because they are his own statements which are being offered against him.

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<sup>10</sup> That two of the items of evidence pre-date 1996 is no bar to their admissibility. It is well-settled that "[e]vidence that provides background information necessary to the jury's understanding of the nature of the conspiratorial agreement is properly admitted to furnish an explanation of the understanding or intent with which certain acts were performed." *United States v. Salameh*, 152 F.3d 88, 111 (2d Cir. 1997); see also *United States v. Farkas*, 21 M.J. 458 (C.M.A. 1986) (admitting evidence of acts committed prior to the alleged formation of the conspiracy but holding that such evidence alone was not sufficient to sustain a conviction for conspiracy. Evidence of the Accused's involvement with al Qaeda prior to 1996 falls within this category of relevant, admissible evidence.

**B. The Remaining Items of Evidence Are Statements of the Accused's Co-Conspirators Made During the Course of and in Furtherance of the Conspiracy**

M.C.R.E. 801(d)(2)(E) provides that “a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy” is not hearsay. When such a statement is offered against a party, it is “not hearsay” and is therefore admissible. *See, e.g., United States v. Mehanna*, 735 F.3d 32 (1st Cir. 2013) (describing Fed. R. Evid. 801(d)(2)(E), which is the same as M.C.R.E. 801(d)(2)(E)). When deciding whether a statement was made during the course and in furtherance of the conspiracy, the Military Judge should ask whether the record evinces “that a conspiracy embracing both the declarant and the defendant existed, and that the declarant uttered the statement during and in furtherance of the conspiracy.” *United States v. Piper*, 298 F.3d 47, 52 (1st Cir. 2002) (internal quotation marks omitted). Further, the Government need only prove that the declarant was more likely than not a conspirator. *See United States v. Ayala*, 601 F.3d 256, 267-68 (4th Cir. 2010).

Even where the precise author of the document is unknown, the item should still be admitted into evidence pursuant to Fed. R. Evid. 801(d)(2)(E) where a preponderance of the evidence indicates the documents were made by a member of the conspiracy. *United States v. Lyons*, 740 F.3d 702, 719 (1st Cir. 2014); *see, e.g., United States v. El-Mezain*, 664 F.3d 467, 505 (5th Cir. 2011) (“The failure of a document to identify the declarant is not fatal to admissibility . . . if the facts and circumstances surrounding the making of the statement indicate that the speaker is a member of the conspiracy . . . .”); *Ayala*, 601 F.3d at 267-68 (noting that “it is not necessary for the offering party to identify the declarant by name” and the government need only show for admissibility that the declarant was more likely than not a conspirator); *United States v. Martinez*, 430 F.3d 317 (6th Cir. 2005) (admitting an anonymous letter because the location in which the letter was found and its contents supported a finding that the letter was more likely than not written by a member of the alleged conspiracy); *United States v. Squillacote*, 221 F.3d 542 (4th Cir. 2000) (stating while the identity of the declarants of unsigned documents could not be known, the information included in them, which was corroborated in

many respects, compelled the conclusion that the documents were made by or at the direction of persons with knowledge of and involvement in the conspiracy with the defendants).

The conspiracy charge against the Accused alleges that he conspired with Usama bin Laden, Ayman al Zawahiri, Mohammed Atef (Abu Hafs al Masri), Khalid Shaikh Mohammad and others to commit various substantive offenses triable by military commission between about 1996 and or about 1 November 2006. *See* Referred Charge Sheet. The face of each of the items not specifically authored by the Accused indicates it is a writing or correspondence by the Accused's co-conspirators made during and in furtherance of the conspiracy. The mutual location of the documents' collection with other items authored by the Accused will further corroborate the existence of a conspiracy. Finally, the Accused's own statements in the form of his and others' al Qaeda propaganda, as well as the Accused's voluntary statements to the FBI, will confirm the Accused's membership in the al Qaeda conspiracy he shared with the authors of the documents.<sup>11</sup>

**C. Even If the Items of Evidence Do Not Fit Within One of the Categories Described Above, Each Item of Evidence Is Nevertheless Admissible As Each Is Reliable, Probative of a Material Fact, Direct Testimony from the Declarant Is Not Available as a Practical Matter, and Meets the Interests of Justice**

Assuming, *arguendo*, that the Commission finds that some or all of the evidence falls under the definition of hearsay found M.C.R.E. 801(c), the 14 items of evidence are nonetheless admissible pursuant to M.C.R.E. 803(b)(2).<sup>12</sup>

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<sup>11</sup> While the Second Circuit confirmed that [REDACTED] testimony was sufficient to authenticate the documents she acquired in Kandahar in December 2001, the circuit court ultimately held the district court did not satisfy the requirements of Fed. R. Evid. 801(d)(2)(E) when admitting a certain document over a hearsay objection. *See Al-Moayad*, 545 at 139. Specifically, the Second Circuit held that the district court made no findings, by a preponderance of the evidence or otherwise, about the existence of a conspiracy including Al-Moayad and the individual who authored the document. *See id.* As described more fully above, the Government in this case will present an abundance of evidence that demonstrates these documents were authored by one of the Accused's co-conspirators.

<sup>12</sup> M.C.R.E. 803(b)(1) requires the proponent of the evidence offered pursuant to the rule to give notice "sufficiently in advance" of trial. This pleading is intended to serve as the required notice.

M.C.R.E. 803(b) states in relevant part:

Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission only if—

- (1) The proponent of the evidence makes known to the adverse party, sufficiently in advance to provide the adverse party with a fair opportunity to meet the evidence (including information on the circumstances under which the evidence was obtained); and
- (2) The military judge, after taking into account all of the circumstances surrounding the taking of the statement, including the degree to which the statement is corroborated, the indicia of reliability within the statement itself, and whether the will of the declarant was overborne, determines that—
  - (A) the statement is offered as evidence of a material fact;
  - (B) the statement is probative for which it is offered;
  - (C) direct testimony from the witness is not available as a practical matter, taking into consideration the physical location of the witness, the unique circumstances of military and intelligence operations during hostilities, and the adverse impacts on military or intelligence operations that would likely result from the production of witnesses; and
  - (D) the general purposes of the rules of evidence and the interests of justice will best be served by admission of the statement into evidence.

A textual analysis of M.C.R.E. 803(b) reveals it is substantially similar to M.R.E. 807 and Fed. R. Evid. 807, as the language of M.C.R.E. 803(b) tracks the language of both. Notably, however, M.C.R.E. 803(b)(2)(C) adds that such evidence is not hearsay when direct testimony from the declarant is “not available as a practical matter.” In making this assessment, M.C.R.E. 803(b)(2)(C) instructs the Military Judge to consider “the physical location of the witness, unique circumstances during hostilities, and adverse impacts on operations that would likely result from production of the witness.” *Id.* As described above, all of these factors exist in this case. Each piece of evidence is probative of a material fact, is corroborated by other evidence, is reliable, is voluntary (either the Accused or other members of his conspiracy authored the

documents with no Government involvement), each was gathered in a war zone during hostilities, and the general purpose of the rules of evidence and the interests of justice will be best served by admission of the evidence. 10 U.S.C. § 949a(b)(3)(D)(ii); M.C.R.E. 803(b)(2).

The history and background of Fed. R. Evid. 807 is also helpful when assessing the admissibility of this evidence pursuant to M.C.R.E. 803(b). In 1997, Fed. R. Evid. 803(24) and Fed. R. Evid. 804(b)(5) (both entitled “Other Exceptions”) were combined and moved to their own rule—Fed. R. Evid. 807. Fed. R. Evid. 807 was created to provide federal courts with the flexibility required to accomplish the purposes of Fed. R. Evid. 102. *See* 7 Michael H. Graham, *Handbook of Federal Evidence*, § 701:1 (7th Ed. 2011). To that end, M.C.R.E. 803(b) and Fed. R. Evid. 807 alike require the judge to find that admitting the evidence will best serve “the general purposes of the rules of evidence and the interests of justice . . .” Fed. R. Evid. 102 states the purposes of the rules of evidence as follows:

These rules shall be construed so as to administer every proceeding fairly . . . and promote the development of evidence laws, to the end of ascertaining the truth and securing a just determination.

Similarly, M.C.R.E. 102 states:

These rules should be construed to secure fairness in administration, elimination of unjustifiable expense and delay, the protection of national security, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Both M.C.R.E. 803(b) and Fed. R. Evid. 807 are borne out of the desire to ensure that strict adherence to the formalism of the hearsay rules does not deprive the fact-finder of probative, reliable evidence that aids him or her in rendering a just verdict. The spirit and general purpose of M.C.R.E. are best served by admitting the 14 items of evidence. Doing so eliminates unjustifiable expense and delay, appropriately protects national security, and promotes the search for the truth in a manner that allows the proceedings to be justly determined. Thus, there is no basis to exclude any of the attached items of evidence as inadmissible hearsay.

## **7. Conclusion**

The Government will authenticate the evidence identified in this motion and prove its relevance at a pretrial hearing. This will allow Defense to know what evidence it must meet at trial, and the members can be protected from exposure to inadmissible evidence or undue delay during trial. Thus, for all the reasons above, in addition to considering the items identified in Attachment B when determining whether the Government has proved this Commission properly exercises *in personam* jurisdiction over the Accused, as well as when assessing any motion to suppress the Accused's statements to law enforcement, the Military Judge should admit each item into evidence for trial on the merits.<sup>13</sup>

## **8. Oral Argument**

The Government does not request oral argument to address the merits of whether the Commission may admit evidence before trial. The Commission can decide that matter without oral argument. *See* Military Commissions Trial Judiciary Rule of Court 3.9(a). The Government, however, requests an evidentiary hearing to lay a foundation for the items identified in this motion.

## **9. Witnesses<sup>14</sup> and Evidence**

The Government intends to call the following witnesses in support of this motion:

1. FBI [REDACTED] (Authentication)
2. CITF SA James F. Hodgson (Active Case Agent)
3. FBI [REDACTED] (Interviewing Agent)
4. FBI [REDACTED] (Interviewing Agent)
5. MA1 [REDACTED] (Handwriting Exemplars Chain of Custody)

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<sup>13</sup> The Government reserves the right to seek the admission of additional evidence found and not otherwise identified in this pleading.

<sup>14</sup> The Government respectfully requests to have this motion heard during the July sessions for judicial economy concerning these witnesses who are also necessary witnesses concerning other matters scheduled for the July sessions.

6. FBI [REDACTED] (Handwriting Exemplars Chain of Custody)
7. Ms. [REDACTED] and/or Ms. [REDACTED] (Arabic Handwriting Experts)

**10. Certificate of Conference**

The Government certifies that it conferred with the Defense before filing this motion.

The Defense objects to the relief requested.

**11. Additional Information**

The Government has no additional information.

**12. Attachments**

- A. Certificate of Service, dated 21 April 2015.
- B. Itemized list and accompanying 14 documents authored by or related to the Accused and acquired from Kandahar, Afghanistan, in December 2001.
- C. Testimony of [REDACTED] Trial Transcript pp. 429-450, *United States v. Al-Bahlul* (Military Comm'n, Guantánamo Bay, Cuba Feb. 8, 2008).
- D. Testimony of [REDACTED] Trial Transcript pp. 2131-2156, *United States v. Al-Moayad*, No. 1:03-cr-01322-SJ (E.D.N.Y. Dec. 15, 2003).
- E. Testimony of [REDACTED] Trial Transcript pp. 9-54, *United States v. Padilla*, 04-60001-CR-Cooke (S.D. Fl. May 15, 2007).
- F. Testimony of [REDACTED] Trial Transcript pp. 231-248, *United States v. Al-Fawwaz*, No. 1:98-CR-1023 LAK (S.D.N.Y. Jan. 26, 2015).
- G. Testimony of CSM David Karnes, Trial Transcript pp. 1621-1648, *United States v. Al-Fawwaz*, No. 1:98-CR-1023 LAK (S.D.N.Y. Feb. 12, 2015).



- H. Handwriting Comparison and Document Examination, dated 21 September 2012; Addendum to Expert Opinion, dated 21 September 2012; and Handwriting Comparison and Document Examination, dated 24 September 2012.

Respectfully submitted,

//s//

Mikael M. Clayton  
Trial Counsel  
LTC David J. Long, JA, USA  
Assistant Trial Counsel  
Office of the Chief Prosecutor  
Office of Military Commissions

# **ATTACHMENT A**

**CERTIFICATE OF SERVICE**

I certify that on the 21st day of April, 2015, I filed **AE 035, Government Motion In Limine To Consider Evidence During Preliminary Matters and To Admit Evidence for Trial On the Merits**, with the Office of Military Commissions Trial Judiciary and I served a copy on counsel of record.




*//s//*




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Mikael M. Clayton  
Trial Counsel  
Office of the Chief Prosecutor  
Military Commissions




# **ATTACHMENT B**

<p>UNITED STATES OF AMERICA</p> <p>v.</p> <p>ABD AL HADI AL-IRAQI</p>	<p>AE 035</p> <p><b>Attachment B</b></p> <p><i>In Limine</i> For the Commission to Admit Evidence, Including Documents and Tested Items</p> <p>21 April 2015</p>
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Attachment/Description	Date of Item	Custodian	Additional Forensic Analysis
<p><b>Attachment B1:</b> Letter which describes a leadership conflict over the Al-Farouq and Al-Furqan training camps, involving the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-024378 – HADI-1-024384</p> <p><b>Attachment B1A:</b> (English Translation) Bates Numbers: HADI-1-024385 – HADI-1-024392</p>	June 1994		N/A
<p><b>Attachment B2:</b> Letter written by the Accused to Abu Muhammad al-Zayyat, dated 11 March 2000, about how to deal with an internal spy. (Photocopy of the original Document) Bates Numbers: HADI-1-017995 – HADI-1-018283</p> <p><b>Attachment B2A:</b> (English Translation) Bates Numbers: HADI-1-018284 – HADI-1-018601</p>	11 March 2000		Handwriting analysis is positive for the Accused.
<p><b>Attachment B3:</b> Letter from the Accused, dated 9 June 1994, discussing mountain</p>	9 June 1994		N/A

<p>guerilla warfare training. (Photocopy of the original Document) Bates Numbers: HADI-I-006324 – HADI-I-006325</p> <p><b>Attachment B3A:</b> (English Translation) Bates Numbers: HADI-I-006429 – HADI-I-006430</p>			
<p><b>Attachment B4:</b> List of names in the “Bamiyan Group,” including the Accused. (Photocopy of the original Document) Bates Numbers: HADI-I-006316</p> <p><b>Attachment B4A:</b> (English Translation) Bates Numbers: HADI-I-006421</p>	March 2001		N/A
<p><b>Attachment B5:</b> Al Qaeda membership list which includes the Accused (<i>See</i> #46 on list). (Photocopy of the original Document) Bates Numbers: HADI-I-024058 – HADI-I-024062</p> <p><b>Attachment B5A:</b> (English Translation) Bates Numbers: HADI-I-024063 – HADI-I-024068</p>	Created between Aug 1998 and Dec 2001		N/A
<p><b>Attachment B6:</b> Two sets of receipts for drilling equipment: one set from Al-Riaz International and one set from Irfan &amp; Sons. (Photocopy of the original Document) Bates Numbers: HADI-I-024069 – HADI-I-02476</p> <p><b>Attachment B6A:</b></p>	17 March 2001		N/A

(English Translation) Bates Numbers: HADI-1-024077 – HADI-1-024078			
<b>Attachment B7:</b> Receipt for the release of funds addressed to Hamzah written by Abu Hafs. Requests the release of \$1,650 received by the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-006533 – HADI-1-006534  <b>Attachment B7A:</b> (English Translation) Bates Numbers: HADI-1-006521 – HADI-1-006523	9 January 2001		Handwriting Analysis
<b>Attachment B8:</b> Al Qaeda receipt written by Abu Hafs for the release of funds to the Accused for the medical care of another al Qaeda member. (Photocopy of the original Document) Bates Numbers: HADI-1-006537 – HADI-1-006538  <b>Attachment B8A:</b> (English Translation) Bates Numbers: HADI-1-006509 – HADI-1-006511	7 January 2001		Handwriting Analysis
<b>Attachment B9:</b> Document of budgets and salaries for al Qaeda employees working at Al-Ansar guesthouse in Kabul received by the Accused. (Photocopy of the original Document) Bates Numbers: HADI-1-005378 – HADI-1-005381  <b>Attachment B9A:</b> (English Translation) Bates Numbers: HADI-1-005932 – HADI-1-005936	Unknown Date		N/A

<p><b>Attachment B10:</b> Request written by the Accused to the Coordinator of Hawa'i field, dated 26 September 1999, requesting to send two al Qaeda members to Kandahar via an official flight. (Photocopy of the original Document) Bates Numbers: HADI-1-006539 – HADI-1-006540</p> <p><b>Attachment B10A:</b> (English Translation) Bates Numbers: HADI-1-006512 – HADI-1-006514</p>	26 September 1999		Handwriting analysis is positive for the Accused.
<p><b>Attachment B11:</b> Letter from the Accused to Abd-al Salam al-Hadrami, dated 22 June 1999, discussing al Qaeda's membership selection process and personnel matters, including an internal questionnaire for potential members. (Photocopy of the original Document) Bates Numbers: HADI-1-006535 – HADI-1-006536</p> <p><b>Attachment B11A:</b> (English Translation) Bates Numbers: HADI-1-006395 – HADI-1-006397</p>	22 June 1999		
<p><b>Attachment B12:</b> Letter written by the Accused discussing personnel lists and reconnaissance assignments of al Qaeda members. (Photocopy of the original Document) Bates Numbers: HADI-1-006296 – HADI-1-006297</p> <p><b>Attachment B12A:</b> (English Translation) Bates Numbers:</p>	Late 1990s		Handwriting analysis is positive for the Accused.

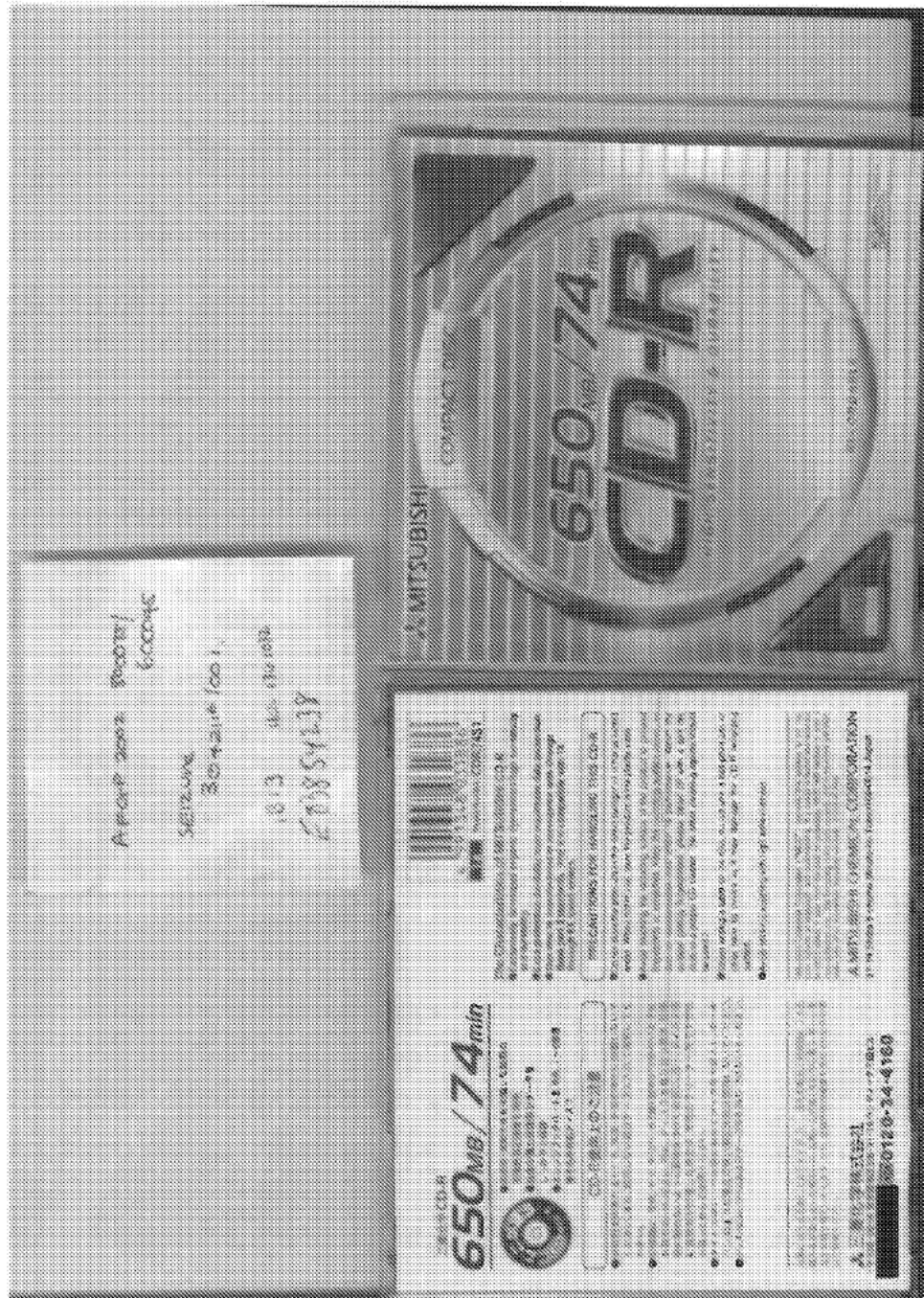


HADI-1-006398 – HADI-1-006400			
<p><b>Attachment B13:</b> Notes written by Abu Ayman al-Yemeni listing weapons, personnel, and financial statements. Specifically mentions \$8,000 for a bulldozer for the Accused and lists 18 other al Qaeda members assigned under to the Accused's command. (Photocopy of the original Document) Bates Numbers: HADI-1-011421 – HADI-1-011508</p> <p><b>Attachment B13A:</b> (English Translation) Bates Numbers: HADI-1-011509 – HADI-1-011598</p>	March/April 1999		N/A
<p><b>Attachment B14:</b> Al-Bahlul's journal entry, dated 27 September 2000, including notes of senior al Qaeda leadership meetings to discuss the bombing of <i>USS Cole</i>, identifying the Accused as a person in attendance. (Photocopy of the original Document) Bates Numbers: HADI-1-018617 – HADI-1-018948</p> <p><b>Attachment B14A:</b> (English Translation) Bates Numbers: HADI-1-018949 – HADI-1-019281</p>	27 September 2000		N/A

# **ATTACHMENT B1**

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6 : @ @ < تقرير أخير عن الفاروق والفرقان  
1 : إ م إ د إ د ع ظ ص بسم الله الرحمن الرحيم

الحمد لله رب العالمين والصلاة والسلام على خير عباده الله والمرسلين سيدنا محمد وعلى آله وصحبه أجمعين.  
إلى فضيلة الأخ المسؤول العسكري.

السلام عليكم ورحمة الله وبركاته وبعد  
تهانينا إليكم وإلى جميع الإخوة عذكم بمناسبة عيد الأضحى المبارك أعاده الله علينا وطيبكم وعلى الأمة الإسلامية بكل خير.  
أكتب إليكم هذا التقرير حول موضوع ملئت الكتابة فيه على أمل أن يصدر منكم قرار واضح وفعل بشأنه. أسأل الله أن يعينكم على اتخاذ وأن يكون في صالح الإسلام والمسلمين ... آمين.  
أما الموضوع الذي أكتب عنه للمرة الأخيرة فهو موضوع الفاروق والفرقان وما أترك ما الفاروق والفرقان.

بخلفية تاريخية.

في منتصف شهر شوال من سنة 1413 هـ - وصل الأخ أبو كنعان مع مجموعة من العرب من أجل حرد الأسلحة والذخائر الموجودة في القطاع من أجل تسليمها إلى مشروع الفرقان. وكان المسؤول عن الحرد الأخ أبو حفص الحسيني (المصري) وكان البرنامج اذالك يقضي بفرنا بعد حوالي أسبوعين من وصول طاقم الحرد برئاسة أبي كنعان.  
وبعد أن تم الحرد ( بعد عدة أيام ) رجع طاقم الحرد إلى بيشاور وبقي كل شيء كما هو . ووصلت رسالة من الأخ سعيد ( وكان وقتها مسؤولا في بيشاور بعد سفر سيد العدل على إثر المعركة ) فيها تعليمات بالتحرك إلى إسلام آباد من أجل السفر إلى السودان وإلى عبد الخالق ( انظر الملحق رقم 1 ).  
كان البرنامج أن يبدأ إرسال الإخوة عبر الطريق المقترحة إلى إسلام آباد وكل الذخيرة والأسلحة موجودة في أماكنها لم يتحرك منها شيء.  
على إثر هذه الرسالة أرسلت مكتوبا إلى الأخ سعيد أقترح فيه تأخير التحرك إلى حين نقل الذخائر والأسلحة من جهادوال إلى تخنيك ( قلعة بها مخزن كبير لحقائي في خوست ) وهذا ما وافق عليه الشيخ سعيد و بدأنا بنقل الذخائر والأسلحة.  
استمرت عملية النقل مدة شهر تقريبا . وفي خلال هذه المدة بدأ يتوافد الطاجيك ( وحتى قبلها ) من أجل التدريب في الفاروق .  
أخبرنا الشيخ سعيد - على إثر رسالة استفسارية مني حول مصير المستكرات - أن الفاروق هو تحت مسؤولية أبي كنعان إلى حين الإتصال مع الإخوة والفصل في هذا الأمر وأن يقع تسليم مركز جهادوال إلى فضل الرحمن ( الحركة ) بعد ذهابنا . ( انظر الملحق 2 ).  
في فترة نقل الذخائر وفي الوقت الذي كان يصل فيه الطاجيك إلى الفاروق كانت رغبة بعض الإخوة هنا الإستمرار في جهادوال للتدريب والإستفادة العسكرية وبعضهم كان يود المشاركة في مشروع الفرقان . وعلى إثر ذلك أرسلت اقتراحا إلى الشيخ سعيد حول هذا الأمر وقبـع الإتفاق بعد أخذ وعطاء على أن يبقى الإخوة هنا مدة ستة أشهر ثم يتحركون.  
كنتهي هذه المهلة ( 6 أشهر ) في شهر نوفمبر من سنة 1993م وعلى إثر ذلك قررنا المشاركة في التدريب في الفاروق مع العلم أننا بعد التدريب نتحرك إلى السودان . وعندنا اتفاقا مع الأخ أبو وايد بتولي تدريب الطاجيك على حرب العصابات في الفاروق ثم بعد نهاية الدورة نغادر المنطقة . وكانت أخبرت الأخ أسد عن هذا الموضوع في أول زيارة له لجهادوال بعد أن تولى

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عقدنا الجلسة في عصر يوم 6 / 6 / 1994م في جهادول وبدأها أبو كنعان بحمد الله والثناء عليه ثم سأل عن حيثيات طرحنا : لماذا ؟ ومن قال أنكم تستلمون المركز ؟ بدأت بالكلام وقلت له أن هذا الإجراء هو من ناحيتين : أولاً نتيجة تعليمات من الإخوة في السودان وثانياً لأنه يحقق مصلحة أكبر في سير أمور التدريب في القطاع . وقلت له أننا نلتزم بتدريب الطابعات حسب البرنامج الذي يقع الإتفاق عليه بيننا وبينكم ( أبو كنعان وأبو وليد ) وأنتم تتكفلون بكل حاجيات المعسكر من بيشاور وميزانيات ويكون الأمير من طرفنا لتسهيل المعاملات والترتيبات الإدارية في المنطقة على أن لا يكون هناك أن تدخل في إداريات المعسكر ويرتفعه العسكري لتفادي ما وقع في الفترة الماضية . بقيت أنا وأسد نساوول إقناع أبي كنعان بمحاسن هذا الطرح ونقاطه الإيجابية في الوقت الذي أبدى فيه أبو كنعان عدم قبوله ورفضه له . ومضى الوقت في الكلام والتفكير في النهاية على التوقف ومواصلة الجلسة بعد المغرب لأنه كان هناك بعض الأعمال التي يجب تأديتها بعد المغرب بساعة تقريباً جلسنا مرة أخرى وبدأنا في مناقشة الموضوع وقال لي أبو كنعان أنه لا يقبل هذا الأمر لسبب مهم وهو أن كل المتدربين الذين يتلون للتدريج لمشروع الفرقان يسألون أولاً عن أمير المركز الذي يقع فيه التدريب هل هو من القاعدة أم لا . فإن كان الجواب نعم فهم لا يتبرعون وإن كان لا فإنهم يواصلون بقية أسلحتهم قبل التبرع للتأكد أين يضعون أموالهم . ( هكذا هو يقول ... ) ولما رددت عليه في هذه النقطة أن هذه حجة غير قوية حيث أنه هو نفسه من القاعدة بالتالي وضع المشروع خطير جداً إذ لو علم المتدربون بهذا لم جاءوا إليك أصلاً وبالتالي هذه حجة غير كافية . وإذا قلت أنك تمارس السرية وأنه لا أحد على الساحة ( فرضاً ) يعرف أنك من القاعدة فما المانع أن تمارسها هذا على الأمير من طرفنا ونكتم تبعيته للقاعدة خصوصاً أن المركز لا يأتيه العرب . لما رأى أن هذه الحجة غير مقبولة قال أن هذا المشروع مستقل عن القاعدة ويجب أن يواصل هكذا ووضع أمير من طرفكم يعني تدخل القاعدة في هذا المشروع . قلت له : يا أبا كنعان ، أنت من القاعدة ، أبو أمامة من القاعدة ، أبو علي القالي من القاعدة ، صلاح الدين من القاعدة ، أبو وليد ليس عربياً عن القاعدة والذين ساهموا بقسط كبير في الوصول إلى ما وصلتم إليه مدبرون من القاعدة . فكيف تقول أنه لو وضعنا أميراً من عندنا فسوف يصبح المشروع غير مستقل وأين الاستقلالية التي تتكلم عنها . ملاحظة : في جلساتنا هذه لم يكن أبو وليد موجوداً معنا رغم أنه كان في المركز : جهادول حيث عقدت الجلسات كلها . علمت أنا وأسد أن الأمر لا يمكن الوصول فيه إلى حل خصوصاً أن أبا كنعان أصر على أن يعين هو الأمير في الفاروق ويصدر إليه الأوامر من بيشاور ولا يكون لنا دخل في هذا الأمر سوى التدريب وأيضاً رأى أن الإخوة في السودان كان يجب عليهم أن يشعروهم أنهم قرروا استرجاع المركز قبل موعد التسليم بمدة حتى يستطيع أن يتصرف . قررنا على إثر ذلك أن نوقف تنفيذ الطرح الذي طرحناه ويقع مراجعته الإخوة في السودان للفصل بيننا وأخبرنا أبا كنعان أننا ( في جهادول ) متوقفون عن التدريب لمدة شهر بعد الانتهاء من الدورة الحالية بحيث تكون لنا هذه مدة استراحة وأيضاً نسعون إلى حل مشاكلكم من السودان . وانتفتت مع أسد أن ينزل إلى السودان لمناقشة هذه الموضوعات معكم ونصحتة أن يكون أبو كنعان معه حتى تكون الصورة واضحة للإخوة هناك بحيث يتخذوا القرار المناسب . وأخبرنا أسد وأبا كنعان أني مستعد لأي قرار يتخذه الإخوة هناك لأنه سيكون بصفة الأمر والله المستعان . هذا حضرة المسؤول العسكري ما وقع في القطاع في الأيام الأخيرة والذي أظن أنه يحتاج إلى قرار حكيم . ودعني أقول لك بعض الأمور التي أرى أنه لا بد أن نتخذ بعين الاعتبار قبل اتخاذ القرار

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أبلى الله من حقى كعرب مسؤول عن دورة أن لا أقبل بتواجد أفراد بهذا العدد في نفس مكان التدريب.

كنت قد عرضت دنيلا عن القاروق حتى يجلس فيه هؤلاء الإخوة وهو جهول وجهولتهم لهم عرفة كبيرة تسعهم تماما ولكن الأخ عبد المهيمن أصدر على هذا الأمر ( إنذارهم في القاروق )

بحجة أنهم لن يجنوا هناك الحيازة الضرورية والإحترام.

كنت أرى مدى إصرار الأخ عبد المهيمن على هذا الأمر وطلعت أنه لا يمكن أن ينتقل عن قراءة هذا رغم أنه من حقى تماما أن أرفض تراجمهم ( هذا في رأيي ونصوري ) ولكني رغم ذلك قبلت ببقاءهم في القاروق.

هذا مثال ! ... وغيره كثير.

كانت القضايا موحدة ولكن غير متطابقة و كان الجميع يحسن بها سواء لنا أو عبد المهيمن أو حتى الإخوة في جهنم . ووصلت إلى درجة رأيت على إثر ما أن الأمر يحتاج إلى حل جذري لأن أستاذي أو الموضع بهذه الصلة سوف يؤدي إلى حدوث أمور في غير صالح العمل.

كانت رسالة إلى الأخ أسد الله السدي في بيشاور حتى يفهم الموضوع ويتصل بكم لتفصيل في الأمر . ولكن الأخ أبو الفلاح رأى أن يتحدث مع الأخ أبو وليد في بيشاور ويعرض عليه الأمر بصيغة مسؤول مشروع القاروق ومناقشة الإقتراحات التي أرسلتها لحل هذه المشكلة.

راجع الملحق 3 : رسالة إلى أسد حون سو الأحمال في القطار بسبب وجود إدارتين : جهنم والقاروق.

كان رد الأخ أبي الويلد إيجابيا جدا وكان مفاده أن إدارة القاروق هي تابعة لنا ( جهنم ) وكما كانت في السابق . ( راجع الملحق 4 : رسالة إلى وليد حون حاشا مشاكل الإزدينية في القطار ) الحقيقة أن هذا القرار من أبي وليد ماعيد إلى حد ما في حل بعض المشاكل ولكن الواضح أنه لم يكن هناك التزام كامل من طرف القاروق وأبي كتمان . وسارت الأمور مدة 4 أشهر تقريباً

تدخلنا بعض المشاكل ولكن أحد من قبلنا ولما اكتمل التدريب بالنسبة إلى الطالبين وكانوا على أبواب التخرج في التسهيل للمشاركة في الموسم التالي لهذا الصيف . جلست مع الأخ أبي وليد من أجل مناقشة وضع القاروق بعد وصول تعليمات من السودان باسترجاع السيطرة عليه حسب ما أخبرني الإخوة في بيشاور .

وعرضت عليه عرضاً يمثل في أن نقول للتدريب في القاروق كما كان سابقاً مع ملاحظة ما يلي:

- يكون الأمر في القاروق من طرفنا  
- يتولى الإخوة في القاروق دفع مصاريف البيرة والتدريب كلها.

- لا نقبل بأي كعالات إدارية أو عسكرية من طرف أبي كتمان بل يكون دوره فقط خطاً خفياً بحيث يوفر احتياطات المصكر من بيشاور.

وبالنسبة كان الأخ أسد موجوداً وحضر من بيشاور خصيصاً لمناقشة هذا الموضوع . كانت الجلسة بتاريخ 5 / 6 / 1994 ولم يكن الموضوع الموضوع غريباً أو جدياً على أبي وليد

حيث أن مناقشات قديمة وقعت في بيشاور بينه وبين أبي الفلاح في نفس هذا الموضوع . راجع الملحق 5 : رسالة من أبي الفلاح فيها إشارة إلى تعليمات الإخوة في السودان وإلى مناقشة موضوع دفع ميزانية على أن نتكفل نحن بلقائي : أمور إدارية وعسكرية

وفي نهاية الجلسة قال أبو وليد أنه سوف ينتظر وصول أبي كتمان من بيشاور ليشرح عليه مطالبنا ونناقش بعد ذلك.

وصل أبو كتمان مساء يوم 5 / 6 / 1994م ومن بعد جلس مع أبي وليد وطرح عليه الأخير الموضوع . يتابعين أم تكن متواجدتين حيث كانت الجلسة خاصة بكم

لاحظت طبيعة تلك اليوم كما لاحظت أنه أن من أج أبي كتمان لم يكن على ما يرام وطلب أبو كتمان أن يجلس معي ومع أسد بعد العصر لمناقشة بعض الأمور

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مسؤوليات بيشاور كان الهدف منها الترتيب لسفر الإخوة حيث انخفضت معيشتهم وأصابهم الملل . ووافق الأخ أسد على هذا الاقتراح ورثنا الأمور بحيث يقع تغيير الطاقم الموجود بعد الانتهاء من التدريب .

بعد هذا الاتفاق وصلت رسالة من الأخ أسد مفادها أن القيادة في السودان تقول : " عسروا على المعسكرات بالواجب " . ويعتبر هذا القرار الجديد تغييراً جذرياً في الخطة المرسومة سابقاً والتي تقتضي بإخلاء المنطقة . على إثر ذلك كان لا بد من تغيير الخطة وأصبح من الضروري استبدال طاقم جهنموال الحالي بطاقم جديد يأتي من السودان .

الخلاصة .

. يوقع تسليم الفاروق إلى أبي كنعان مع ملاحظة أن هذه العملية لم تكن لا بأوراق ولا مشافهة ولكن كانت تحصيل حاصل لأننا كنا نرتب للسفر في خلال فترة قصيرة . وكان أبو كنعان قد بشر مسؤولياته في الفاروق .

. وكان البرنامج يقتضي بتركنا من المنطقة بعد نقل الذخيرة والأسلحة وتسليم مركز جهنموال لفضل الرحمن .

. بتغير البرنامج وأصبح يقتضي ببقاؤنا مدة ستة أشهر إضافية تنتهي منها مع شهر نوفمبر سنة 1993م .

. بقررتنا المشاركة في تدريب المجاهدين مع الأخ أبو الوليد وعند الانتهاء نغادر المنطقة .

. بوصول قرار جديد بالمحافظة على المعسكرات وأن نغض عليها بالواجب .

. وكيف كان يسير الفاروق خلال هذه الفترة :

كان أول من ترأس الفاروق بعدنا الأخ صلاح الدين الإيراني الذي كان محسوباً على قوة الفرقان . وكان عند الطاجيك في تلك الوقت حوالي 280 فرداً جاءوا للتدريب . وأول دورة عقدت في تلك الوقت كانت الدورة الأساسية التي أشرف عليها الأفغان . ولمشارك نحن في البرنامج العسكري في تلك الفترة لأننا كنا لا نعرف روسنا من أرجلنا .

ولما أراد الأخ صلاح الدين التفرغ لدورة العمل السري عين مكانه الأخ عبد المهيمن العراقي وغادر الأخ صلاح الدين إلى معسكر جديد وقع إنشاءه خصيصاً لدورته بينما بقي أخونا عبد المهيمن في الفاروق .

ولما بدأنا مع الأخ أبو وليد البرنامج الجديد في نهاية شهر 9 من سنة 1993م كنا نتوجه إلى الفاروق صباحاً من أجل التدريب ونعود في الليل لأن عدداً في جهنموال كان قليلاً وكان يجب علينا أن نساعد من بقي هناك في الحراسة .

كان الأخ أبو وليد متواجداً في بداية التدريب ولذلك لم تكن هناك أية مشاكل ولكنه عاثر بعد أن بدأ التدريب بمدة أسبوعين تقريباً . كنت أظن أنني مسؤول عن الفاروق لأن الأخ عبد المهيمن جديد في المركز إلى حد ما وعليه كنت أحياناً أصدر تعليمات تخص الفاروق إلى عبد المهيمن . وكنت لاحظت أن هناك شيئاً غير عادي ولم يخطر ببالي أن عبد المهيمن يرى أن قراراتي هذه هي تدخل في عمله الخاص . وعلى إثر أحد المواقف فهمت هذه النقطة جيداً وقررت على أن لا أتدخل أبداً في شؤون الفاروق إلى أن يعود الأخ أبو وليد لمناقشة الأمر .

كنت تحدث بعض الخلافات في الآراء والتصورات كانت تسبب أحياناً إلى صدامات في القرارات كنت على إثرها أتنازل رغم أن القرار يجب أن يعود لي في تلك الحالات . من ذلك مثلاً أن الأخ عبد المهيمن كان يريد أن يحضر مجموعة من الطاجيك إلى المعسكر كانت في تحتيتك تنتظر وصول الأخ أبي كنعان من أجل أن يدرسها مدققة وكنت أعترض توليدها في المعسكر في ذلك الوقت لأنني لا أقول أن يكون هناك أفراد بدون عمل ( حوالي 15 فرداً ) في مكان نعتد فيه دورة غير عادية لأنني أرى أن هذا سيأثر على مستوى الانضباط في المركز مع تأثير على البرنامج .

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ولا بد من دعم مشروع الفرقان في ما يخص التدريب لأنه لا يوجد من يقوم بهذا الأمر غيرنا على الوجه الذي يجب أن يكون عليه.

ولا بد من توفير الجو المناسب للتدريب بعيداً عن الحساسيات وعدم الإتيان واخلاف وجهات النظر.

ولا بد من محاولة دعم الطاقم التدريبي في المنطقة ببعض الكوادر المتقنة.

بمحاولة توفير من يبقى في مركز جهادوال في الصيف القادم إذا تحرك الطاقم التدريبي إلى الداخل مع المتدربين.

إنني أرى أن الدعم لهذا المشروع فيه خير كثير ولعل الأخ أبو وليد أرسل لكم ما يشرح هذه النقاط جيداً ولعل الموسم القتالي الذي بدأ منذ فترة سوف يوضح الأمور أكثر مما هي الآن وسوف يساعد كثيراً في وضع مخطط العمل المستقبلي للصيف القادم وما بعده إن شاء الله.

أخي المسؤول العسكري.

أرجو منكم الفصل في هذا الأمر بطريقة لا أحتاج فيها إلى مراجعتكم مرة أخرى. سوف تكون هذه آخر مرة أكتب فيها عن هذا الموضوع إن شاء الله لأني مللت من الكثافة فيه. ولعل بعض التقارير السابقة سوف تساعد كثيراً على فهم الوضع. وعلى كل حال الأخ أسد الله السبدي عندهم وهو يعرف الوضع جيداً.

كان يودي أن أكون موجوداً للمساعدة في حل المشكلة والخروج بحل مقبول ولكن الأوراق الرسمية هي المشكلة كما تعلم.

أعائكم الله ووفتكم إلى ما فيه الخير والصلاح.

سلامنا إلى جميع الإخوة هناك وعلى رأسهم الأخ أبو عبد الله وأبو عبيدة وسيف العدل وأبو إسلام وعبد الخالق وغيرهم.

لا تنسونا من الدعاء الصالح والرسائل فإنها تساعد بفضل الله على الصبر والثبات.

جزاكم الله خيراً.

والسلام

كتبه

أبو عماد الشرقي

رئيس دولة جهادوال العظمى

بالمعلوية على أمرها أحياناً!!!

في بلد التتار

أفغانستان

أشيا ل ٢ ش ٢ د ش

HADI-1-024384

# **ATTACHMENT B1A**

MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA

UNITED STATES OF AMERICA

v.

ABD AL HADI AL-IRAQI

DECLARATION OF

1. I am fluent in written and spoken English as well as written and spoken Arabic.
2. I have taken the ALTA Language Services Translation Assessment and scored at skill level three or higher, which corresponds to professional performance.
3. I am familiar with the Arabic document bearing bates numbers AFGP-2002-600105, which cd and cd case with a description of the contents of the cd and a five page report.
4. To the best of my knowledge and belief, the English translation attached to this Declaration is a true and accurate translation from Arabic into English of the Arabic document described in paragraph 2 of this Declaration.

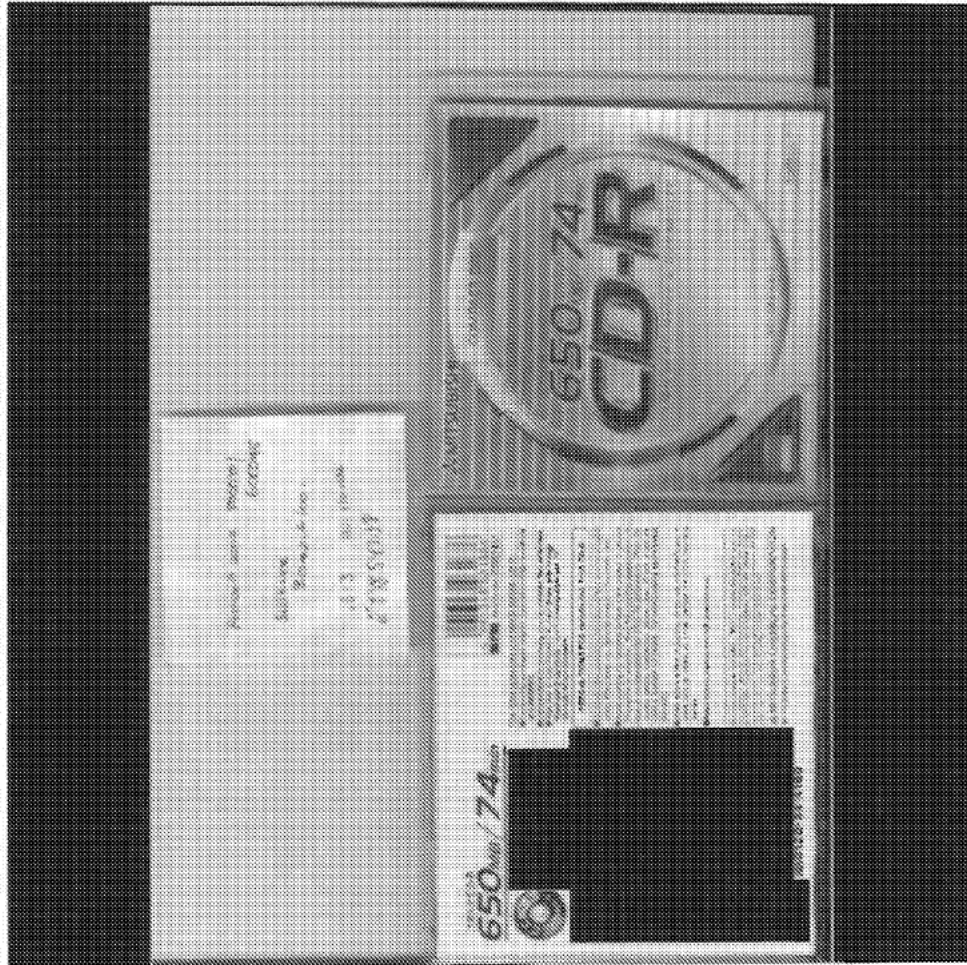
I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12/11/2014

McLean, Virginia

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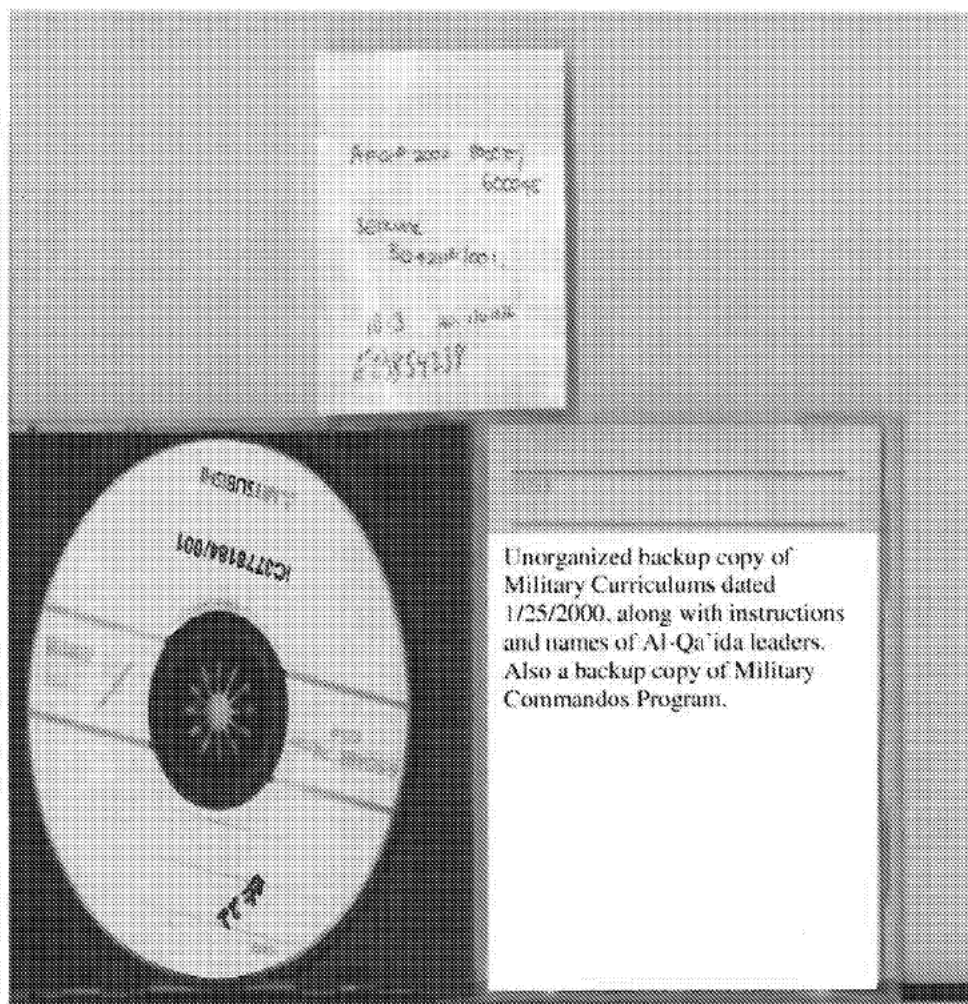
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Final Report about Al-Faruq and al-Furqan < @ 'a' 6 :  
 In the name of Allah the merciful, the compassionate  
 Praise to Allah, and peace and prayers be upon the  
 preferable of all creatures and messengers, our master Muhammad, his descendants, and his  
 companions.

To brother, the Military Commander

Peace and blessing be upon you.

Greetings to you and to all the brothers on the occasion of the blessed Eid al-Adha, may the Islamic Nation and us have many more to come. I am writing this report about a topic that I am fed up from talking about and hoping that your decision would be for the benefit of Islam and Muslims... amen. As for the topic that I will write about for the last time, it is al-Faruq and al-Furqan.

#### *1. Historical Background*

Around mid-Shawwal of 1413 [Hijri date corresponding to 8 April 1993], Abu-Kan'an arrived with a group of Arabs for the purpose of inventorying weapons and ammunition to turn them over to al-Furqan project. Abu-Hafs al-Husayni (al-Masri) was in charge of the inventory and the program provided then that we depart after two weeks from the date of arrival of the inventory team under the leadership of Abu-Kan'an.

A few days after completing the inventory, the team returned to Peshawar, leaving everything as is. A letter arrived from Brother Sa'id (at that time, he was the person in charge in Peshawar when Sayf-al-'Adl had left due to the attack). The letter included instructions to go to Islamabad for the purpose of traveling to Sudan and to 'Abd-al-Khalik— (see Attachment 1).

The plan was to send the brethren to Islamabad via proposed routes while all ammunition and weapons remained in place. Immediately following this communication, I sent a letter to our brother Sa'id to delay the travel until the transfer of weapons and ammunition from Jihadwal to Takhtabik (a fortress that has large storage area that belongs to Haqqani in Khost) is completed. This is what al-Shaykh Sa'id agreed to and we started the transfer of weapons and ammunition. The process of transferring the weapons and ammunition took approximately one month and during this period, even before that, Tajiks began to arrive for training at al-Faruq.

After an inquiry from me regarding the disposition of the military camps, al-Shaykh Sa'id informed us that al-Faruq camp is under the authority of Abu-Kan'an until this matter is resolved by the brethren, and Jihadwal center to be turned over to Fadl-al-Rahman (the movement) after our departure. (See Attachment 2)

During the process of transferring the munitions and the arrival of the Tajiks to al-Faruq, some of our brethren wanted to continue training at Jihadwal for military edification, and some of them wanted to participate in al-Furqan project. Consequently, I suggested this to al-Shaykh Sa'id. It was agreed that the brethren would remain for six additional months or to the end November 1993. Consequently, we decided to participate in the training at Al-Faruq and to proceed to Sudan after the training. We likewise agreed with our brother Abu-Walid to leave after completing the training of the Tajiks on guerrilla warfare at al-Faruq camp. I had already briefed our brother As'ad regarding this subject during his first visit to Jihadwal after he assumed.

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we held the meeting in the afternoon of June 6, 1994 at Jihadwal. After short greetings, Abu-Kan'an started by asking about our proposal: why? And who said that you will take the center?

I started the conversation and stated that the proposal is in two parts: first, it is based on instructions from the brethren in Sudan and second, it better serves the interest for better training in the sector. I told him that we are committed to the training of the Tajiks according to a program that would be agreed to between us and you (Abu-Kan'an and Abu-Walid), and that you would be responsible for providing all the needs of the camp, including the budget, from Peshawar but the Emir will be from us to facilitate smooth operations without interferences in the military operations of the camp. Such arrangements would prevent the repeat of past experiences.

Asad and I continued in explaining the merits of our program while Abu-Kan'an continued to reject it. After lots of talking we agreed to stop and to continue the discussions in the evening because there were other things to do then.

An hour after sunset, we sat down again to discuss the subject; then, Abu-Kan'an stated that he would not accept our proposal because all the donors who contribute to al-Farqan project ask first about the Emir of the center where training takes place and if he is from al-Qa'idah or not. If the answer is yes, they do not give donation, but if he is not they show interest by continuing their questioning before they donate to make sure where they are putting their money. He says so. When I responded to this point saying that this is not a strong argument since he himself is from al-Qa'idah thus the program is at risk. If the donors were aware of that, they would not have approached you in the first place. This is not a sufficient argument, and if you claim secrecy, why cannot we exercise the same option with the Emir and conceal the fact that he is from al-Qa'idah? Especially since the center is not visited by Arabs.

When he realized our rejection of his argument, he said that the project is independent of al-Qa'idah, and by appointing an Emir from your people implies the interference of al-Qa'idah in the project. Then I addressed him by saying: Abu-Kan'an! You are from al-Qa'idah and so are: Abu-Umamah, Abu-'Ali al-Qali, Salah al-Din and Abu-Walid are not a stranger to al-Qa'idah. Furthermore, all those who made great contributions to achieve what you have were all trained by al-Qa'idah. Then, how can you say that if we appoint an Emir, the program would not be independent, and what independence are you talking about?

(Note: Abu-Walid did not attend these meetings, though he was at Jihadwal center where all the meetings were held).

Asad and I realized that a resolution of the issue is not possible with Abu-Kan'an insisting on appointing an Emir at al-Farqan training center with decisions made in Peshawar, our responsibility is to train, and Abu-Kan'an felt that the brethren in Sudan should have told him of their decision to take over the center once again so he would have sufficient time to make his arrangements.

Consequently, we decided to cease further discussions of the matter and refer the resolution of the matter to Sudan. I informed Abu-Kan'an that we in (Jihadwal) are suspending training for one month after completion of the current training cycle. This will be a rest period for us, and it will allow you time to resolve your problems with Sudan. I agreed with Asad to travel to Sudan to discuss these matters with you, and I advise him to have Abu-Kan'an accompany him so the proper decision can be made. I also told Asad and Abu-Kan'an that I am prepared to accept any decision that will be made in Sudan because it will more like an order; may Allah help us. This is what happened over the last few days sir, and I think it will require a wise decision. Let me tell you what I think should be considered before making any decisions:

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It is my duty as a trainer not to accept such a numbers of people at the training center. I had offered an alternative to al-Faruq for the guys, which is Jihadwal. I set up a large room for them but brother 'Abd-al-Muhaymin insisted on (their staying at Faruq) under the pretext that they would not receive the respect and care at the alternate location. I could see the extent of 'Abd-al-Muhaymin's insistence concerning this matter, and I was certain that he would not yield in spite of the fact that it is my right to refuse their presence (in my view), but I accepted the idea of their staying at Faruq. This is just one example of which there are many.

The problems were there, but they did not surface, though everyone felt them, to include me and Abu-al-Muhaymin, and even the brethren at Jihadwal. I felt that the problem needed a radical solution because if it were to continue, it would have hurt the mission.

In a letter, I briefed brother Asadallah al-Sindi in Peshawar about the matter, and he will contact you with a resolution of the issue. On the other hand, Abu-al-Fatih thought that he would talk to Abu-Walid in Peshawar, since he is in charge of the al-Furqan project, to discuss my suggestions for resolving the issue. Please see Attachment 3: a letter to Asad about the worsening situation in the sector as a result of the presence of two administrative units, Jihadwal and al-Faruq.

The reply from Abu-Walid was very positive. It was in effect a confirmation that al-Faruq administration is under our (Jihadwal) control as was the case before. (See Attachment 4: the letter from Abu-Walid about resolving the dual administration in the sector). In fact, the decision by Abu-Walid was helpful to some extent in resolving some issue, but there was no commitment from al-Faruq and Abu-Kan'an. This situation continued for approximately four months with some problems, but not to the same extent as it was before.

When the training of the Tajiks was completed, and they were about to travel north to participate in the fighting season this summer, I sat with Abu-Walid to discuss al-Faruq situation after instructions were received from Sudan to retake control, as I was told by the brethren in Peshawar. I suggested that we take over training operations at al-Faruq as it was before, with the following provisions:

1. The commander at al-Faruq will be one of our people;
2. Our brethren in al-Furqan will undertake the responsibility for financing all training;
3. We will not accept any military or administrative interference from Abu-Kan'an—his role should be confined to provide the needs of the camp from Peshawar

By the way, Asadallah al-Sindi was present; he came from Peshawar especially to discuss this issue. The meeting took place on 5 June 1994. The topic of discussion was not strange to Abu-Walid as it was discussed previously in Peshawar between him and Abu-al-Fatih.

Please see Attachment 5: a letter from Abu-al-Fatih referring to the instructions from Sudan and his discussion of the budget with our responsibility over the two camps being administrative and military.

At the conclusion of the meeting, Abu-Walid stated that he will await the arrival of Abu-Kan'an in Peshawar to discuss with him our requests and to reach an agreement.

Abu-Kan'an arrived on the evening of 5 June 1994; the second morning, he sat with Abu-Walid who presented the matter—we were not present because it was a closed meeting between the two.

I noticed that day at noon, as did Asad, that Abu-Kan'an's mood and disposition were not normal, and he asked Asad and me to sit with him that afternoon to discuss some matters.

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The objective of the leadership in Peshawar was to arrange for the travel of the training team due to their suffering from boredom. Asad agreed to this proposal and we arranged the matter in a manner that the team would be replaced upon completion of the training.

After this agreement, we received a letter from Asad to the effect that the leadership in Sudan says: "Keep those camps at any cost!" This new decision is considered a radical change in the plan that was originally drafted with a provision to vacate the area. Accordingly, it was necessary to alter the plan and replace the team at Jihadwal with a new team from Sudan.

#### The conclusion

1. Al-Faruq was turned over to Abu-Kan'an without any documentation or even a verbal agreement. The formalities were skipped because we were planning to depart within a short period, and Abu-Kan'an had already assumed responsibility at al-Faruq.
2. The plan mandated that we move out of the area after transferring ammunition and weapons, and the turn-over of Jihadwal to Fadl-al-Rahman.
3. The plan was changed and began to require the extension of our stay for six months ending November 1993.
4. We decided to leave the area after participating in the training of the Tajiks with Abu-Walid.
5. The decision arrived to hold tenaciously to the camps and not relinquish them.

#### *II. How was al-Faruq being run during this period?*

The first one to head up leadership at al-Faruq after we left was Salah-al-Din al-Irani, who was affiliated with al-Furqan forces at that time. The number of Tajiks who came for training was 280. The first round was the initial one and was supervised by the Afghans. We did not participate in the military aspect of the program because we were all disorganized and lost.

When Salah-al-Din wanted to free himself up to focus on intelligence training, he appointed at his replacement, 'Abd-al-Muhaymin al-'Iraqi, and departed to a new camp that was established specifically for his course while 'Abd-al-Muhaymin remained at al-Faruq.

When we started the new project with Abu-Walid at the end of September of 1993, we used to go to al-Faruq in the morning for training and return at night because there were not that many of us at Jihadwal. It was our duty to help those who stayed behind by performing guard duty. There were no problems at the beginning of training because of the presence of Abu-Walid. But he left two weeks after training started. I was under the assumption that I was responsible for al-Faruq because 'Abd-al-Muhaymin was new in the position of leadership. Therefore, I used to give some instructions to 'Abd-al-Muhaymin and would notice something not quite normal. It never occurred to me that 'Abd-al-Muhaymin considered my guidance as interference in his work. I understood the situation clearly after one particular encounter with him, at which time I decided to no longer interfere in al-Faruq affairs until Abu-Walid returns to discuss the matter.

Sometimes we have our differences with respect to our ideas and visions, but I always yielded in order to avoid confrontations—in spite of the fact that I knew I should have been making the decisions in such cases. For example, 'Abd-al-Muhaymin wanted to bring a group of Tajiks to the camp from Takhtabik, where they were awaiting Abu-Kan'an to instruct them on artillery. I objected to that because I do not accept anyone to just sit around idly doing nothing. There were (15 of them) at a place where an extraordinary course was about to be held, and discipline at the center would have been negatively impacted in such a case.

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1. It is imperative that we support al-Furqan project in regard to training, for no one can assume this task better than we.
2. A suitable training environment must be provided, removed from personal sensitivities and disagreements in points of view.
3. It is essential to make the effort in support of the training staff in the region with competent cadre members.
4. They need to try to provide individuals to stay behind at Jihadwal when the training staff and trainees move to the field next summer.

It is my recommendation that this project be supported because it has many benefits; perhaps Abu-Walid had sent you something that would explain these points well; perhaps the fighting season that already started will reveal some of these realities more so than they are revealed now, which will be very useful in better clarifying the situation, and would help in the formulation of future planning for next summer and beyond.

*To Brother; the military commander:*

I respectfully ask you to resolve this matter in a manner that will not require me to contact you again. This will be the last time that I write on this subject. Some of the previous reports may help to better understand the situation. In any case, Asadallah al-Sindi is with you, and he is well acquainted with the situation.

It was my desire to have been with you to help resolve the problem or to bring the problem to a resolution, but I have an issue with my official documentation.

May Allah afford you success in achieving righteousness.

Greetings to all brethren particularly Abu-'Abdallah, Abu-'Uhaydah, Sayf al-'Adl, Abu-Islam, 'Abd-al-Khaliq and others

Do not forget to pray for us. The letters help to keep us patient and steadfast.

God bless you.

Peace

Abu-'Ata' al-Sharqi's battalion

President of the Great Jihadwal Nation (which is a place that is sometimes down on its luck), in Tatar Country, Afghanistan

Asia ا ش د ل ن

HADI-1-024392

# **ATTACHMENT B2**

AFGP-2002-800078

FBI

December 21, 2001

The following is a summary translation of a statement that was found in Abu Hadi's house in Kandahar on Dec 11, 2001.

This letter was dated on September 13, 1994 and titled: Statement and Warning

To all the international media agencies, to the Western Embassies on Al-Jazeera's land (The Gulf Area), to the United States of America (The protector of the Saudi System) and to the whole world:

KATA'IB AL-IMAN (The Battalions of Faith) requests the release of the scholar sheikh Salman Bin Fahd Al-Awdah (phonetic), and it gives the Saudi authorities five days only. If it doesn't (The Saudi authorities) respond to it then we'll do the followings:

- Blowup the Western interests: Embassies, Banks and Companies.
- Kidnap The American and Europeans citizens.
- Kidnap the members of the Royal Family.
- Blowup the investment interest of AL SAUD (From The Royal Family in Saudi Arabia)...Sasco stations...Oil stations...ARA foundation...MID branches...
- Kidnap high ranking officers and the heads of security in the regions and the heads of security in all the military sectors.

And Al- Jazeera's land from the borders of Yemen to the borders of Iraq, and from the Red Sea to the Arabic Gulf will be an open stage for our Jihad operations.

It would be impossible for the Americans and the Christian Europeans and the Jews to be free and uncontrolled in Al-Jazeera's land while our scholars and missionaries are in jail.

\* This statement is directed to all the members of KATA'IB AL-IMAN. START ONCE THE APPOINTED TIME ENDED.

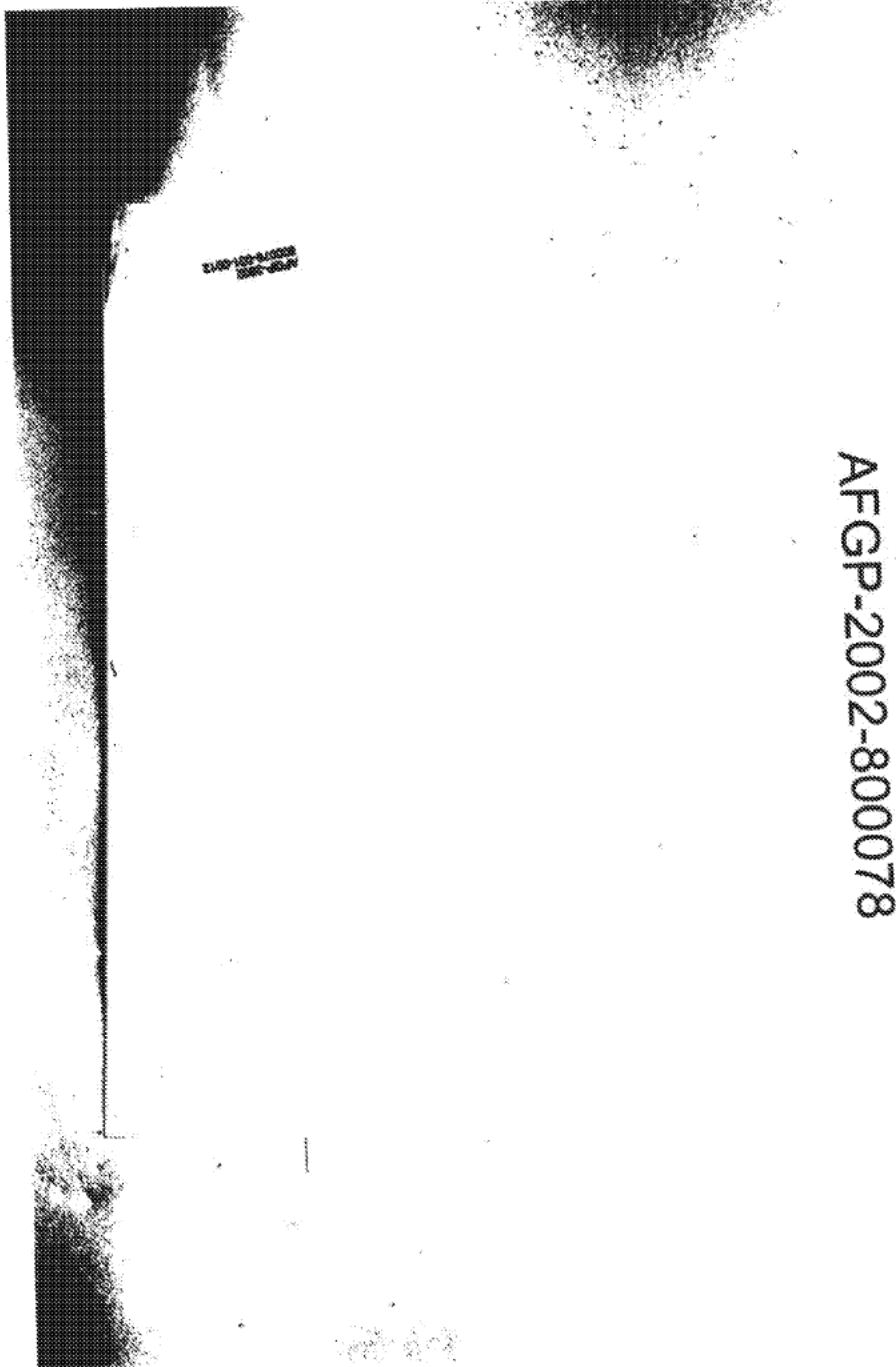
We urge every enthusiastic Muslim to execute this plan.

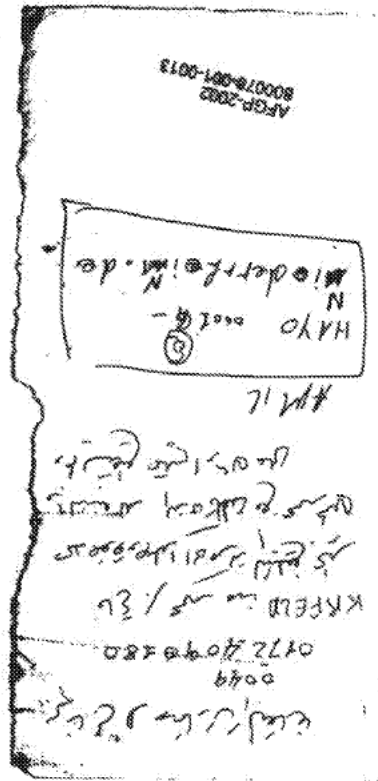
God is the greatest  
Glory be to God, his prophet and the believers

KATA'IB AL-IMAN  
Riyadh (Saudi Arabia)  
September 13, 1994

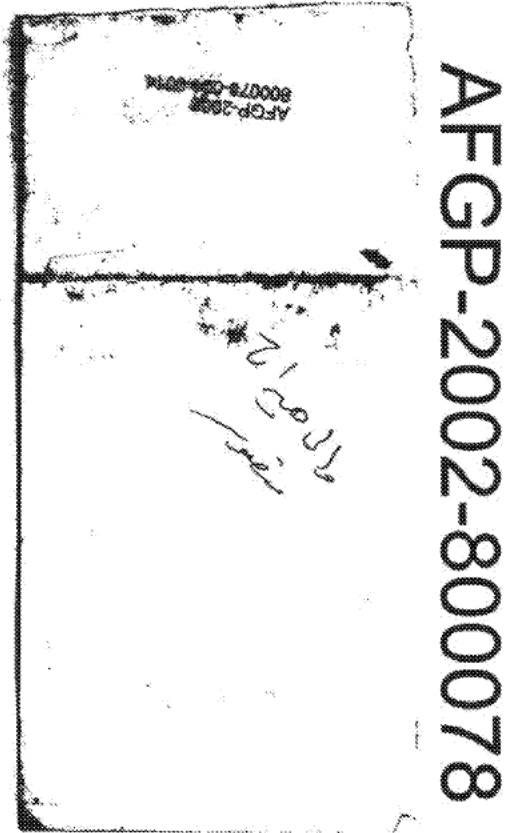
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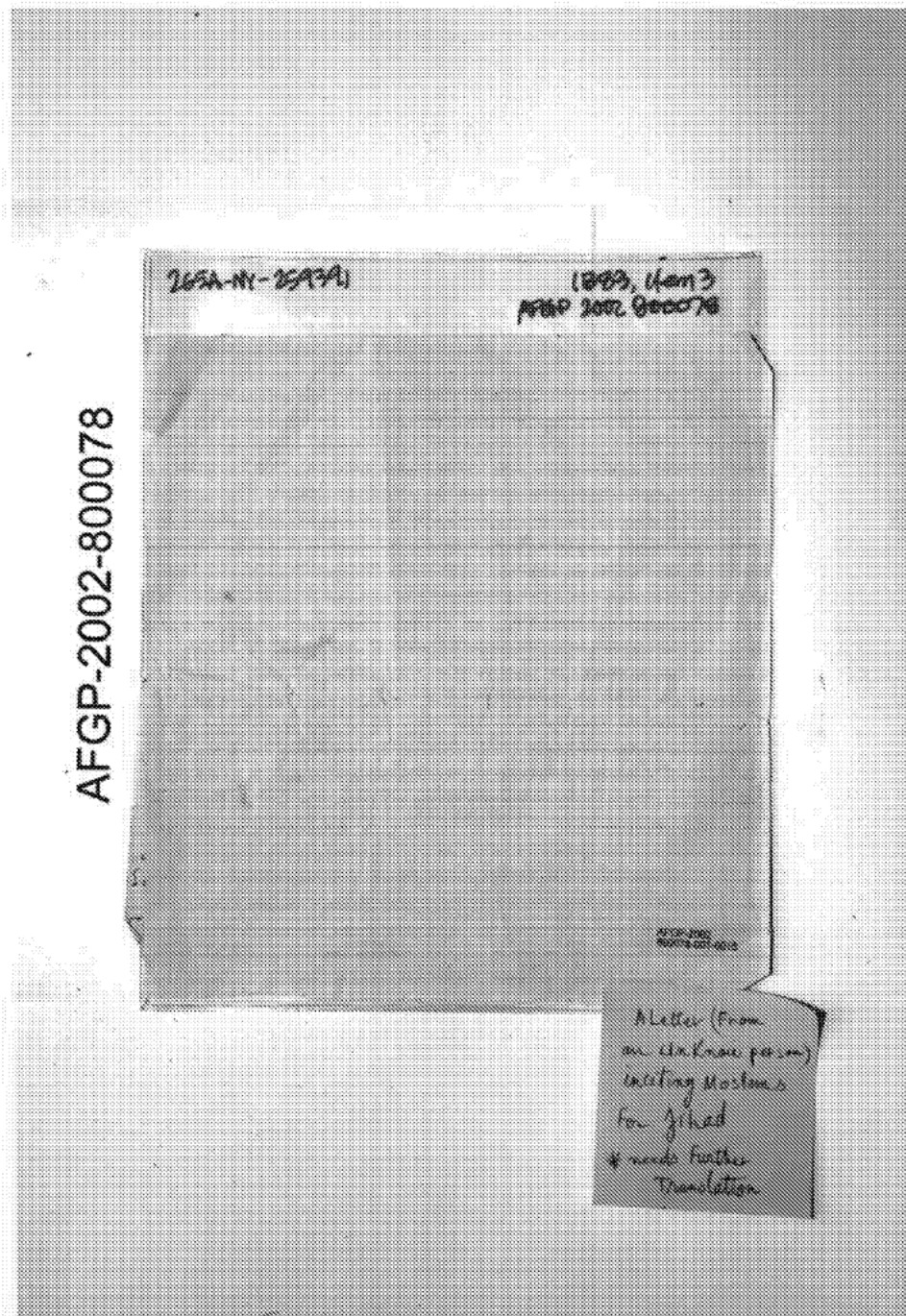




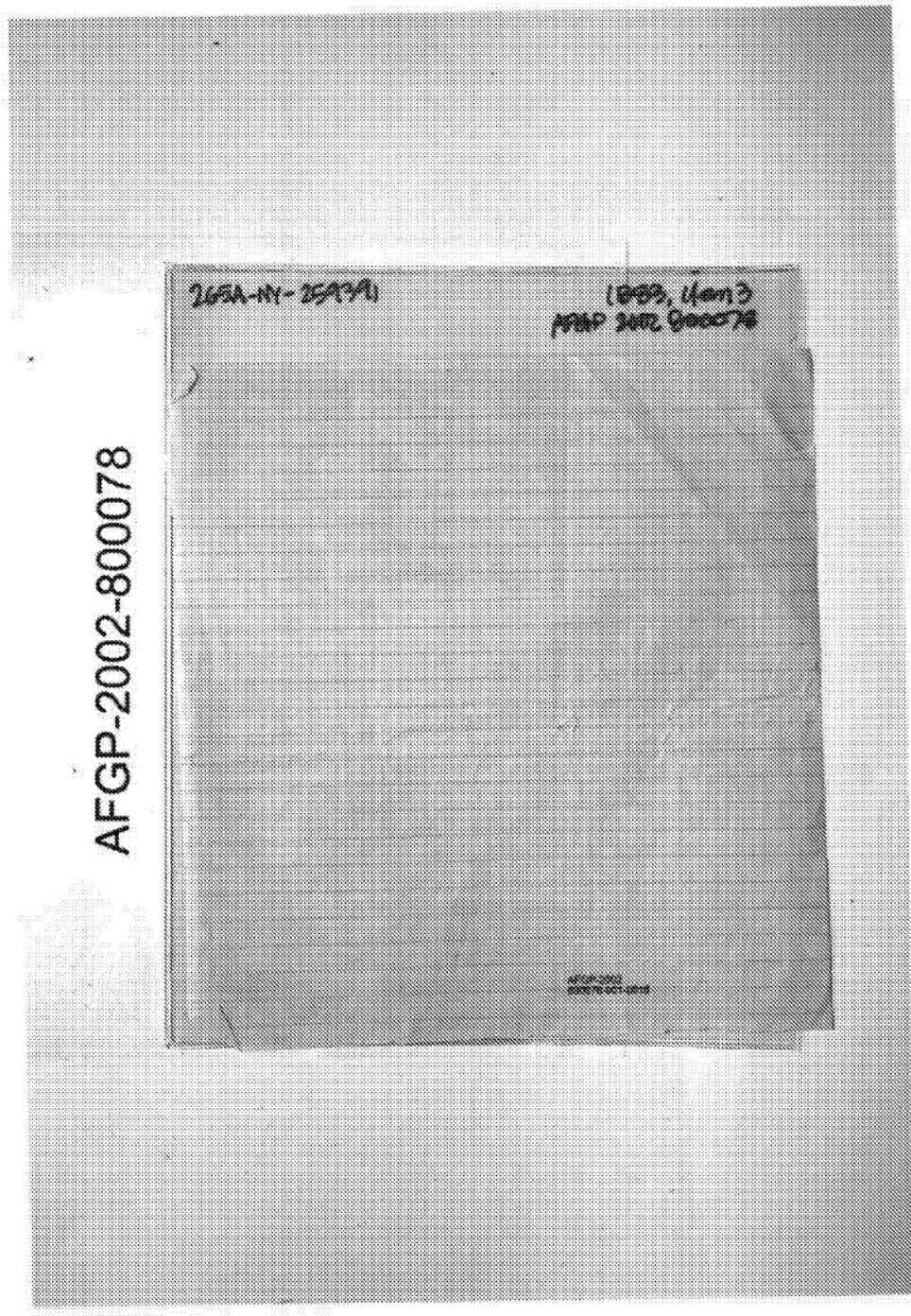
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بسم الله الرحمن الرحيم  
الحمد لله الذي هدانا لهذا  
ما كنا لنهتدي لولا أن هدانا الله  
والحمد لله رب العالمين  
والصلاة والسلام على  
سيدنا محمد وعلى آله  
وصحبه أجمعين  
والله اعلم  
بما نزلنا من كتاب  
والله اعلم  
بما نزلنا من كتاب

الحمد لله الذي هدانا لهذا  
ما كنا لنهتدي لولا أن هدانا الله  
والحمد لله رب العالمين  
والصلاة والسلام على  
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وصحبه أجمعين  
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والله اعلم  
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والحمد لله رب العالمين  
والصلاة والسلام على  
سيدنا محمد وعلى آله  
وصحبه أجمعين  
والله اعلم  
بما نزلنا من كتاب  
والله اعلم  
بما نزلنا من كتاب

HADI-1-018002



HADI-1-018003





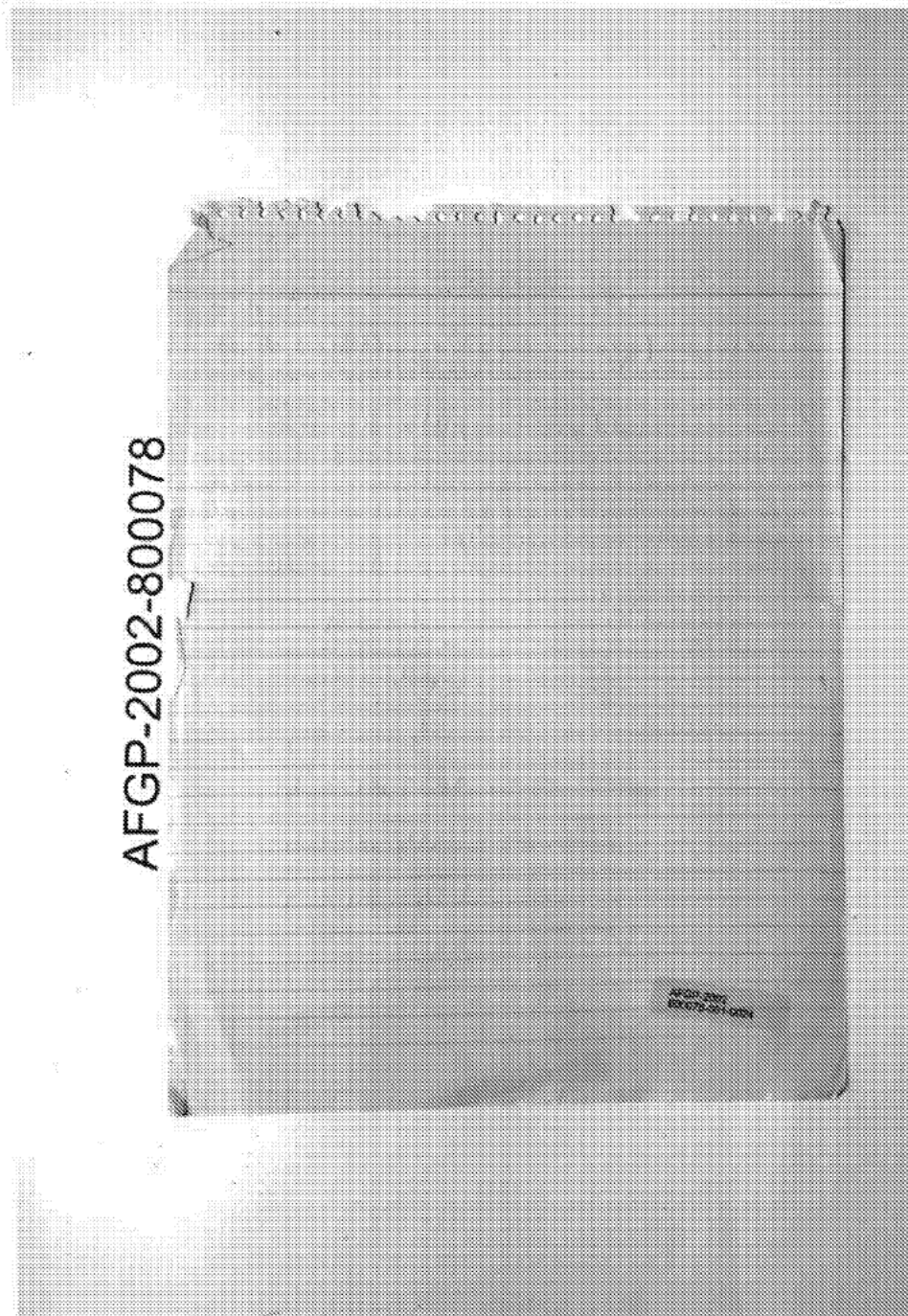
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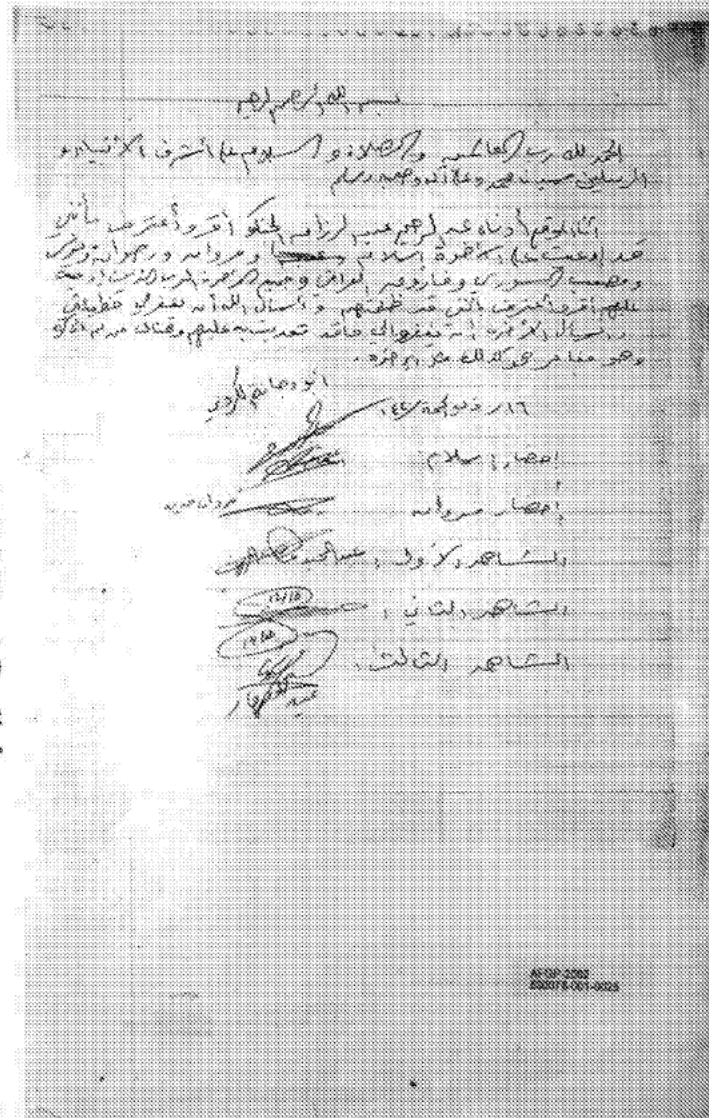
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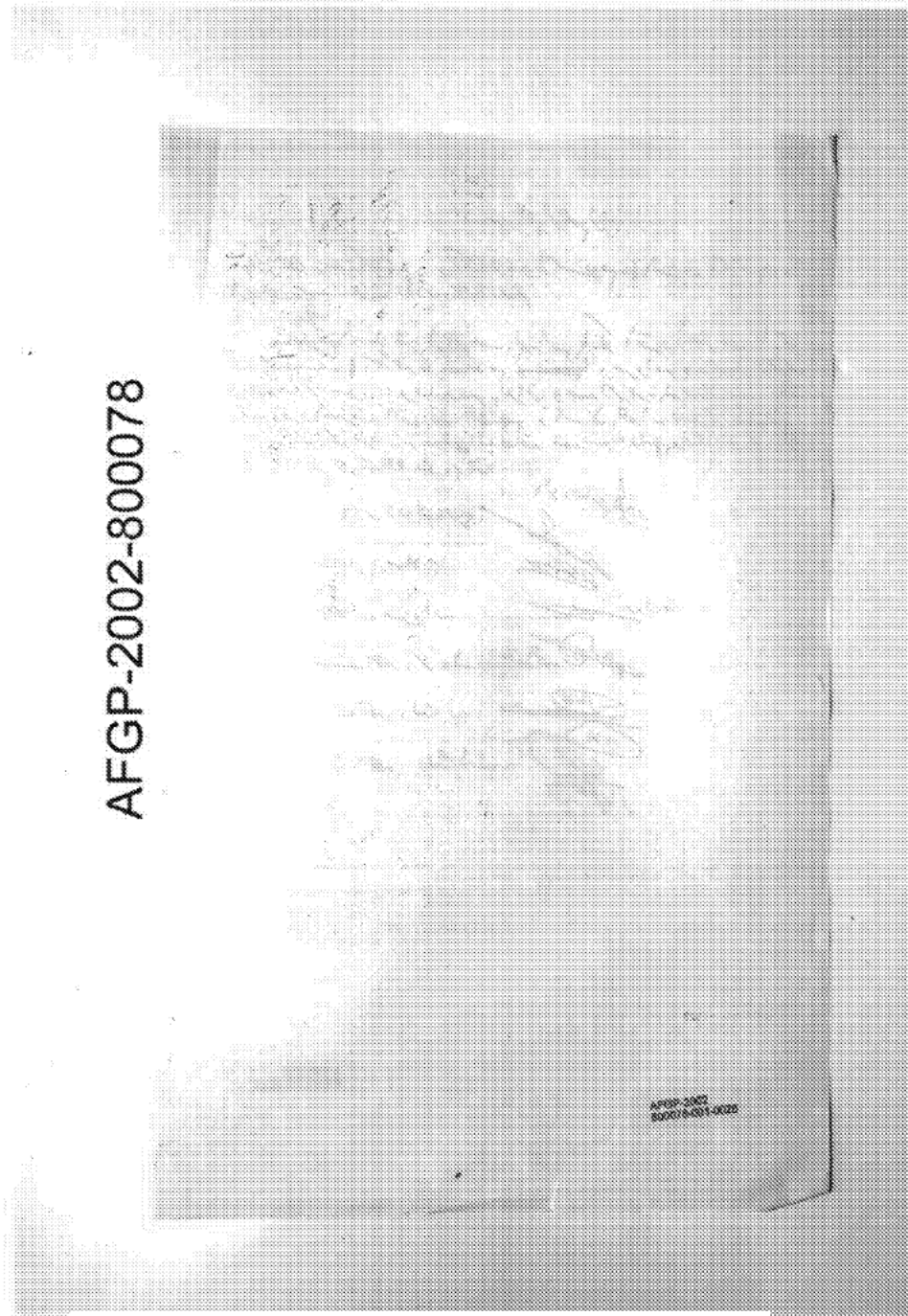
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Filed with TJ  
22 April 2015

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AFGP-2002-800078



AFGP-2002  
800078-001-0020

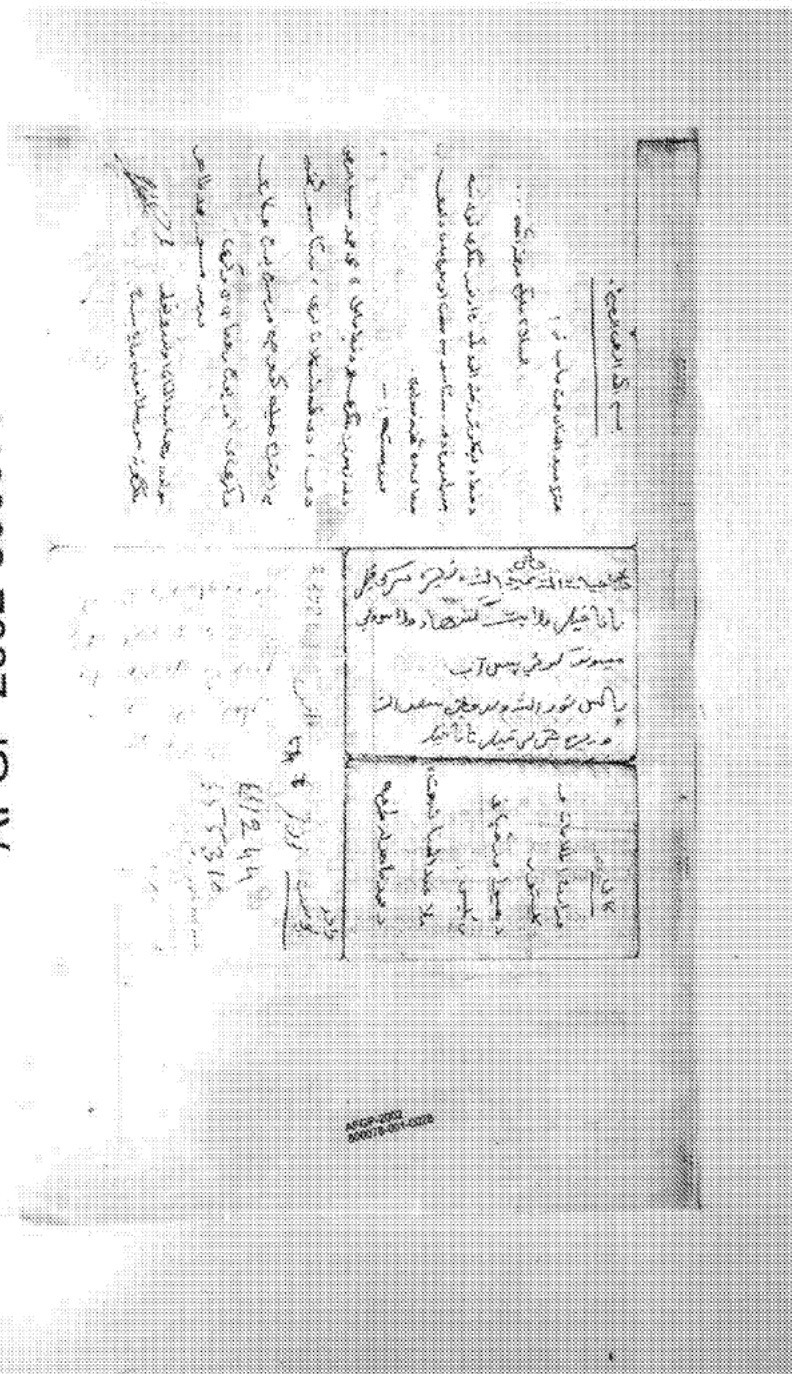
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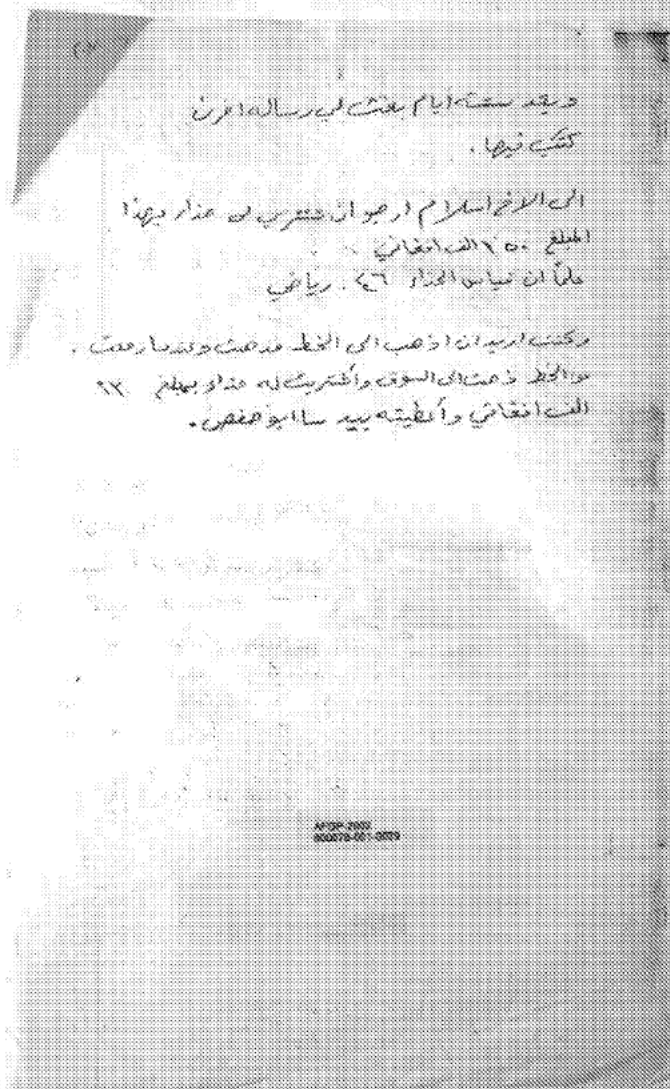


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Filed with TJ  
22 April 2015

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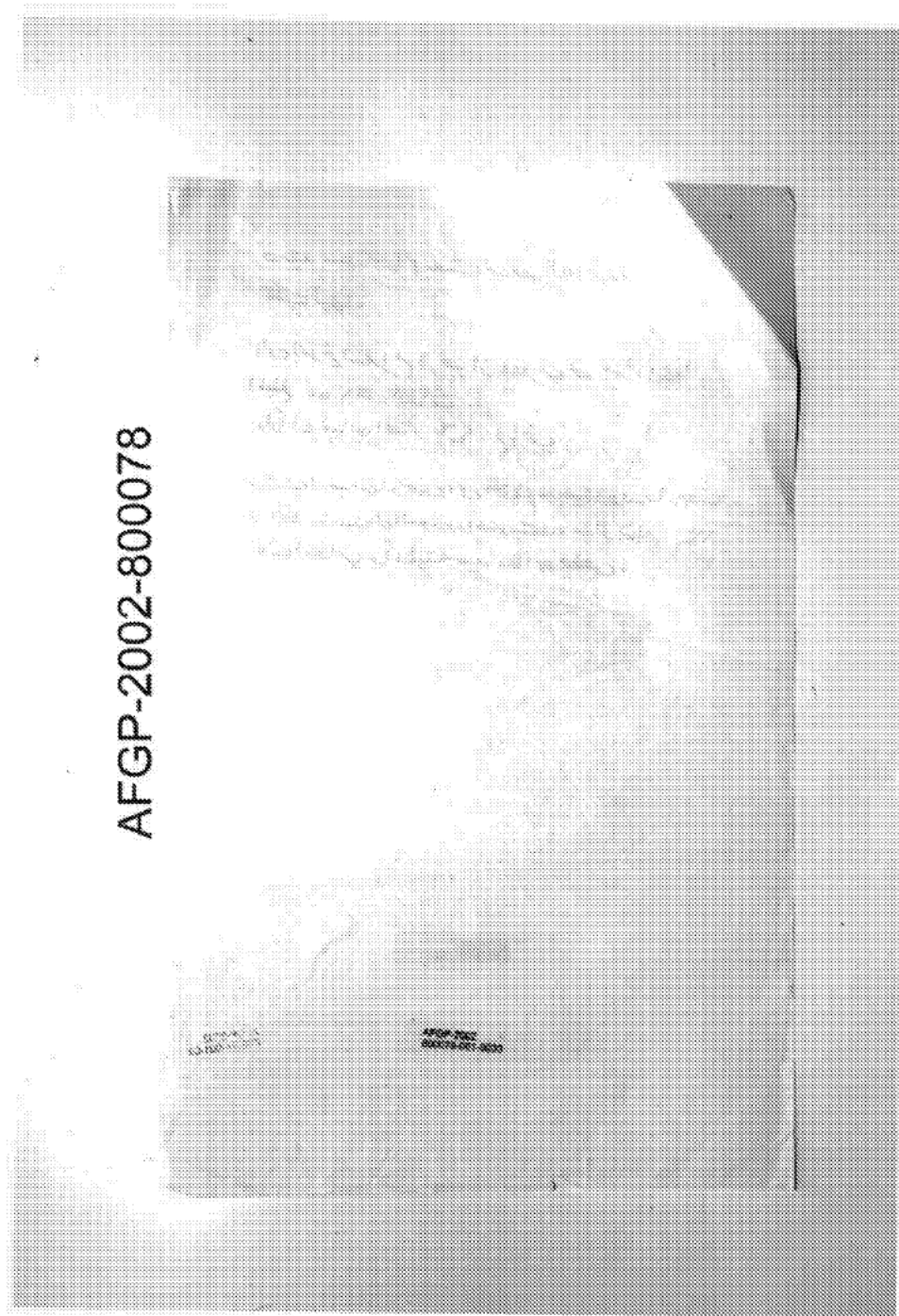


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22 April 2015

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AFGP-2002  
BX0378-081-0043



FBI

December 26, 2001

The following is a summary translation of a letter that was found in Abu Hafs's house in Kandahar on Dec 11, 2001.

This letter was dated 4/6/99 and it was marked **Extremely Secret**. The title of this letter was:

#### The Modern Interrogation

In this letter the writer (Unknown) said that the Moslem youth are being followed everywhere and that the falling in the hands of the international intelligence agencies is possible. The writer then added that this course (training course) would last 19 days at the most in order for the Moslem youth to benefit and to learn about the enemy's new and modern methods during the questioning and apprehension. The writer then said that the Moslem youth can get arrested at home or in the street or in the car or at a station (Bus or train station) or any International Airport and taken to jail by the intelligence and that's where the questioning and the interrogation starts.

The writer recommended that the youth should be very careful about the paper they are carrying and the people they meet and talk to "since nowadays we live in an era that even talking can lead to arrest then to prison".

The writer added that he wants to give the Moslem youth a general view of the international airports because of the large number of detectives (or secret agents) in these places.

The writer also divided the airport into two groups: **Domestic and International**. Then he said that traveling through international airports are more dangerous because the intelligence people usually focus on foreigners to get information about where they coming from and where they going to and how did they get to this area. The writer then said that the best way, for the Moslem youth, to avoid apprehension is to have the right cover for being in this area such as: a journalist, a general doctor or a business man specially if this area is close to an area of war.

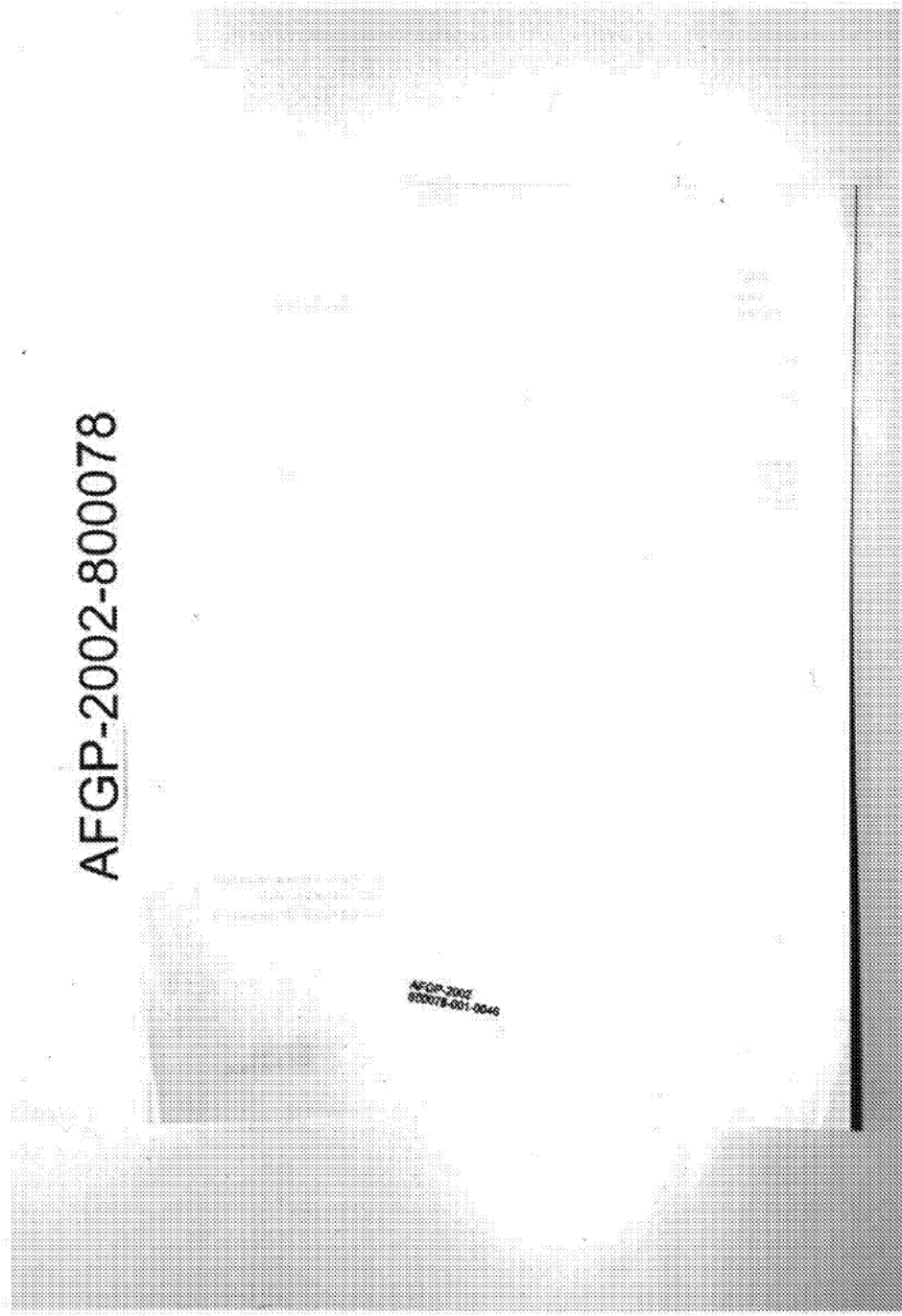
The writer also said the following about traveling through a domestic airport (The advantages):

1. The possibility of making reservation and traveling at the same time.
2. Doesn't require passport.
3. Doesn't require entering and departing procedure or a visa for foreigners. The writer then reminded them (the Moslem youth) not to forget the proper cover if they are crossing the borders while traveling because they might be questioned by the intelligence people about the reason for traveling to that area.

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AFGP-2002-800078

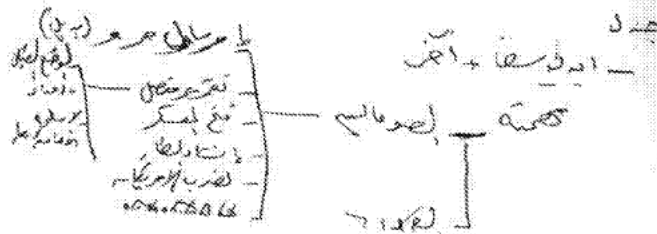




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AFGP-2002-800078



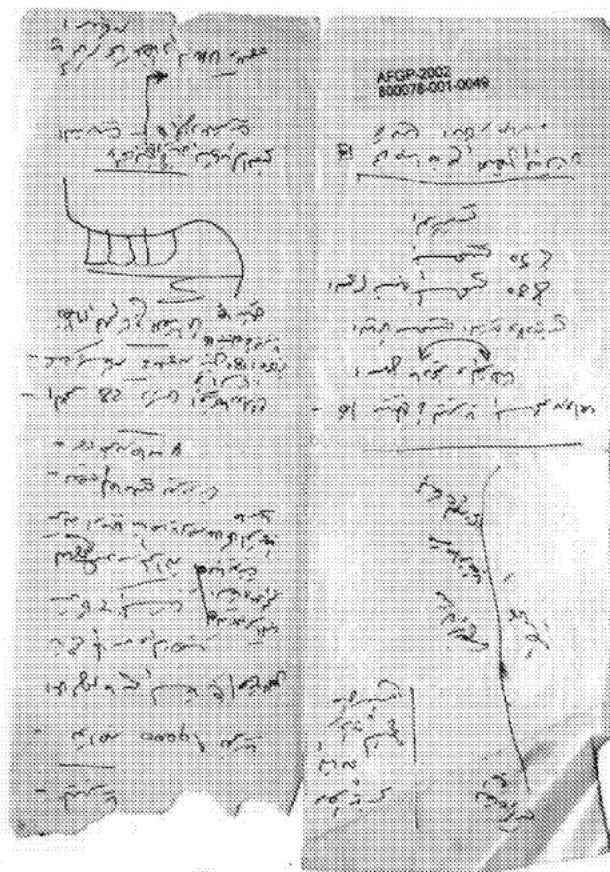
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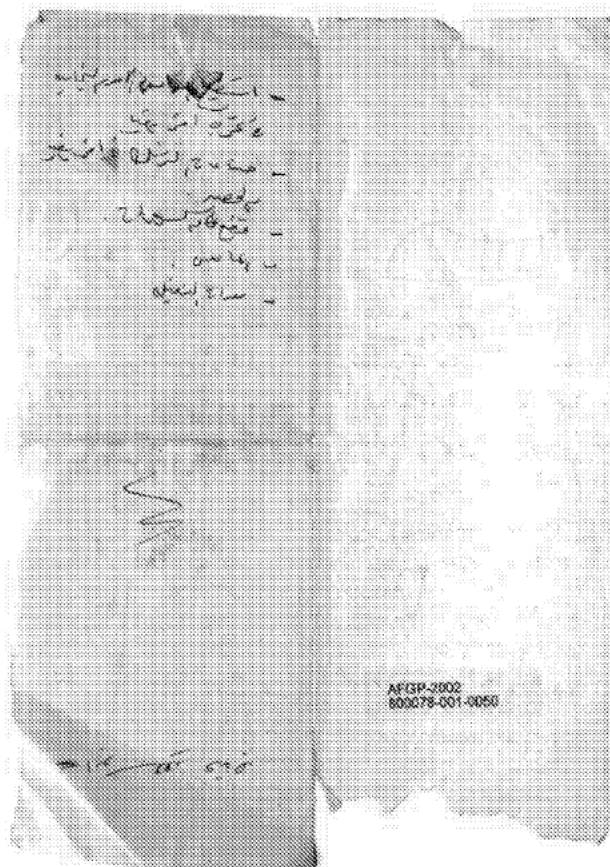
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AFGP-2002-800078



AFGP-2002-800078





AFGP-2002-800078

FBI

December 21, 2001

The following is a summary translation of a letter that was found in Abu Haf's house in Kandahar on Dec 11, 2001.

On the Right hand side of this letter, the following information was written:

Liberia

- About approximately 10,000 who work in: The Embassy, Diamond and Gold mines, Wood companies
- They have (unintelligible) centers. Annian Center (phonetic) specialized in (unintelligible) on all Africa and Asia.
- Some of the workers know me.
- They have special (unintelligible).

Age 28 Studied Economics and Management

Population 2 million (unintelligible)  
16 Tribes in Liberia.

Form of Government (unintelligible) to Qaddafi (The Libyan president)

(Diagram)

The Sheikh's opinion (possibly referring to Osama Bin Laden)

Training Sending the youth who are willing (unintelligible) Jihad training.

(unintelligible) under the UN covers but they are Americans.

On the Left hand side of this letter, The following information was written:

Examination (unintelligible)

Al-Sheikh's (possibly referring to Osama Bin Laden) (unintelligible) before (unintelligible)

(The following is a diagram that lists the following locations: The (unintelligible) possibly The Jewish Embassy, (unintelligible) Africa, The President's house, The American Embassy, The Ocean.

L.S. Note: Enclosed is a copy of the letter which shows the actual diagram).

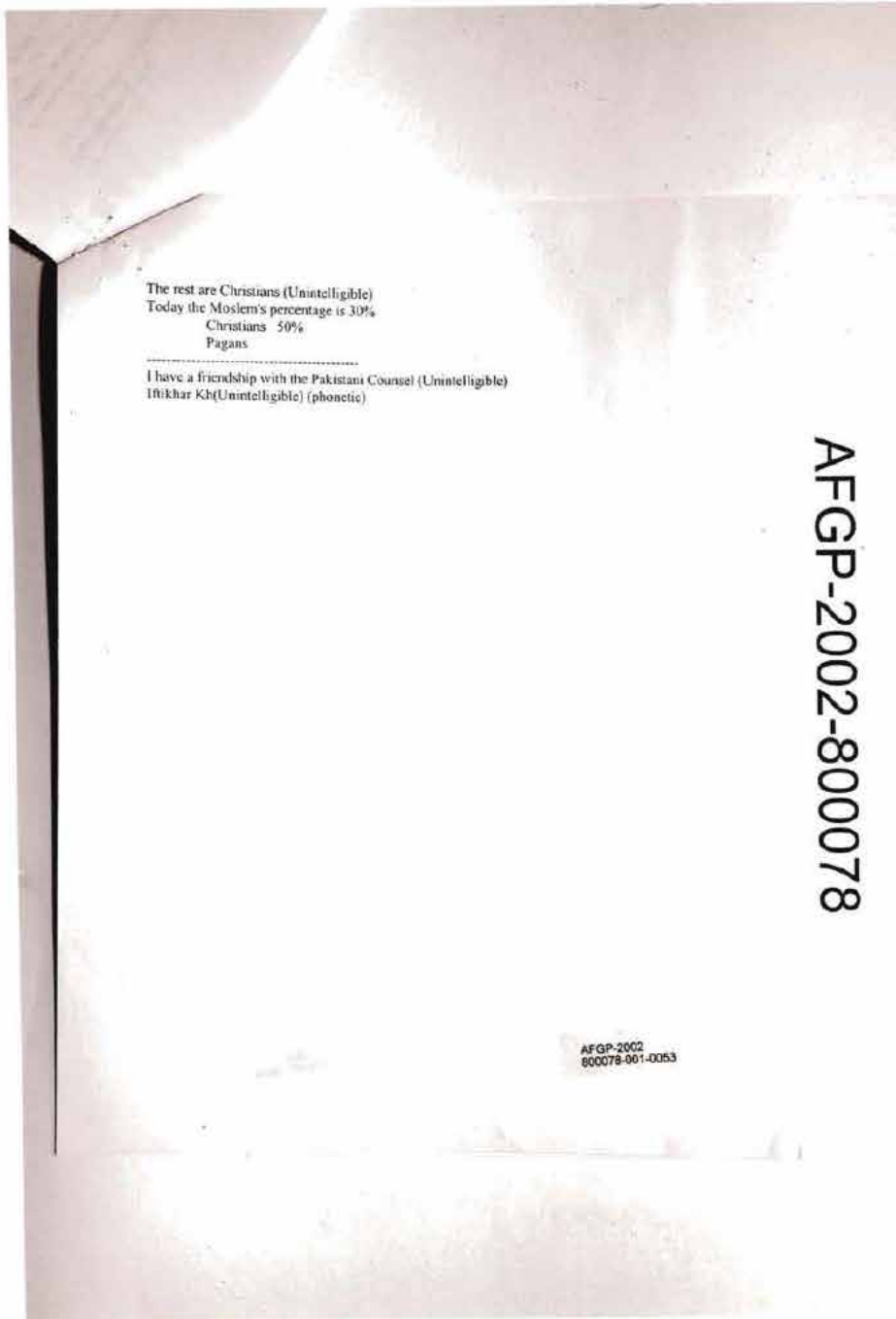
16 tribes in Liberia Moslems (unintelligible) it's name is Madengo and Alqolata (phonetic)

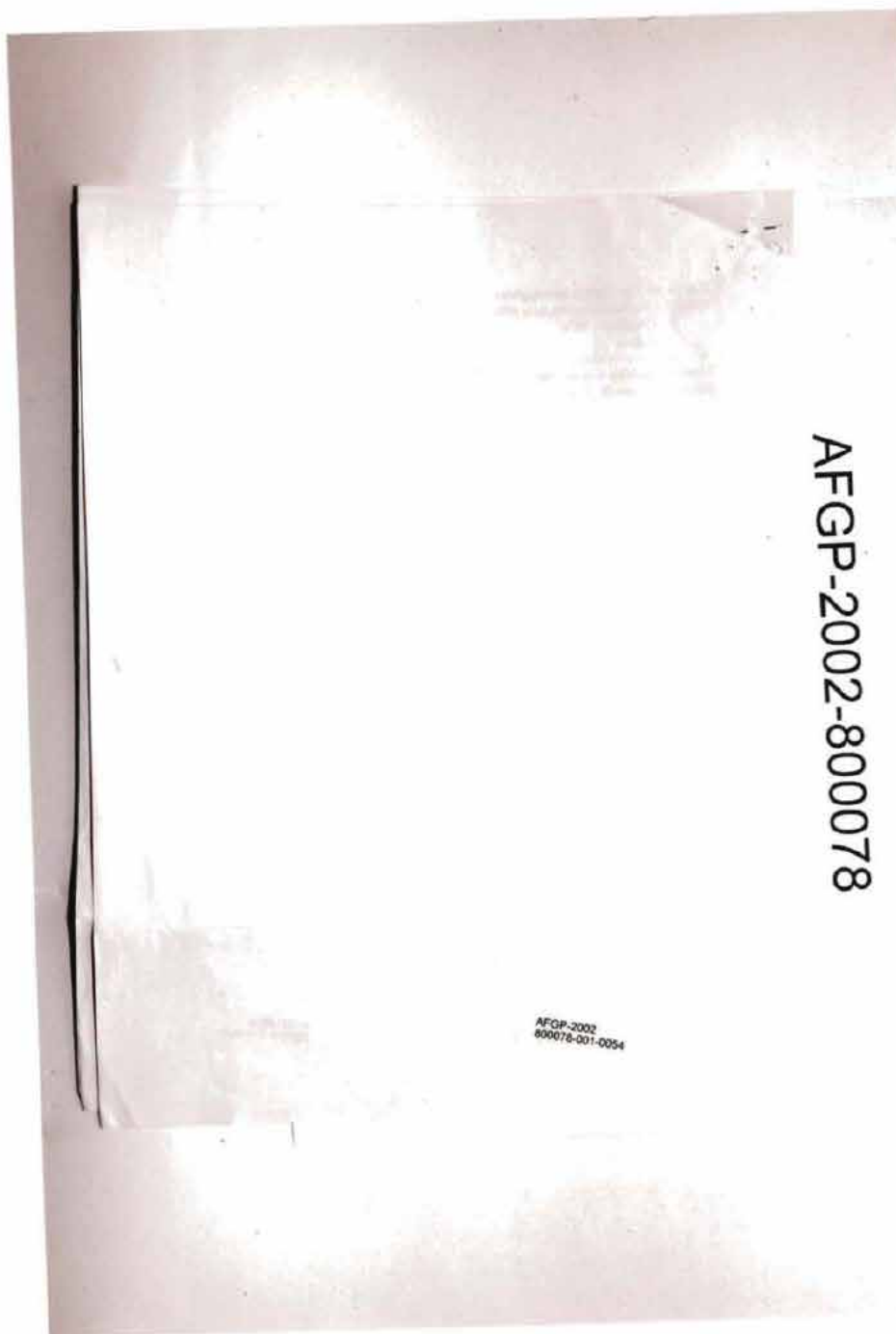
AFGP-2002  
800078-001-0001

AFGP-2002-8000078

I have a friendship with the  
-that KBC (unavailable)  
Paganus 396  
Today the Moslems' percentage is 30%  
The rest are Christians (unavailable)  
(unavailable)

AFGP-2002  
800078-001-0052





AFGP-2002-800078

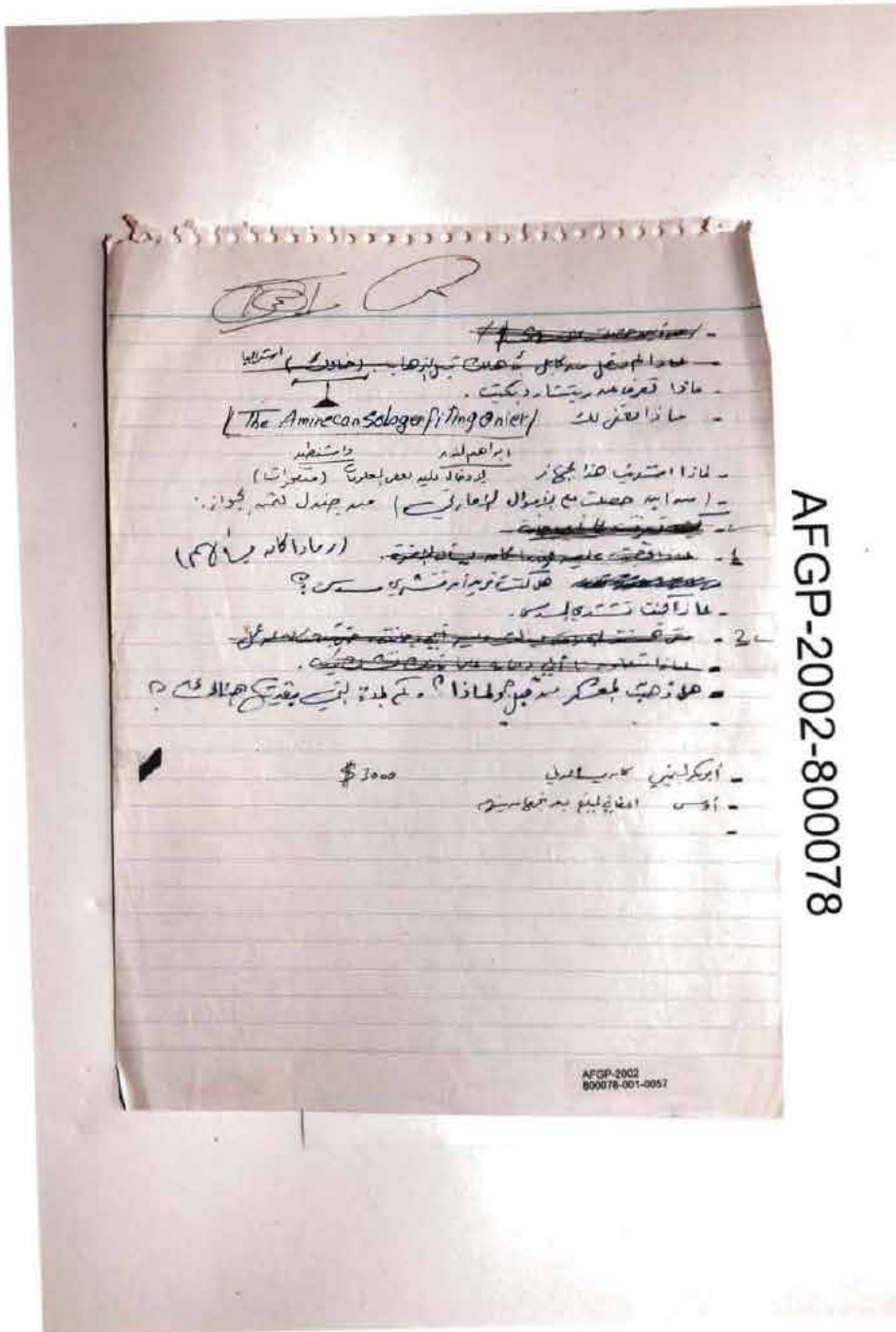
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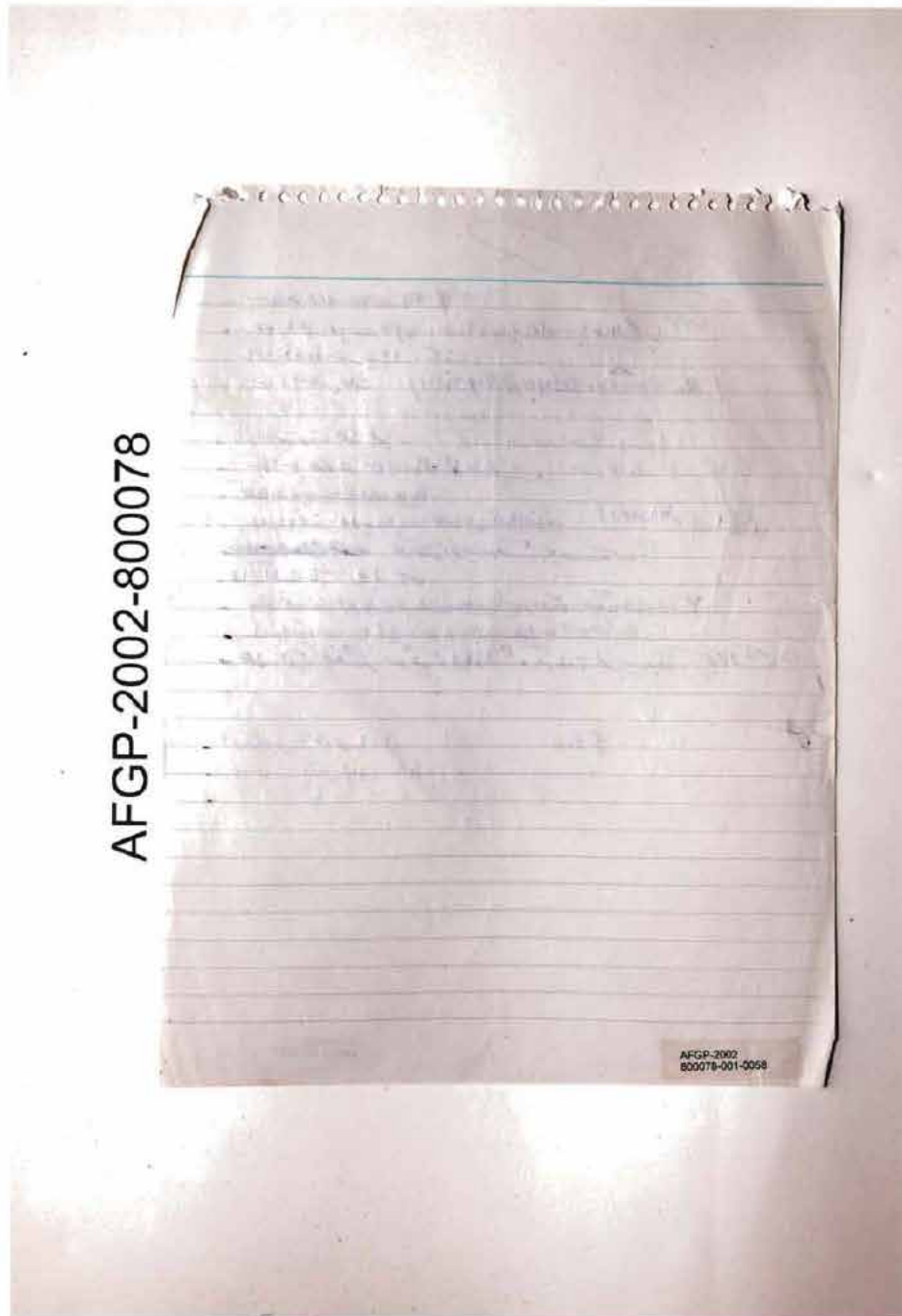
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800078-001-0057





AFGP-2002-800078

بسم الله الرحمن الرحيم .

الحمد لله والصلاة والسلام على رسول الله .

أما بعد .

بإذنا على طلب من الشيخ أبو حنيفة إمامنا في كتابته وتبليغ واقعته حيث سئل  
 وممن ~~المعروف~~ أبو حنيفة إمامنا في كتابته وتبليغ واقعته حيث سئل  
 استفتي بالله في حكم ما حدث من رجل وهو كذا .

عنا ما حدث من رجل في حكم إمامنا [عنه] لو لم [حادي أبو حنيفة]  
 في الفضايلة وطلب من رجل في كتابته وتبليغ واقعته حيث سئل  
 دورك مدني [فأظهرت بطلان ذلك نظرًا لارتباطه بالمدني ولم أحسن وبكرة  
 لطلب الاستقامة والإعداد ومن ثم التوجه لطلب نصيحتها  
 فاستشرت الأئمة في الفضايلة بالبحث له ولزني لئول من أراكم . وقالوا  
 لا بأس .

المهم نصيب المكي وفي يوم إقامته ما شدة حادي وقال لربك  
 أن أرفع لفاضلة وأمر أبي بكر فتجيب من فقهه وعفته بامانة . وقال  
 لا لماذا إذا كنت إمامنا . فقال والله أريد الفاضلة ولم يرأيت من الفضل  
 أن أذهب للفقير نظرًا لقلية الخزانة الخلف .

فأذنت له به أن عاتبه كثيرًا وطلب من إمامنا  
 نصيحتها لفاضلة . ظل حادي منظره لضعفه وأصابه تقريبًا فأظهرت  
 الأئمة بالوا قلة . وقالوا صبر له لطلبه واستقامته .

هذا ما أظن من كذا أبو حنيفة إمامنا . وكلنا لئول من أراكم .

الحمد لله . والله لا بد من الطيب .

والله اعلم بالصواب .

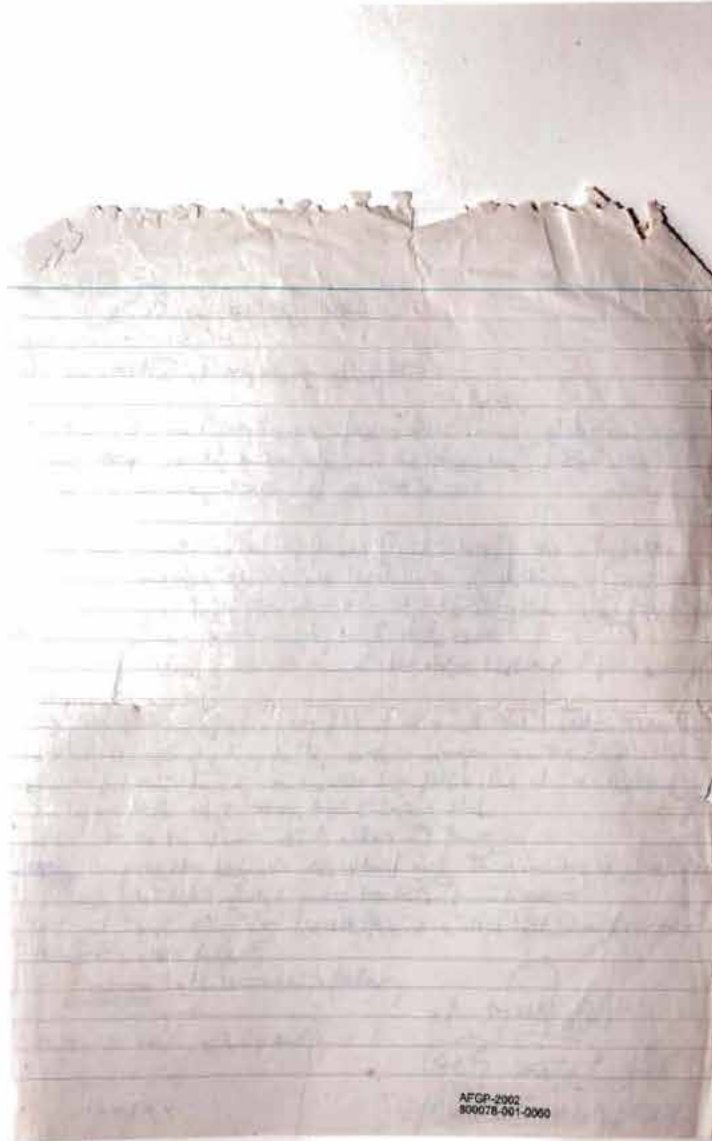
أبو حنيفة إمامنا في كتابته وتبليغ واقعته حيث سئل  
 استفتي بالله في حكم ما حدث من رجل وهو كذا .

قال / صفحة 4 من 4

AFGP-2002  
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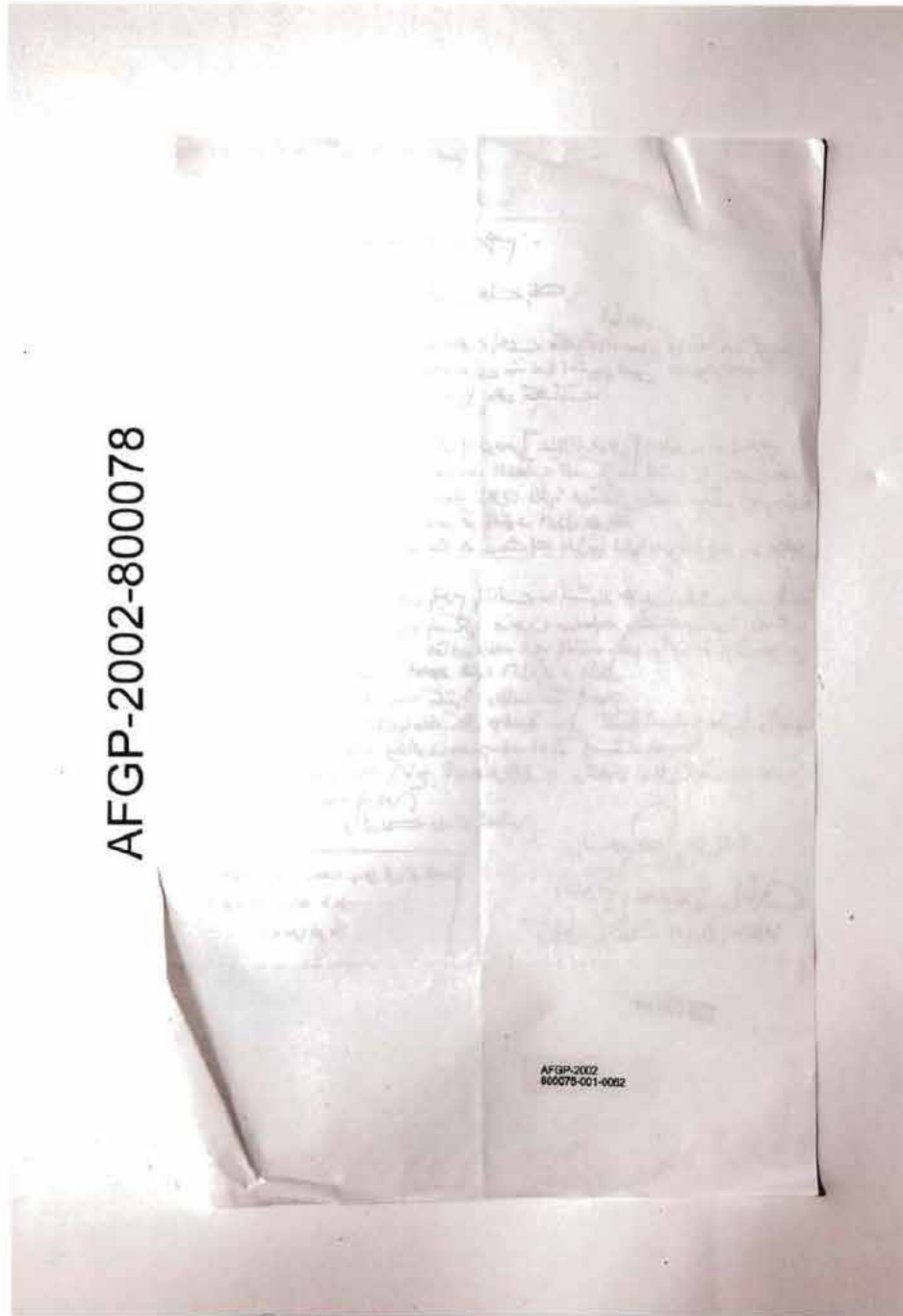
AFGP-2002-800078



AFGP-2002  
800078-001-0000

المعروف. ملكه ذهب، على تروك للملك  
و جمع راء آلام  
ابو صالم با

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800078-001-0061



AFGP-2002-800078



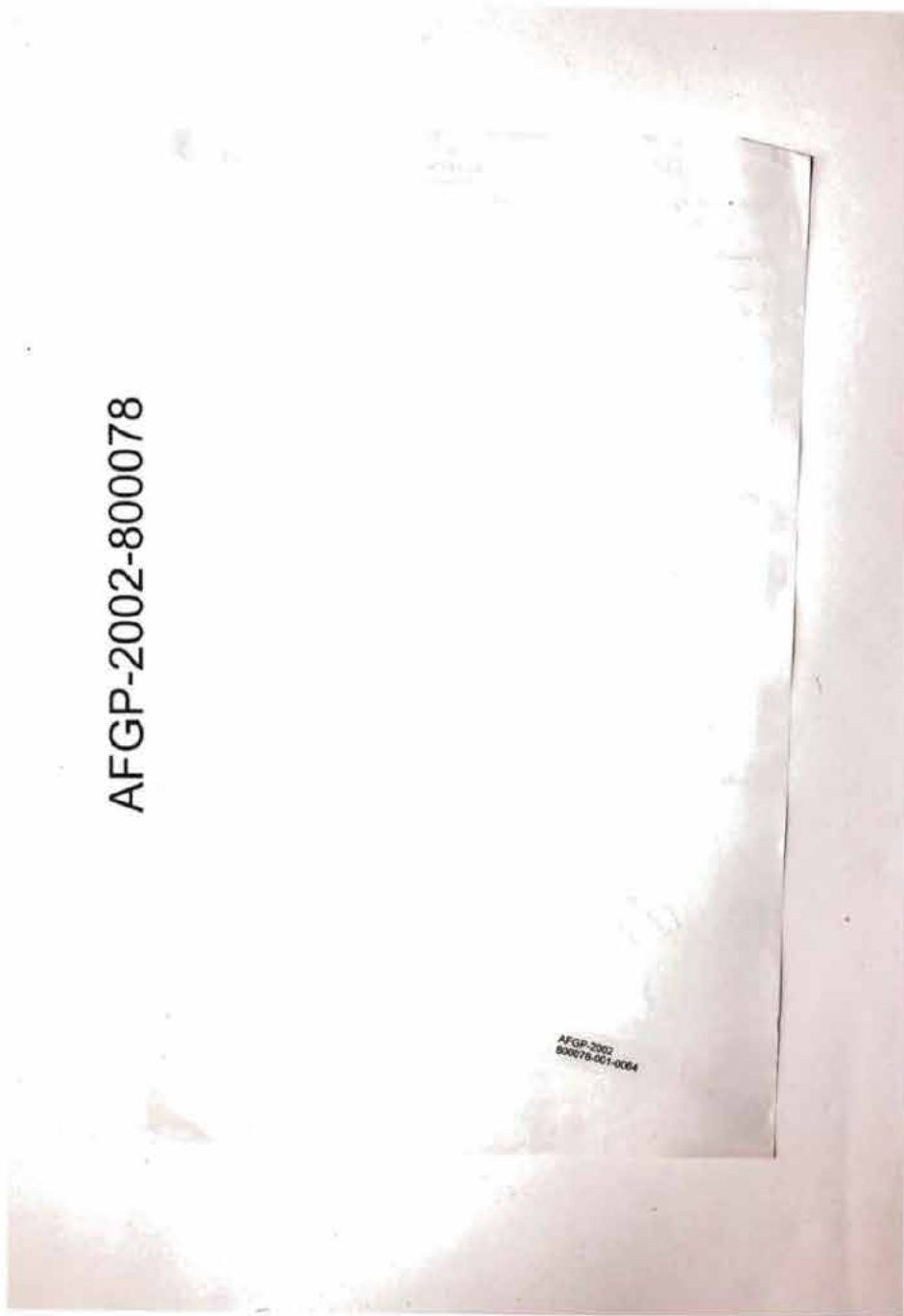
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AFGP-2002  
892073-001-0003

اربابِ علم و فضل و عباد  
موجودین و غیبتیہ  
سید محمد تقی مدظلہ العالی

AFGP-2002-800078



AFGP-2002-800078

(٥)

الرجوة الذين يروى في الجزيرة - الرمان -

الرجوة - صليحة التقييد - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 اول مرة في القاذية حيث رايها من حوالي ١٠ سنوات فوجد في في دولي الى ان الذي ملكه الله  
 وسالني عن عذابه القاذية حتى الموضع الذي شاربوا الشاي - اني لم اصب تلك القاذية  
 وقتها بل صلت حتى انزل في كاي قبل من احد اعمالي في الرمان جاريه - وانني من المجد الذي  
 وحشت لعل زادت عذابي بعد ان ياتي في وجهي مني

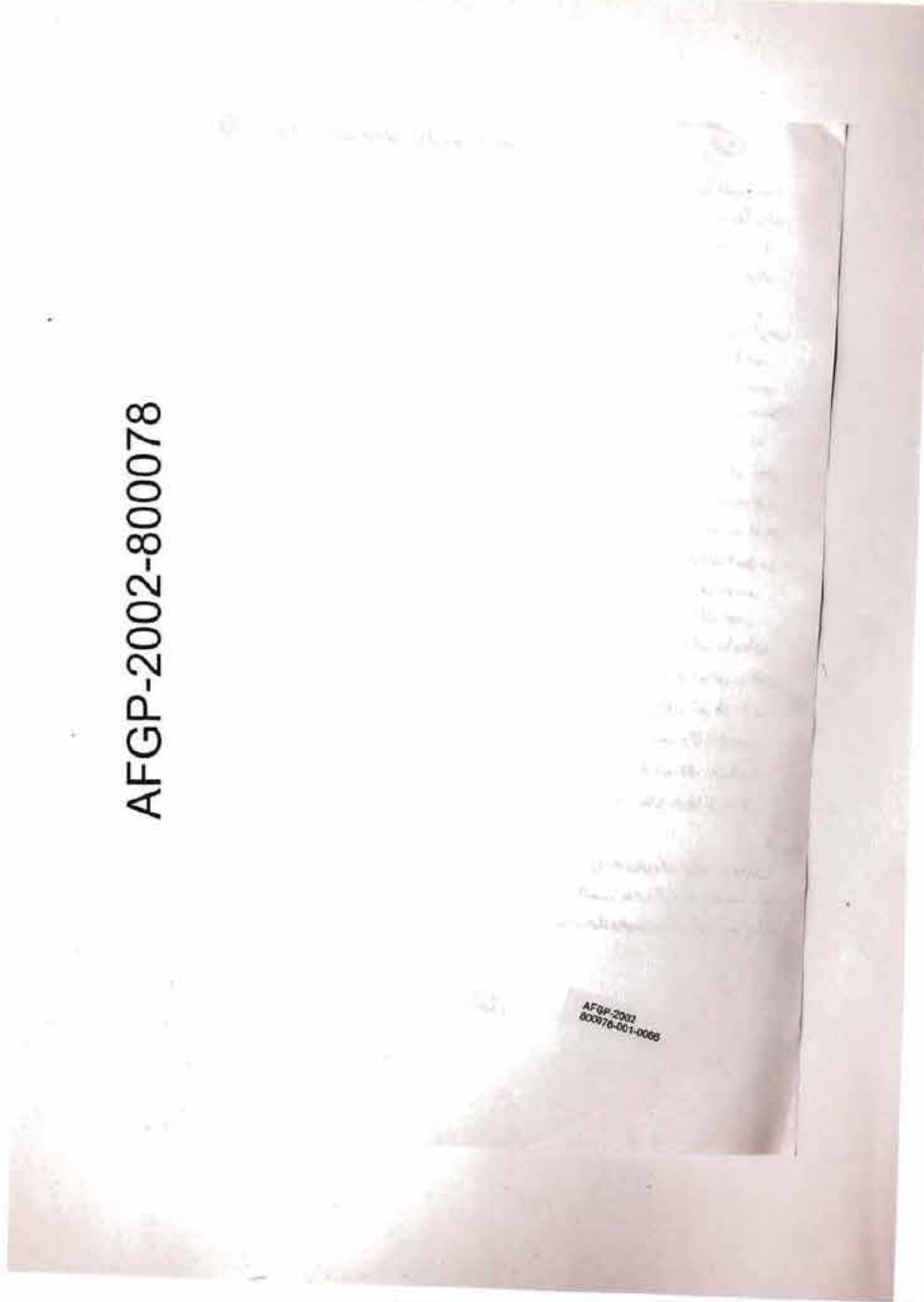
الرجوة - ابو الفرج - برهون المرحوم - من شيا - الذي لا يعلو الا في جبله الذي بالبحر الكبير -  
 (الرجوة - صليحة التقييد - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 من طريقه من الامور وهو الذي شاربوا الشاي - اني لم اصب تلك القاذية  
 في دولة في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 للرجوة - ولم تكن له هذه القاذية في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 المسعود التي شاربوا الشاي - اني لم اصب تلك القاذية في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 اني لم اصب تلك القاذية في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 اليه المرحوم الذي لا يعلو الا في جبله الذي بالبحر الكبير -  
 وكانت تلك اول مرة - انني لم اصب تلك القاذية في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 هاتين القاذيتين التي لا يعلو الا في جبله الذي بالبحر الكبير -  
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 هاتين القاذيتين التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 من افراسه وهي القاذية التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 والرجوة - ابو الفرج - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 صليحة التقييد - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 بعضا حتى انني لم اصب تلك القاذية في جباله التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 مع ابو الفرج - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 من كراشي لشعبي - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -

الرجوة - ابو الفرج - من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -  
 من شيا - التي لا يعلو الا في جبله الذي بالبحر الكبير -

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 قسم الهندسة المعمارية

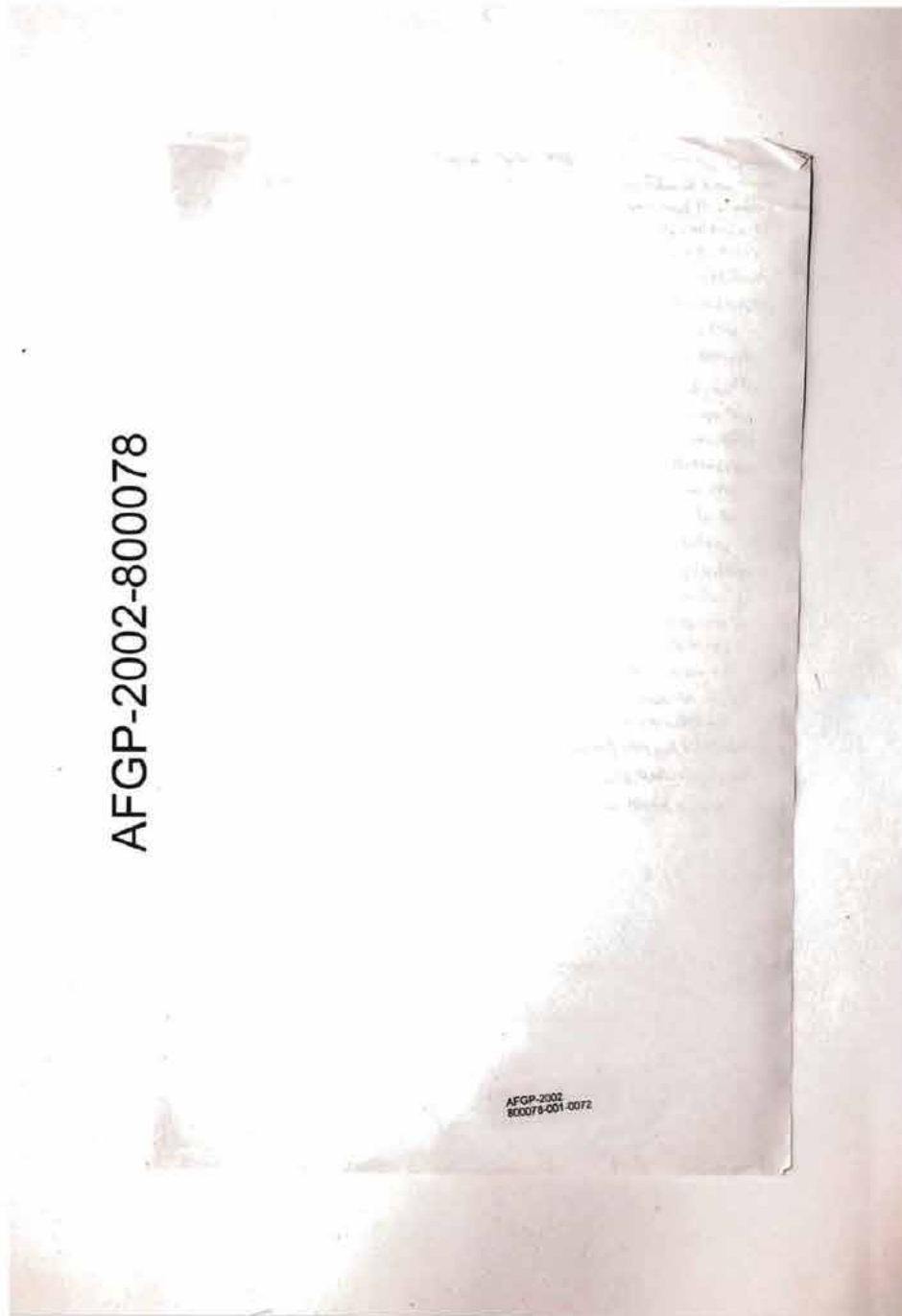
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