

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
)	
V.)	Cr. No. 09-10017-GAO
)	
)	
TAREK MEHANNA)	

GOVERNMENT'S PROFFER AND MEMORANDUM IN SUPPORT OF DETENTION

The United States Attorney hereby respectfully submits this memorandum and written proffer of evidence in support of the argument that the defendant TAREK MEHANNA ("MEHANNA") should be detained pending trial because there are no conditions or combination of conditions that will reasonably assure the appearance of the defendant or the safety of the community.

I. Evidence and submissions

The United States relies on the following submissions, one of which is already part of the record before this Court in Criminal Number 09-10017-GAO and Criminal Number 08-148-LTS:

1. (Unsigned) Affidavit of Special Agent Andrew Nambu, in support of detention in this case, Criminal Number 09-0017-GAO. (A signed copy will be provided to the Court before the detention hearing.)
2. The Affidavit of Special Andrew Nambu, in support of detention, filed in November, 2008, and attachments, in Criminal Number 08-148-LTS.

In addition, the government relies on the following additional documents, photographs, conversations involving the Defendant, as well as other statements of MEHANNA (or statements adopted by

him):

1. Preliminary transcript of conversations between Daniel Maldonado and TAREK MEHANNA on December 12, 2006.
2. On April 23, 2007, MEHANNA gave to CW1 a compact disc with a handwritten label on it, containing data files that included videos depicting violent jihad and violent jihadi training. The contents of said disc have been copied onto a DVD and provide to the Court along with other video files discussed below. (The file is named "jihadi video.")
3. A copy of a poem authored by MEHANNA, using the name Abu Sabaayaa, entitled *Make Martyrdom¹ What You Seek*. (The attached copy was originally posted in April 2008, and was printed from a website on November 2, 2009.)
4. Video files, audio files, images, stored messages, word processed documents, and cached web pages obtained by a forensic analysis of a mirrored copy of MEHANNA's computer hard drive that was obtained on August 10-11, 2006, by the Joint Terrorism Task Force during the execution of a search of MEHANNA's bedroom at his residence in Sudbury, Massachusetts. Excerpts from some of said documents and descriptions of some of the videos are discussed herein. Hard copies of the following stored materials from the hard drive are submitted to the Court for the Court's review:
 - a. printed version of pdf file: *39 Ways to Serve and Participate in Jihad*
 - b. two photographs of MEHANNA at Ground Zero in New York City.²
 - c. DVD containing 2 video files:
 - i. Video concerning the "Expedition of Umar Hadid," file name:ghazwah-omar-hadeed-eng-low.rm[50034].ram_2)
 - ii. Video: File: juthath[75860].rmvb_1.
A video by "The Mujahidin Shura Council in

¹The poem, in the English version, has appeared with either the word *Death* or *Martyrdom* in its title.

²The faces of the other individuals depicted in the photographs have been hidden. They appear without distortion in the original stored photographs.

- Iraq" "Information Committee": "Presents the remains of two American soldiers who were kidnapped near al-Yusufiya"
- d. In addition, excerpts of stored conversations between MEHANNA and the following individuals³ on the dates noted (all in 2006) are discussed herein⁴:
- i. Abu Mundhir: January 30, February 2, 4, 5, 16, 21, March 5, 7, 8, 24, 26, 29, April 5, 9
 - ii. AR: February 7, 28, March 13, 27, April 4, 11, June 8, 22, 28
 - iii. AAB: February 6, 7, 14, March 23, April 11, 28, 29, May 9, 10, 14
 - iv. DS: January 31, February 1, 4, 5, 6, 8, 12, 13, April 1, May 28, June 22, July 7, 25, 29
 - v. ABOUSAMRA⁵: February 5, April 1, 6, 12, 26, June 8, 12
 - vi. M: March 30, April 3, 25, May 8, 22, June 9
 - vii. T: July 12
 - viii.A-S: July 14
 - ix. E: May 8, 10, June 8
 - x. UK: February 7
 - xi. T2: March 21, April 9, 26
 - xii. I: May 12
 - xiii.I2: July 13
 - xiv. AZ: February 14, April 3, 7, July 19
 - xv. S: March 6

³The names provided are the initials of their screen names (or some portion thereof) as they appear on the stored communications and not necessarily their true names; in cases where the screen name appears to identify the given name of an individual, the screen name has been modified to protect the identity of an individual who is not currently charged with a crime.

⁴This is not an exhaustive list of the individuals with whom MEHANNA communicated in the manner and concerning the topics described herein.

⁵AHMAD ABOUSAMRA ("ABOUSAMRA") is an uncharged coconspirator in the Complaint issued in Criminal Number 09-0119-LTS, and an indicted codefendant in the instant indictment Criminal Number 09-0017-GAO. It is believed that he fled the United States shortly after being questioned by the F.B.I. in December 2006, concerning inter alia his trip to Yemen with MEHANNA in February 2004 (and his (ABOUSAMRA's) subsequent activity in Iraq).

xvi. Maldonado: June 3
xvii.N: April 15, July 8
viii.T3: February 25, 27, 28
ix. Abu Sayyaf: February 15

II. Statement of the Law

The United States may move to detain a defendant pending trial based on dangerousness and risk of flight if the case against the defendant "involves" "a crime of violence ... or an offense listed in [title 18,] section 2332(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed" (18 U.S.C. §3142(f)(1)(A)), or "an offense for which the maximum sentence is life imprisonment" (18 U.S.C. §3142(f)(1)(B)).

The defendant TAREK MEHANNA is currently charged in an indictment that alleges inter alia conspiracy to provide material support to terrorists in violation of 18 U.S.C. §2339A, and conspiracy to kill in a foreign country, in violation of 18 U.S.C. §956(a). Section 2339A is both a crime of violence and an offense listed in section 2332(g)(5)(B), and is punishable by up to 15 years' imprisonment. "[A] conspiracy to commit a crime of violence is itself a crime of violence" for purposes of the Bail Reform Act. United States v. Mitchell, 23 F.3d 1, 3 (1st Cir. 1994); United States v. Bishop, 369 F. Supp. 2d 9, 11-12 (D. Maine 2005). Similarly, section 956(a) is both a crime of violence and an offense listed in section 2332(g)(5)(B), and is punishable by more than 10 years' imprisonment. Thus, there are several grounds that support the government moving for detention

pursuant to 18 U.S.C. §3142(f)(1)(A). Finally, a violation of 18 U.S.C. §956(a) is punishable by life imprisonment, which allows the government to move for detention under 18 U.S.C. §3142(f)(1)(B).

Pursuant to 18 U.S.C. §3142(f)(2), the United States may move for detention in any "case that involves -

- (A) a serious risk that [the defendant] ... will flee;
- or
- (B) a serious risk that [the defendant] ... will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror."

Both grounds are applicable in this case. First, as discussed herein, there is a serious risk that the Defendant MEHANNA will flee (as did his coconspirator ABOUSAMRA). In addition, obstruction of justice is a legitimate concern in light of the allegations in the indictment; the charges in the superceding indictment include a conspiracy to provide false information and documents to law enforcement to conceal their illegal activities. Accordingly, the United States has based its motion on these sections as well.

Finally, because of the nature of the charges against the defendant, the government has the benefit of a presumption on both risk of flight and dangerousness; 18 U.S.C. §3142(e)(3), provides in part as follows:

- (3) Subject to rebuttal by the [defendant] ..., it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the

[defendant] ... as required and the safety of the community if the judicial officer finds that there is probable cause to believe the [defendant] ... committed

-

* * * * *

(B) an offense under section ... 956(a), or 2332b of [title 18];
(C) an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, for which a maximum term of imprisonment of 10 years or more is prescribed.

The presumption has been established in this case because this Court has already found probable cause to believe that the defendant conspired to provide material support to terrorists in violation of 18 U.S.C. §2339A, which is an offense listed in section 2332b(g)(5)(B). See Complaint issued in 09-0119-LTS. The presumption is further established because the grand jury found probable cause to believe that the defendant committed the offense in 09-0119-LTS, as well as a violation of 18 U.S.C. §956, which results in a presumption under both 18 U.S.C. §3142(e)(3)(B) and (C).

Thus, there is a presumption that the defendant should be detained (on both risk of flight and dangerousness), and the burden shifts to the defendant to produce contrary evidence. United States v. O'Brien, 895 F.2d 810, 815 (1st Cir. 1990). Nevertheless, the United States is submitting this detailed proffer, outlining some of the evidence that supports detention.

Even when the Defendant MEHANNA was only charged with making

a false statement in violation of 18 U.S.C. §1001 in Criminal Number 09-10017-GAO and Criminal Number 08-148-LTS, and there was no presumption, it was a close question as to whether he should be detained as a risk of flight.⁶ This Court ordered very restrictive terms of release and required his family to secure his appearance with essentially all their assets. Given the changed circumstances of the new charges and legal impact of this new charges, including the fact that he now faces the potential of life imprisonment, and relying on the presumption (that was not applicable to the false statement charge) it is clear that in connection with the new charges, this Court should order the defendant detained pending trial.

III. Submission of Proffer in lieu of Testimony

This government is submitting this lengthy proffer of evidence, along with the other submissions identified above, in lieu of presenting live testimony in support of detention.

"[T]he government may proceed in a detention hearing by proffer or hearsay." United States v. Cardenas, 784 F.2d 937, 938 (9th Cir. 1986); United States v. Ferranti, 66 F.3d 540, 542 (2d Cir. 1995); see also United States v. Salerno, 481 U.S. 739, 743 (1987) (upholding the Bail Reform Act in case wherein the government made a detailed proffer of evidence in the form of

⁶Given the charge at that time, the government could not move to detain on dangerousness grounds. See, e.g., United States v. Ploof, 851 F.2d 7, 11 (1st Cir. 1988).

intercepted conversations and anticipated trial testimony); United States v. Joost, 1994 WL 667011 (1st Cir. 1994) (unreported) ("A district court has wide discretion in determining the form of evidentiary presentation at a bail hearing, such as whether to proceed by live testimony or by proffer."); United States v. Hussain, 2001 WL 420480 (1st Cir. 2001, at n.2 (unreported) (recognizing "the well-established principle that courts may consider and credit reliable hearsay evidence in making determinations under the Bail Reform Act.")⁷

The Court of Appeals for the First Circuit found support for their holding that detention hearings under the Bail Reform Act would "retain the informality of pre-existing bail hearings," in legislative history. United States v. Acevedo-Ramos, 755 F.2d 203, 207-208 (1st Cir. 1985). "[I]n designing the new statute, [Congress] relied heavily upon a similar statute in effect in the District of Columbia." 755 F.2d at 208. In "enacting that earlier statute, the House Judiciary Committee stated that

as is the present practice under the Bail Reform Act, ... **the use of sworn testimony will be the exception and not the rule ... [B]ail hearings under the Bail Reform Act ... proceed primarily by way of proffers. ... If the court is dissatisfied with the nature of the proffer, it can always, within its discretion, insist on direct testimony.**"

755 F.2d at 208 (*italics* in the original) (emphasis added).

⁷The Court of Appeals for the First Circuit also noted in Hussain that "[i]t is equally well-established that bail hearings are not intended to serve as discovery expeditions." Id.

In this case, in addition to the previously filed affidavit in the false statements case (Criminal Number 08-148-LTS), the government relies on a second affidavit from Special Agent Nambu. But more importantly, the government has described herein conversations involving the Defendant, along with other media and documents, that were saved on his computer and obtained pursuant to the execution of a search warrant. Excerpts of these conversations are set forth below. The form of the evidence is considerably more compelling than simply a description of evidence in the form of a proffer from the attorney for the government⁸; these conversations and other items are the evidence.

IV. Analysis of some of the additional evidence:

It would be error to see the actions of the defendant as only involving inchoate crimes of conspiracy -- or attempt (as evidenced by inter alia his trip to Yemen in 2004). As discussed herein and established by his own actions and words, the Defendant did in fact provide significant material support to al Qa'ida and other terrorist groups.

A. "Material support" by providing translation services and distributing material intended to inspire others to

⁸See e.g. Acevedo-Ramos, 755 F.2d at 206 ("Often the opposing parties simply describe to the judicial officer the nature of their evidence; they do not actually produce it.")

participate in violent jihad⁹

In addition to attempting to personally participate in violent jihad as described in the affidavits of Special Agent Nambu, MEHANNA also sought to provide material support to al Qaeda and other terrorist organizations by translating and distributing videos and text that were intended to inspire others to participate in jihad.

1. 39 Ways to Serve and Participate in Jihad

MEHANNA translated "*39 Ways to Serve and Participate in Jihad*" ("*39 Ways*") and provided the finished product to Tibyan Publications for distribution. Tibyan Publications was a radical jihadi website that published and distributed material that supported and was intended to inspire individuals to participate in violent jihad. The contents of "*39 Ways*" is discussed below.

MEHANNA began work on the translation of "*39 Ways*" sometime in 2005. He finished it in April 2006. A series of stored conversations saved on his hard drive concerned completion of the project, including creating an appropriate cover, saving it as pdf document, and distributing it through Tibyan Publications.

Apparently, MEHANNA had an eager audience waiting for the results of his effort; during a conversation on January 30, 2006,

⁹As discussed below, in connection with the publication that was translated by MEHANNA entitled *39 Ways to Serve and Participate in Jihad*, the terrorists themselves (to include MEHANNA) recognize these activities as important to, and equal to participation in, jihad.

with an individual who uses screen names §AB and Abu Mundhir¹⁰ ("Abu Mundhir") told MEHANNA "some brother pmed¹¹ me asking if the 39 ...¹² will be finished." MEHANNA responded: "yeh ... he pmed me too."

On February 4, MEHANNA and Abu Mundhir again discussed *39 Ways* and their role as al Qa'ida's "media wing:"

MEHANNA: are we gonna put 39 in a PDF eventually? ...
 when its done
Abu Mundhir: yes

Abu Mundhir then bragged that others had recognized their efforts on behalf of al Qa'ida ("aqs"), and that they were already recognized as al Qa'ida's "English Wing": Abu Mundhir: "were [sic: we're] bait alrady [sic: already] aqs [al Qa'ida] english wing ... were [sic: we're] known.

MEHANNA recognized that his efforts advanced the cause of violent jihad and, therefore, his role in the effort should be hidden. As he neared completion of his translation of *39 Ways*,

¹⁰Both MEHANNA and ABOUSAMRA have several screen names they utilize, as do many of their friends who share their jihadi philosophy and whose online conversations are discussed herein. In this proffer, both MEHANNA and ABOUSAMRA will be referred to by their true names, regardless of what screen name they were utilizing.

¹¹A "pm" is a personal message, like an "im" or instant message.

¹²Many of the online "conversations" that are quoted herein were saved on MEHANNA's hard drive in the exact form as they occurred. An instant message or chat is often broken up every few words. The use of "..." signifies a break in the text in the original chat.

on March 5, 2006, MEHANNA raised with Abu Mundhir his (MEHANNA's) concern if it were connected directly to him:

MEHANNA: dude ... I was wondering ... about the 39
Abu Mundhir: yeah
MEHANNA: is there anyone else who can finish it ...
 I'd rather not ... continue ... cause the
 next few ones ... are kinda touchy ... and
 I'd prefer not to do 'em ... or
Abu Mundhir: theres no one dude ... u know that lol¹³
MEHANNA: if I can do 'em ... someone else can post
 them
Abu Mundhir: that can be arragned [sic: arranged]
MEHANNA: just as long as my name isn't associated with
 it
Abu Mundhir: yeah ... just finish it all ... and release
 it under ... a franchise ... ac pdf ... and
 delete that

On March 29, 2006, MEHANNA told Abu Mundhir that "39 ... should be done ... within 2-3 dys" [days] I'm on ... #30 ... have like, 10 pgs left." MEHANNA also asked Abu Mundhir: "is there someone ... who will edit 39 ... to format it ... better ... for the PDF." Abu Mundhir suggested someone named Ibn Umar¹⁴ (who he also referred to as "IU" and "ibn u"). MEHANNA asked: "he does all that stuff?" and Abu Mundhir responded: "yea."

Even though the pdf version of *39 Ways* was not yet ready for general release, on April 4, 2006, MEHANNA sent his version to AR in Microsoft Word version:

¹³"Lol" in chats, text messaging and other shorthand online conversations means "laugh out loud."

¹⁴Ibn Umar was an administrator of the Tibyan Publications website.

AR: hey send me the 39 when u are done ... i wanna read it

* * * * *

AR has received 39 Ways.doc.

MEHANNA: still gonna add a cover ... make it look nice ...
and put it in PDF ... this is just ... ur
exclusive copy ;-) ... so don't send it to anyone

AR: ooo mi cool now

MEHANNA: :-d¹⁵

AR: do u nkow have to make graphic covers

MEHANNA: no ... Tibyn [Tibyan Publications] ... they do

AR: o so u going to ask them to make it for u

MEHANNA: well ... this is ... for them ... they are gonna
release it¹⁶

AR: yeah ... i wish icould learn how to do that graph
stuff ... i wish we could live at a time where jh
[jihad] is like something ucould talk openly about
and live go wheneva u want ... live the old days

MEHANNA: heh ... keep dreaming habibi

AR: :'(¹⁷

By April 5, apparently MEHANNA had been able to contact Ibn

Umar, who was working on finalizing *39 Ways*:

Abu Mundhir: did u get in contact with IU

MEHANNA: yeah ... he's editing it ... making it nice,
etc

Abu Mundhir: cool

MEHANNA: this should be nice, in sha' Allah [tr. God
willing]

Abu Mundhir: did u give him ... cover ideas

MEHANNA: hopefully it will lead to some real 'amal ...
no, I let him take care of that

Abu Mundhir: biithnillah

MEHANNA: he's good at that

¹⁵In online shorthand, ":-d" is one way to represent a smile; "-)" is another.

¹⁶As discussed below, *39 Ways* was in fact published and release by Tibyan Publications.

¹⁷In online shorthand, ":'(" is one way to represent sadness.

Abu Mundhir: yeah

By April 9, 2006, Ibn Umar had completed his part, and 39 Ways was ready for release:

MEHANNA: dude ... 39 is done and PDF'd ... do u need to check it before it's released?
Abu Mundhir: uhm no not really lol
MEHANNA: ok ... so Ibn U has the green light?
Abu Mundhir: yeah

Abu Mundhir contacted MEHANNA later that day and asked about the cover for 39 Ways. MEHANNA sent him a link so he could view the cover. After viewing it, Abu Mundhir said: "its really nice." MEHANNA responded: "-) [smile] ... I hope ... the book makes an impact." Abu Mundhir agreed: "inshAllah it does." They wanted 39 Ways to inspire others to participate in violent jihad.

Abu Mundhir later told MEHANNA that he showed the cover to someone:

Abu Mundhir: ok i showed ... one brother the cover ... he loved it ... he said it reminded him of ... like anarchist ... cook book¹⁸ ... or omein [sic] kempf¹⁹ ... lol

On April 11, 2006, MEHANNA told AR: "the 39 book ... has been released officially." When AR asked: "... if u have it on pdf send it ova," MEHANNA sent a link where AR could find it.

¹⁸The *Anarchists Cookbook* is a book that contains recipes and instructions for the manufacture of explosives and other dangerous illegal items.

¹⁹*Mein Kampf* or "My Struggle" was written by Adolph Hitler as both an autobiography and to explain his political philosophy.

Both a complete pdf version of *39 Ways to Serve and Participate in Jihad* were found on MEHANNA computer, as well as a partial microsoft "doc" version. At the bottom of the pdf version the author identified the publisher as: "At-Tibyan Publications."²⁰

2. The Media Wing of al Qa'ida

On February 2, 2006, Abu Mundhir sent MEHANNA a link to demonstrate that "were [sic: we're] reall [sic: real) popular now ... we got our stuff pinned on big forums." In addition to bragging about the impact they were having, the also expressed their reverence for al Qa'ida's leaders:

Abu Mundhir: take a look ... at those 2
 MEHANNA: ya u sent me those this morning
 Abu Mundhir: yeah its different ... though they pinned ... them now ... and people making duaa [tr. prayer] for us ... in the threads ... one guy said
 MEHANNA: Sweetness
 Abu Mundhir: we are aqs [al Qa'idah] in raafidayn [Iraq] ... media wing²¹ ... hehe
 MEHANNA: man, I don't think ... we deserve that title
 Abu Mundhir: yeah
 MEHANNA: maybe ... if we are lucky ... we get to clean their toilets

²⁰On February 15, 2006, an individual using the screen name Abu Sayyaf asked MEHANNA: "Do you know if TP [Tibyan Publications] has any rules or requierments regarding their books, that if they are translated to another language that you still have to have the "At-Tibyaan Publications" at the end of the book cover?"

²¹As discussed below, that is precisely the description of themselves that MEHANNA and his coconspirators used in some of their video productions, that is, "Released by the al Qaidah Network in the land of the Two Rivers," "Media Wing."

Abu Mundhir: lol ... yeah ... i was ... actually discussing ... this with a brother ...i was telling me i would be the happiest man in the world if ... the old man [Usama bin Laden] ... just let me hang around him ...and clean ... his toilet ... wallah

MEHANNA: heh

Abu Mundhir: love that guy

MEHANNA: dude ... This morning ...while I was trying to stay awake in class ...I was thinking to myself ... imagine how ...like, reporters from al-Jazirah [al Jazeera²²] must have felt ... waiting for Hadrami [someone from an area of Yemen]²³ to come out ... and start the interview ... like, thinking to themselves: "I am about to interview al-Hadrami."

Abu Mundhir: haha

MEHANNA: I'd like

Abu Mundhir: yeah

MEHANNA: wet my pants

Abu Mundhir: lol ... akhee ... imagine ...the reporter ...who has to report ... from Z ... now that guy ... will wet his pants

On February 2, Abu Mundhir encouraged MEHANNA to continue with their "media" activities in support of jihad:

Abu Mundhir: but seriously ... we need to continue with these efforts with the media its bearing ... its fruits

MEHANNA: Yeah ... we see now ... how good things come slow ... I mean ... I remember it was exactly a year ago ... when i was doing 'Wa Kadhalika ar-Rusul' ... and I was like...only like, 5 people ended d-loading it

Abu Mundhir: lol ... yeah ... u know ... even just ... how tampon [Tibyan Publications] started ... the site itself ... like 40 people ... or something like that ... we got to the point we had 2000 ... and we had to delete for security reasons ... and we still have like

²²Al Jazeera is the Arabic language news network.

²³i.e., Usama bin Laden, whose father was from that part of Yemen.

500 ... the last video ... 2000 downloads ...
 within the first day
 MEHANNA: hehe
 Abu Mundhir: the site went out of bandwidth
 MEHANNA: yeah ... it was like, the BlockBuster of TP
 [Tibyan Publications]
 Abu Mundhir: hehe ... yeah ... like star wars ...u know
 ...with this danish stuff²⁴
 MEHANNA: hehe ...yeah
 Abu Mundhir: i think it will bear more fruits
 MEHANNA: dude
 Abu Mundhir: for the jihadis ...in general

MEHANNA and Abu Mundhir were pleased with being the media wing, but also sought to inspire an armed wing of al Qa'ida:

Abu Mundhir: were [sic: we're] pertty [sic:pretty] have
 to continue this :) [a smile]
 MEHANNA: Yup ... Maybe one day
 Abu Mundhir: i just
 MEHANNA: there will be
 Abu Mundhir: hope JUS doesnt ... see this
 MEHANNA: Kata'ib at-Tibyan
 Abu Mundhir: lol ...thats ...what i was ...me and khubayb
 ...were talking about we justneed ... armed
 ... wing now hehe

3. Other translations and productions

On March 7, 2006, MEHANNA and Abu Mundhir discussed the popularity of one of the videos which they helped produce and their hope that their work inspires other jihadis to action:

Abu Mundhir: guh²⁵ is popular ... huh ... i was thinking

²⁴Danish cartoons that were perceived as insulting to Islam, resulted in violent protests by Muslims.

²⁵GUH is a reference to a video concerning the "Expedition of Umar Hadid," who was a terrorist in Fallujah, Iraq, and was affiliated with Abu Musab al-Zarqawi, who was the leader if al Qa'ida in Iraq. As discussed below, MEHANNA translated and subtitled this video, and also had some role in creating some of the graphics on the video. The GUH video was found on MEHANNA's

about it today ... how popular the eng
[english] verison is ... lol
MEHANNA: Yeah, wal-Hamdu lillah ... I just hope it ...
leads to action
Abu Mundhir: yeah inshAllah
MEHANNA: not just, "Let's watch it, and then go eat
some pizza"
Abu Mundhir: lol

On January 31, 2006, MEHANNA and "DS" discussed the fact that another website, "JUS," i.e., *Jihad UnSpun*, was selling the Umar Hadid video that MEHANNA translated without compensation. MEHANNA didn't care that he was not being compensated for his work = "as long as the message got out."

DS: Did you see that JUS is selling the Tibyan vid?
... \$25 and no citing the translator
MEHANNA: Which one ... the Umar Hadid one?
DS: na'am
MEHANNA: aha ... Oh well ... Who cares, man
DS: like 2 days after tibyan released it
MEHANNA: as long as the message gets out
DS: they were selling it ... I just think that is
dishonest
MEHANNA: luckily for us, insha-Allah, we are doing this for
Allah's Pleasure
DS: na'am
MEHANNA: so, they can make all the \$\$ they want

MEHANNA had worked on translating part of the GUH video; he took credit for it during a conversation with "AAB" on February 7, 2006, and sent the link to AAB so that he could watch it:

MEHANNA: u got fast net, right?
'AAB: yea man

computer (file name:ghazwah-omar-hadeed-eng-low.rm[50034].ram_2). The first frame of the video reads: "At Tibyan Publications Presents." The second frame states: "The Expedition of Shaykh Umar Hadid," "may Allah have Mercy on Him," "Released by the al Qaidah Network in the land of the Two Rivers," "Media Wing."

MEHANNA: alright ... enjoy this: (Link: [omitted] ... U saw it before ... but, it is translated ... w/ some nice added scenes ... ;-) ... you'll love it

MEHANNA led AAB through the process of downloading the video²⁶.

MEHANNA: (Link: [omitted] ... scroll down to the last ad (Expedition of Umar Hadid) ... and click on the first link under it ... right click

'AAB: woah how long is this

MEHANNA: over an hour²⁷

* * * * *

MEHANNA: is it dloading? ... or is there no activity?

'AAB: its downloading ... its gonna be another hour

MEHANNA: OK, nice

'AAB: what is it what is it

MEHANNA: ? ... The vid?

'AAB: yea

MEHANNA: it's the Umar Hadid vid ... but, w/ added clips ... from habibuna ... and, its transed into English

'AAB: ohhh nice!!!

MEHANNA: by yours truly

* * * * *

MEHANNA: you'll love it ... trust me

MEHANNA ("yours truly") took credit for translating it into English.

The first few frames of the GUH video that was found on MEHANNA's computer contains words in English of dedication to the

²⁶On February 7, 2006, MEHANNA sent links to "AR" so that AR could view the Umar Hadid video. AR had seen an earlier version, but was told by MEHANNA "there is a version that has been translated into English ... with new stuff added onto it."

²⁷The file ghazwah-omar-hadeed-eng-low.rm[50034].ram_2 is just over 1 hour and 19 minutes long.

"prisoners in the prisons of the infidels" "in Cuba" and "in Abu Ghraib," "and the preachers and mujihadeen amongst us."

Following the introduction is a voiceover with subtitles. As set forth below, on February 7, MEHANNA explained that the voiceover was the voice of Abu Musab al-Zarqawi.

'AAB: :-D ... its workings ... working*
MEHANNA: it opened?
'AAB: yea
MEHANNA: the prison?²⁸
'AAB: hahaha :-Dyea man
MEHANNA: Abu Musab [al-Zarqawi] is the one talking
'AAB: really ... it doesnt sound like him
MEHANNA: not the poem ... the intro only ... is the quality of the pic good?
'AAB: oh, i passed that ... yea its excellent
MEHANNA: where u at now in it ... what time slot
'AAB: 455 ... haha this is awesome subhanAllah
MEHANNA: ;-)
'AAB: haha the part where hes taping the wires to the bomb in the car
MEHANNA: that clip ... was found on al-Jazira
'AAB: they showed it?
MEHANNA: just that part w/ the wiring
'AAB: man...
MEHANNA: that's Abu M talking agai ... again
'AAB: yea that sounds more like him ... man did that bomb actually destroy the tank completelty
MEHANNA: which one
'AAB: the part where a car drives by one way, then the tank drives by from the other way and blows up
MEHANNA: lemme see ... probably²⁹
'AAB: 18:13
MEHANNA: def caused some major organ bleeding
'AAB: hahaha

²⁸During the introduction, the video depicts computer graphics of a prison. After the Zarqawi speech, the prison is a background for pictures, including of prisoners.

²⁹Several video clips of military vehicles exploding as they drive over IED's are depicted during the segment of the video they are discussing at this point in the chat.

* * * * *

'AAB: yo who ws umar hadid exactly
 MEHANNA: he was the commander of the Mujahidin in Fallujah
 ... he was killed last Ramadan ... when the
 Americans invaded it
 'AAB: ooh ok
 MEHANNA: Abu Mus'ab told him to shave his beard and escape
 ... but he refused ... and stayed till he was
 killed
 'AAB: man, subhanAllah ... how come they dont show him
 MEHANNA: they did
 'AAB: when dude
 MEHANNA: did u see the part ... 29:40 ... in the background
 ... thats him
 'AAB: oh thats him ... ok i saw that ... mashaAllah ...
 hes young
 MEHANNA: ya ... it is reported that he said ... "I will
 never leave Fallujah as long as there is one
 single foreign Mujahid who has come here to help
 us."

* * * * *

'AAB: its amazing so far ... wanta min ahlu
 MEHANNA: there ... is more of the Shykh [Usama bin Laden]
 at the end³⁰, I think
 'AAB: ok maybe i can stay up a lil longer
 MEHANNA: hHHahh ... no, sleep if ur tired
 'AAB: im at 104:55 ... ill just finish
 MEHANNA: miht as well ... MIGHT
 'AAB: yea ... ok im gonna finish inshaAllah
 MEHANNA: keep in mind
 *** Auto-response from 'AliAB: I am away from my computer right
 now.

³⁰At the point indicated by MEHANNA, the frame states: "Your Brothers in the Media department;" the next frame reads: "Al-Qa'idah in the Land of the Two Rivers." What follows, are words and the photo of "the Shaykh" i.e., Usama bin Laden. There are English subtitles. According to the English subtitles, of the martyrs depicted in the video, bin Laden states: "These youths wage Jihad against the Greatest Kufr (America) by their hands and souls. We ask Allah to accept them among the martyrs." The last 2 frames, after bin Laden, read: "Do not forget us from your supplications," "Your Brothers from At-Tibyan Publications."

MEHANNA: these guys are around our age
'AAB: subhanAllah
MEHANNA: go to 15:55 ... 1:15:55 ... that's the Shkhs prt
'AAB: alright ... maan ... that was amazing ... alright
akhi im gonna go to sleep ... jazakum allahu
khairun for sending me that
MEHANNA: OK, habibi ... take care.
'AAB: you too inshaAllah

On February 14, 2006, MEHANNA sent the following to AAB:

MEHANNA: Dude ... I found something nice for u
MEHANNA: (Link: [partially omitted] [http:// ...](http://...)
Osama%20Bin%20Laden%20video ...
MEHANNA: throw that in the download program
'AAB: nice one sec
MEHANNA: remember the clip at the end of the umar hadid vid
... where the shaykh [Usama bin Laden] was talking
'AAB: yea
MEHANNA: this is the entire speech ... translated into
English ... as well

On February 7, 2006, MEHANNA sent the "the Expedition of Umar Hadid" video to a person with the screen name of UK. After MEHANNA directed UK to the link which allowed UK to download the video in the shortest amount of time, he asked whether it worked. UK responded, "Awesome papa like it."

MEHANNA was involved in translating and distributing other videos and other media that were intended to inspire participation in violent jihad and glorify terrorist acts.

On February 5, 2006, Abu Mundhir asked MEHANNA "what do you think of doing the abu anas as shamee³¹ video in english ... bio

³¹Abu Anas Al-Shami, was born in the Palestinian West Bank, then under Israeli occupation. (The term Shami in Arabic refers to greater Syria, which includes parts of Jordan, Israel and the Palestinian Authority and Syria itself.) In the mid-1990s Abu Anas Al-Shami went to Bosnia where he embraced radicalism. In

video." Abu Mundhir suggested Abu Anas because "i was thinking abu anas one is pretty inspiational [sic: inspirational]."

MEHANNA agreed to do it: "good idea, bro ... excellent next proj[ect]."

They also discussed other projects:

Abu Mundhir: yeah ... cause ... i know a bro has already done ... wa yakoon³² in english ... and he gave it to us but requires heavy editing so if we do ... the abu anas its as if we ... did all htere videos ... with the exception of riyah al nasr

MEHANNA: OK ... I think ... the Abu Anas³³ ... takes precedence ... cause the wa yakun is very similar to GUH³⁴

Abu Mundhir: yeah

MEHANNA: OK, so can a bro transcribe it?

Abu Mundhir: yeah ... i will get ... someone too ... inshAllah

On March 8, 2006, Abu Mundhir sent another project to

MEHANNA "wa yakoon ad deen,"³⁵ and asked him: "can you just go

2003, after USA invasion to Iraq, Abu Anas Al-Shami joined Abu Musab al Zarqawi in Northeastern Iraq. He soon became Zarqawi's second in command. Abu Anas Al-Shami was killed, in 2004, in Western Baghdad by an American missile strike.

³²"Wa Yakoon Ad Deenu Kulluhu Lillaah," was also a video released by "the Media Division" of "al Qa'ida in the land of the two rivers."

³³As stated above, "Abu Anas" is a reference Abu Anas Al-Shami, who was a terrorist affiliated with Abu Musab al Zarqawi.

³⁴As explained above, GUH is a reference to a video concerning the "expedition of Umar Hadid," who was a terrorist in Fallujah, Iraq, who was affiliated with Abu Musab al-Zarqawi.

³⁵"Wa Yakoon Ad Deenu Kulluhu Lillaah," was also a video released by "the Media Division" of "al Qa'ida in the land of the two rivers."

through that and edit ... what needs to be edited."

On March 24, 2006, Abu Mundhir again asked for MEHANNA's help in connection with a pro-jihadi video:

Abu Mundhir: akhee was wondering ... u got any ideas for an intro to the msg to the curry people [Pakistanis]³⁶
 MEHANNA: what do u mean
 Abu Mundhir: an intro
 MEHANNA: isn't it a document?
 Abu Mundhir: no its a video by the dr³⁷
 MEHANNA: oh ... hmm... ... how about ... some footage ... of tribesmen
 Abu Mundhir: ok ... but i want ... some ... thing to go with that ... like how we had a prison cell ... in the guh³⁸ ... not just clips

³⁶In April 2006, Dr. Ayman al-Zawahiri released a video "To the People of Pakistan."

³⁷MEHANNA often refers to Dr. Ayman al-Zawahiri as "Dr.," "Doctor," or Dr. Z." For example, on January 30, 2006, in an online exchange with "AbuTuraab86," while discussing the (then) latest message from al Qa'ida to President Bush, MEHANNA referred to Zawahiri as "Doctor," as follows:

MEHANNA: Did u see the Doctor today ... on Jazirah? ... he told Bush to accept Islam
 AbuTuraab86: u sent me the article i didnt see the video though
 MEHANNA: he kept referring to the Shaykh [Usama bin Laden] ... and saying: Hafidhahullah
 AbuTuraab86: mashaAllah so hes alive walhamdulillah
 MEHANNA: (Link: [partially omitted]
<http://english.aljazeera.net>
 MEHANNA: Call to convert

Elsewhere in the tape - reported but not aired by Aljazeera - al-Zawahiri called on Bush to convert to Islam, telling him that if he does so he will "become a brother in the faith and God will forgive you your sins".

³⁸The GUH video was found on MEHANNA's computer (file name:ghazwah-omar-hadeed-eng-low.rm[50034].ram_2). At the beginning of the video (after the introduction that identifies it as "released by the al-Qaidah Network in the land of the two rivers," "Media Wing", there is computer animation (video) of a

MEHANNA: hmm
 Abu Mundhir: anybody can do clips
 MEHANNA: I'm not good at that stuff ... hehe ... I'm
 more of a clip guy ... but ... I will think
 of some ideas ... and get back to ui ...
 insha Allah
 Abu Mundhir: k inshAllah ... i was gonna put hathrami³⁹ as
 usual ... from the interview with tayser
 alouni⁴⁰ ... where he crys at the end ...
 talking about
 MEHANNA: yeah
 Abu Mundhir: curry land [Pakistan]
 MEHANNA: that's a given
 Abu Mundhir: yea
 MEHANNA: ok dude

On March 26, Abu Mundhir told MEHANNA: "i had an idea for the intro," and sent him a link to an article from Reuters entitled, in part, "US-SECURITY-PAKISTAN-PAMPHLET.xml."

4. Recognizing the importance of their efforts

On February 16, 2006, MEHANNA told Abu Mundhir:

MEHANNA: a brother I know in Masr [Egypt] ... the
 intelligence ... there ...they questioned him
 about me

Although he was concerned that Egyptian Intelligence Service had asked questions about him, MEHANNA assured Abu Mundhir that he would not stop his activities:

MEHANNA: so, I should be careful
 Abu Mundhir: right ... which means?
 MEHANNA: I don't know

prison cell.

³⁹"Hathrami" or "Hadrami" means someone from an area of Yemen, i.e., Usama bin Laden, whose father is from that area.

⁴⁰Tayseer Allouni is an al Jazeera journalist who interviewed Usama bin Laden after the 9-11 attacks.

Abu Mundhir: u will stop with the franchise?
MEHANNA: No, of course not
Abu Mundhir: just take the necessary precautions ...
important material ... buy usb key ... that
can hold 1 gig ... put it on there ...
encrypt it ... and use it like that

Abu Mundhir reminded MEHANNA of the importance of their work and
MEHANNA reassured Abu Mundhir that he would not stop, but just be
more careful:

Abu Mundhir: anyway what im saying is if we stop what were
doing then we have failed those guys and
failed a lot of people who rely ... on ...
the franchise
MEHANNA: I'm not saying we stop ... I'm just syaing
... at the moment ... it is better for me to
do so ...just till I figure out ... what the
deal is ... u kow ... know
Abu Mundhir: ok

MEHANNA helped make available to others the translated
materials distributed by at-Tibyan Publications. He also worked
with the administrators of the site. For example, on March 27,
2006, he had the following conversation with AR:

MEHANNA: check out this site
MEHANNA: (Link:
<http://www.muwahhideen.com/articles/>)<http://www.muwahhideen.com/articles/>
MEHANNA: it's all of Tibyan's translated stuff
AR: akhyy i cant get on the tawheed web site
MEHANNA: yeah ... they don't let any new members on
AR: i was not new ... i was working
MEHANNA: yeah ... but ... u never posted anything ... so
they deleted ur account
AR: o man ... i only had it for 2 weeks befor i went
ot masr
MEHANNA: they are uptight w/ security these days man
AR: too bad
MEHANNA: lemme talk to one of the admins ... and see what
the deal is ... insha Allah

B. Support for successes of the terrorists and setback for the American and other westerners, and rejection of moderation, and desire to leave the U.S. and not live amongst the "kuffars"⁴¹

1. Admiration for al Qa'ida leadership and their acts

MEHANNA and others with whom he shared a violent jihadi philosophy, often discussed and delighted in the receipt of the latest speech or video from al Qa'ida leaders, while delighting in the latest setback to the American mission in Iraq. They also seemed almost amused by some of the videos of captured westerners.

On January 30, 2006, while talking with Abu Mundhir, MEHANNA asked Abu Mundhir if he had seen "Doc's tape." From the context, it appears they were talking about a new tape from Dr. Ayman Zawahiri, who is a prominent leader of al Qa'ida (and a surgeon). (Abu Mundhir also stated: "i want to see the old man [Usama bin Laden] though.") MEHANNA also asked Abu Mundhir "did u see Jill Carroll in the new tape as well?" Carroll was a reporter who, while working for the *Christian Science Monitor*, was kidnapped in Baghdad, Iraq on January 7, 2006. Her kidnappers, who were followers of Abu Musab al-Zarqawi, released several videos of her during her captivity. Ultimately, after approximately 82 days of captivity, she was released. In response to MEHANNA's question, the following exchange took place:

⁴¹"Kuffar" is, generally, a non-believer, who does not recognize Allah and his prophet Muhammad.

Abu Mundhir: no just saw the pic
 MEHANNA: She was...masha-Allah...lookin good as well
 Abu Mundhir: lol i seen ... Abu Mus'ab's⁴² probably...
 forget it

The two men found the whole ordeal of Ms. Carroll very amusing:

MEHANNA: why do u think ... they put a hijab⁴³ on her?
 Abu Mundhir: lol ... no clue
 MEHANNA: man ... they shouldn't have

* * * * *

MEHANNA: Abu Jill Carrol
 Abu Mundhir: lol
 MEHANNA: sounds nice... kayf halak ya Abi Jill Carrol
 Abu Mundhir: akhee u think ... there [sic: they're]
 getting ... a peice of that
 MEHANNA: Yeah, dude
 Abu Mundhir: lol
 MEHANNA: if u notice ... the latest vid is from a diff
 Jama'ah ... that means ... they're passing
 around the dessert
 Abu Mundhir: haha
 MEHANNA: Iraqis, man ... they know how to treat a
 woman
 Abu Mundhir: lol

The search of MEHANNA's computer revealed many stored images and videos. Included amongst the stored images, were two copies of a still photograph from the video depicting the beheading of Nick Berg. Berg was a contractor from Pennsylvania, who was captured and beheaded in approximately May 2004. Abu Musab al-Zarqawi was given "credit" for killing Berg. The still photos on MEHANNA's computer show someone holding Berg's severed head.

⁴²This a shorthand for Abu Musab al-Zarqawi.

⁴³"Hijab" is the traditional head covering worn by Muslim women. Carroll wore one in some of the videos that were released during her captivity.

On May 28, 2006, MEHANNA and DS talk about having an upcoming movie night where they can watch jihadi videos involving al Qa'ida in Iraq leader Abu Musab al Zarqawi.

MEHANNA: we can have a movie night
DS: What movie? ... "State of the Ummah"?
MEHANNA: ni ... no ... Heads Up
DS: lol ... Heads Up?
MEHANNA: hehe joke
DS: Does it star Mr. Z?
MEHANNA: yes
DS: it shoud be Heads Off
MEHANNA: hehe yeah

MEHANNA and other individuals, including one with the screen name AAB and a second with the name E, often discussed the latest release from al Qa'ida, and showed their reverence for the al Qa'ida leaders and disdain for the U.S. leaders and troops. For example, during conversations in April 2006, they discussed a message and video from Abu Musab al Zarqawi, who was the leader of al Qa'ida in Iraq.

On April 26, 2006, Abu Musab Zarqawi released a recruitment video for al Qa'ida in Iraq in which he showed his face and proclaimed that he was leader of the organization. In it, he said that he would attack and kill the American crusaders. That evening, MEHANNA sent a link to the video to "T2," saying that it was the first time for "him" to be seen. T2 apparently only was able to access the audio portion of the file, so MEHANNA told him to come down to his, MEHANNA's room, to see the rest of it.

Multiple photographs of Zarqawi were found on MEHANNA's

computer.

On Apr 12, 2006, MEHANNA and ABOUSAMRA discussed the (then) latest tape from Ayman Zawahiri:

ABOUSAMRA: hey, is this doc [Dr. Ayman Zawahiri] audio new or old? ... that they posted on tp [Tibyan Publications]?
MEHANNA: haven't opened it ... guessing it's old ... but ... hehe ... the Shaykh [Usama bin Laden] says the same thing anyways ... hafidhahullah ... brb [be right back]
ABOUSAMRA: i don't know if this doc tape is old ... but he says alot of good things about mr. z [Musab al Zaraqawi] ... i don't understand why our fathers' generation is so pessimistic regarding the j [jihad] situation in the world. ... When everything indicates otherwise. ... in the tape he says he knew mr. z personally and knew him to be only a good man

Multiple photographs of Dr. Ayman Zawahiri were found on MEHANNA's computer.

On multiple occasions MEHANNA expressed support and indeed reverence for al Qa'ida and other terrorist leaders, and encouraged others to hear and be inspired by their words and videos. Another example of this occurred on May 8, 2006, when MEHANNA sent a link to M, and told him to "check this out." When M asked: "what is it about?" MEHANNA told him: "Abu Nasir al-Qahtani⁴⁴ ... Bagram escapee ... leading his first post-escape attack on 'uluuj. [tr. dirty infidel]" MEHANNA told him to go to a certain point in the video, " and see what he says ... it's

⁴⁴Abu Nasir al-Qahtani was an al Qa'ida fighter who escaped from Bagram prison in the summer of 2005.

awesome." On May 9, 2006, MEHANNA sent the same (or a similar) video to AAB:

MEHANNA: dude I saw the coolest blood donation clip today ... I want u to seeit

MEHANNA then sent a link: [omitted]

MEHANNA: go to 10:35 ... or 10:30, actually

'AAB: HAAAAHA

MEHANNA: ;-)... this brother ... he's a Saudi ... he was in the American prison for the Mujahidin in Afghanistan ... but he managed to escape ... and this vid ... is from his first battle after escaping

'AAB: the one in the white turban

MEHANNA: the one who was talking, yeah ... his name is Abu Nasir al-Qahtani

MEHANNA sent the exact same link to E on May 8, 2006, and told him: "for starters, watch the video." E and MEHANNA then had the following exchange:

E: watching it now? ... Maghrebi?

MEHANNA: 10:35 on, specifically ... no, Abu Nasir al-Qahtani, Bagram escapee ... leading his first post-escape operation ... look @ what he says @ 10:35 ... :-D

E: this brother is something else

* * * * *

E: just watched the whole thing

MEHANNA: hehe

E: will watch it again several times more ENshallah

MEHANNA and ABOUSAMRA ("using screen name Ahmad AS")

discussed the same video on Apr 26, 2006:

MEHANNA: Aq ... on it

ABOUSAMRA: oh yeah, who is aboo naasir al-qah?

Mehanna: one of the 4 bros who escaped from Bagram ... the one who made that shi'r video

ABOUSAMRA: oh

MEHANNA and an individual using the screen name E also praised Abu Nasir al-Qahtani during a chat on May 10, 2006:

E: akhi, I want to have and raise a son someday like Abu Nasser al.Q ... make du3aa
MEHANNA: heheh ... akhi ... we all do ... the guy is ... like ... the Muslim T-1000
E: the guy is my rockstar

2. Admiration for the 9-11 hijackers and their crimes

In addition to his reverence for the leadership of al Qa'ida⁴⁵, on February 6, MEHANNA referred to the 19 hijackers of September 11 as the "19 martyrs." On February 6, 2006, MEHANNA told DS that while he had a CD of the tribute video to the 19 hijackers of September 11, 2001, he was looking for an online link so that he could send it to others.

MEHANNA also expressed support for the crimes of the 9-11 hijackers; for example, on June 9, 2006, the following exchange occurred:

M: may Allah's curse be on those that died in sept 11
MEHANNA: the people who say for Allah to have mercy upon the kuffar who were in it ... so I say ... may Allah have mercy on just the buildings ... not the kuffar that were in it ... as at least the buildings weren't kuffar

MEHANNA and his friends often joked about the 9/11 attacks and talked about the 19 hijackers as heroes. For example, on April 11, 2006, MEHANNA told AAB that "I found this lecture by

⁴⁵Their reverence for terrorists is in sharp contrast to their disdain for American leadership; on March 5, MEHANNA commented about something in the news about "Condi" (Condaleeza Rice). MEHANNA described her as a "dog."

Muhammad Hassan ... where he talks about the Shaykh [Usama bin Laden]." AAB asked him to "send it." MEHANNNA sent the link, and AAB, after viewing it, commented "this is awesome." MEHANNA then told AAB: "he makes a joke about 9/11... "Wallahi, I visited those towers - of course, this is before they were knocked down" ... then he starts laughing ... and the crowd does too." AAB responded: "hahaha i heard it ... hahahahaha"

On May 10, 2006, MEHANNA and AAB also talked about going to New York:

'AAB: nice, dude we should go to new york sometime ... again
 MEHANNA: yeah soon as ur out ... I need to get some stuff ... and we never prayed inside Masjid al-Faruq ... where Sh. Azzam preached
 'AAB: yea thats true ... iwanna see ground zero during the day ... ao i can make duaa [prayer] for our brothers :-D ... so*
 MEHANNA: hehe ur never gonna get enough of that place ... yeah ... also ... make du'a' for the towers ... Rahimamullah
 'AAB: hahaha ... ive been watching so many clips of it man

* * * * *

'AAB: i dont know man, those attacks were special
 MEHANNA: yeah, subhan Allah...too bad there was this pizza place next to the towers ... that got wiped out
 'AAB: haha

AAB then told him that he had just seen "that united 93 movie⁴⁶" and AAB thought it was "soo funny i was laughing

⁴⁶United Flight 93 was one of the planes hijacked on September 11, 2001, that was supposed to hit a target in Washington, D.C. It crashed in Pennsylvania when the passengers tried to regain control of the flight. Flight 93 was the subject

the whole time."

'AAB: it was soo unbelievable man ... it was so funny
how clueless the americans were
MEHANNA: One question: ... how did it end?
hahhhahahahahahahahaahaahaaha
'AAB: lol
MEHANNA: :-d ... :-D:-D:-D:-D:-D:-D:-D:-D [big smile]

The two men then talked about several of the hijackers. It is clear that they had studied personal details of the hijackers' lives like others their age might talk about sports or political heroes. MEHANNA also reminded AAB of something he had given him ("remember the thing I gave u") wherein "the Shaykh [Usama bin Laden] names them one by one ... and mentions their qualities." They were particularly thrilled that "mohammed atta was in boston," and speculated that maybe "we saw him at the isb [Islamic Society of Boston] or something." They then viewed a video that depicted each hijacker and they talked about each one. MEHANNA also told AAB, in connection with one of the 19 hijackers:

MEHANNA: I had translated a biography of him ... a while back ... lemme see if I have it still

They continued their discussion concerning some of the other hijackers.

On May 14, 2006, MEHANNA and AAB also discussed the 9/11 Commission Report that apparently AAB was then reading.

'AAB: this book ... they try and make out the hijackers

of a motion picture by the same name.

to be uneducated barbarians ... which makes no sense, because those attacks were genius ... both the people that planned them and even more so the ones who carried them out

MEHANNA: yeah ... ah well ... at the end of the day ... there is a big empty space there

'AAB: lol

They also continued their discussion of some of the hijackers and planners, and their admiration for them; for example: 'AAB:

"mohammed atta⁴⁷ ... this guy was so awesome."

Approximately 30 photographs of the twin towers of the World Trade Center after the two planes struck on September 11, 2001, were found on MEHANNA's computer. In addition, photographs of some of the hijackers were also found, as was a photo of Mohammad Atta's U.S. visa.

In addition, MEHANNA and two friends visited ground zero and photographs from that visit were found on MEHANNA's computer. Two of the photographs are worth mentioning. In one, MEHANNA stands with another man who is unsmiling. MEHANNA, on the other hand, has a huge smile on his face. In another, three men are depicted. Again, one is unsmiling. MEHANNA and another man have a huge smile and are pointing their index finger upward. Copies of the photographs - with the faces of the other men masked, are attached hereto.

On February 5, 2006, MEHANNA and DS had a long conversation.

⁴⁷Mohamed Atta was one of the 9/11 hijackers on American Airlines Flight 11 that was the first plane to fly into the World Trade Center.

MEHANNA told DS that he had just sent their pictures from attending the ground-zero site of the September 11, 2001 attacks on the World Trade Center to some of his friends in Egypt, who themselves had been in Iraq (to combat the United States).

MEHANNA: I just sent ... some friends of mine in Egypt ... the pics of us at the grzr [ground zero] ... and they were like ... "Who are these terrorists?"

DS: lol

MEHANNA: they were joking of course ... they themselves were in rfdn [Rafidayn, i.e. Iraq]

3. Hatred of the United States and Americans, and desire to leave, the United States

MEHANNA shared a hatred of the United States and a desire to permanently leave the U.S. with many of those with whom he regularly communicated. For example, on March 30, 2006, during an exchange with and individual with the screen name M the following exchange took place:

M: i really hate to live in the country longer ... i wish to go back to arabia ... or some other place where i dont see these filthy kuffar

MEHANNA: heh ... join the club, akhi

M: which club lol

MEHANNA: the "I want to get out of here" club

On February 5, 2006, ABOUSAMRA expressed a similar sentiment: "i just hate this stupid kufr land ... i hate being surrounded by kaafirs."

MEHANNA and M again expressed their hatred of the U.S. and hope for our defeat, and support for the terrorists on April 25, 2006, while at the same time, MEHANNA warned M to be careful:

M: akhi do you have the link for shaykh abu qatadah's

site?
MEHANNA: hmm ... is there one even working?
M: there was one a month ago
MEHANNA: hmmm ... not sure of it man ... akhi ... did u hear
M: no problems akhi
MEHANNA: about the vid
M: oh yes mashallah ... i saw it
MEHANNA: hehehe ... nice
M: that gives more than one indication ...firstly that the shaykh is in a powerful position ...in so much that the americans and rawafid cannot reach him ... and secondly that he is in controll ... and he is moving the directions of the iraqi scene ...as he came out fearlessly with his appearance on the video ... and not fearing that this appearance would lead to identifying or detenting him, and this clearly indicates that he is not on the run ...rather the maggots are ..and that the shaykh is surrounded by a deeply trustworthy bitnaa who are bent on seeking victory
MEHANNA: na'am ... hehehe
M: i believe the evil gangsters in the white house, petnagon, the congress and cia are experiencing earthquakes
MEHANNA: I believe
M: at the moment
MEHANNA: they are pissing their diapers
M: the whole world knows they represent evil, and what they stand for is rotten fruits, and they are to perish as their stance is like the house of a spider
MEHANNA: yeah
M: may Allah curse this 3yesabates sawd ... wal mujrimeen ... i abhore and hate them, and my baraah is for them
MEHANNA: Akhi ... (we're being watched...) ... for the hundredth time ... hehehe
M: la3natullahi aliyhem let them see ... we are not breaking any of their filthy constitution ... their accursed "bill of rights" allows them to be bashed
MEHANNA: ok akhi ... but ... be smart ... hehe
M: oh yeah sure lol

On May 12, 2006, MEHANNA was asked by "I" whether he should accept a job for a company which does some work for the U.S.

government. MEHANNA responded:

MEHANNA: I am not going to give you a fatwa ... but
I: do u think thans an issue?
MEHANNA: if I were you
I: right
MEHANNA: I would not work for them ... but, that's me ...
even if your work indirectly helps them to help
the govt ... then stay away from it

A few minutes later, MEHANNA went on to explain his own
intentions to leave the United States:

MEHANNA: as soon as I'm done w/ school
I: non*
MEHANNA: I'm planning something called hijrah
I: yea ... unh
MEHANNA: cause I don't want to be offering my services ...
to kuffar ... while Muslims
I: fo sho
MEHANNA: are more in need of them ... esp. since
I: yea
MEHANNA: these kuffar ... many of them ... are at war w/
the Muslim countries
I: yea
MEHANNA: so ... it's on my mind 24-7⁴⁸

4. Taking pleasure in injuries to U.S. Servicemen

MEHANNA and several of the people with whom he regularly
communicated seemed to also be amused by injuries to American
soldiers; for example, on February 2, 2006, the following
exchange took place:

⁴⁸Consistent with these sentiments, at least one saved
internet conversation has been found on MEHANNA's computer during
the search of MEHANNA's computer seized on October 21, 2009. In
that document, a saved chat from September 21, 2009, MEHANNA
admonished a user named Alya not to come to the United States to
study, but rather, to stay in Saudi Arabia. Among other reasons,
MEHANNA explained that a Muslim should not leave Saudi Arabia to
live with the Kufar [infidel], unless it is for a legal reason.

Abu Mundhir: there [sic: they're] trying to scare us or something
MEHANNA: Yeah...maybe he is right... if the 20,000 US Troops wounded in Iraq can somehow grow back their blown off limbs
Abu Mundhir: lol

Similarly, on February 5, 2006, the following exchange took place, when MEHANNA sent an excerpt of a news article about deaths in Iraq to Abu Mundhir:

MEHANNA: 12 minutes ago

"KANDAHAR, Afghanistan - A land mine ripped through a police vehicle, killing six officers and wounding four in the latest of a wave of attacks that have rocked southern Afghanistan, officials said Sunday.
ADVERTISEMENT

The blast late Saturday in Kandahar province came after 48 hours of bloodshed that left 38 people dead as hundreds of Afghan and U.S. forces battled some 200 militants in the biggest fighting in months."

Abu Mundhir: lol ... things ...are getting nice there ...i read one article ...that a whole battalion was donated ... from z ...to there ...
MEHANNA: heh ... yeah, I'd believe it man ...they like their udhiyah [tr. Sacrifice] a little spicier

On another occasion on April 29, 2006, MEHANNA sent to AAB a link so he could enjoy a video of what is described as some Marines being blown up by an IED.

MEHANNA: check this out
MEHANNA: (Link: [omitted])

* * * * *

MEHANNA: it's a vid ... of ... a group of Marines ... seeing a wierd object on the ground ... so they stop to look at it ... as soon as one of them gets out and tries to dismantle it ... and says "I

think I got it" ... the thing goes off
'AAB: maaaaaaaaaaaaan ... i wanna seeee
MEHANNA: and all the Marines are yelling "O ****!!" ... the
ones that survive, that is
'AAB: haha ... lol

On March 21, 2006, MEHANNA sent T2 two videos depicting apparent improvised explosive device attacks on American soldiers. They talked about how the first depicted one explosion, and the second depicted more than one. They then shared a laugh about the videos.

On April 9, 2006, MEHANNA sent T2 a video of a recently downed helicopter and crew in Iraq. The video depicts the dragging of a soldier across the ground, and one who was lit on fire. MEHANNA called the video the "Hanes" video, an apparent reference to the fact that on the video, the pilot's underwear tag is conspicuously visible. MEHANNA joked that there was a Hanes commercial in the second half of the video. The video was released as a propaganda tool for al-Qa'ida in Iraq and its associates, and at the time was well publicized for showing that Zarqawi was targeting Americans in Iraq.

MEHANNA and his coconspirators, who shared videos and took real pleasure in the deaths of American servicemen, seemed to delight in the most horrific atrocities. For example, on July 12, 2006, the following exchange occurred:

MEHANNA: bro ... u want to see something
T: yeah sure man
MEHANNA: u remember ... the rape incident
T: yeah

MEHANNA: w/ the 14 yr old girl' ... u want to see ... the response?
T: yeah i do
MEHANNA: ok ... get ready ... and it ain't a statement from CAIR⁴⁹ [Council on America-Islamic Relations]
T: yeah if it was to that it would make me wanna vomit ... but i know this will put a smile on my face
MEHANNA: this is ... sick ... as in ... sick
T: even for the tv show i saw with u abu hammood and tamer came in ... sicker then those shows
MEHANNA: yes ... even sicker
T: ohh man
MEHANNA: but ... it shows the aftermath ... not the actual process
T: and its worse
MEHANNA: yeah ... they go ... all the way ... ull see ... and better yet ... they do it against ... hicks ... not Shiah ... the same baseball team ... that the rapist was on⁵⁰ ... they did it to them
T: oh the yankees ... yeah man i hate that team ... alot
MEHANNA: let's just say ... they got torn apart
T: i really wanna see this
MEHANNA: remember the movie Hostel
T: yeah
*** T has received juthath.rmvb.⁵¹
T: ok its done ... what do i play it with
MEHANNA: real player
T: wmp does play it ... oh damn ... 1 sec ... ist working
MEHANNA: :-) ... they specifically did this ... in response

⁴⁹MEHANNA and ABOUSAMRA are not supportive of CAIR's public relations efforts; on March 24, 2006, while chatting online, the following exchange occurred:

ABOUSAMRA: CAIR, Council Against the Islamic Religion
MEHANNA: Cows, Animals, Idiots, and Retards

⁵⁰In early July 2006, when a video was released of burned and mutilated bodies of two U.S. servicemen, the terrorists who took responsibility claimed it was in retaliation for the rape of a young Iraqi girl. The two murdered servicemen in the video were allegedly from the same division as the suspect in the rape.

⁵¹The video MEHANNA was discussing was saved on his computer File: juthath[75860].rmvb_1.

T: to the rape
T: on the st
MEHANNA: yes ... and they left the corpses there ... and
walked away ... u saw how they dissected the
bodies
T: yeah its still playing ... yeah
MEHANNA: u can see the ribs ... internal organs ... etc
T: thats waht the show states ... that it was
response
MEHANNA: yeah
T: man ... that was something
MEHANNA: heh yeah ... now ... they'll think twice ... when
they see an Iraqi girl
T: whats the deals in the courst ... r they being
tried?
MEHANNA: they will be ... but, who cares ... Texas BBQ is
the way to go⁵²

The next day, July 13, 2006, MEHANNA asked another friend if he had seen the video. MEHANNA asked A-S: "man ... did u see the vid of the mutilated uluj [tr. dirty infidel]?" When A-S responded: "no," MEHANNA described it as follows:

MEHANNA: man ... it was ... Texas BBQ sauce ... all the way
A-S: lol

On July 13, 2006, MEHANNA sent the same video entitled juthath.rmvb, depicting the mutilation of U.S. personnel to I2. MEHANNA encouraged I2 to send it to another person, and stated:

MEHANNA: man ... did u see the vid of the mutilated uluj
I2: no
MEHANNA: this was done ... in revenge for the rape ... of
that girl ... nice juicy BBQ

On July 14, 2006, while discussing military action in the Middle East, MEHANNA said to A-S:

⁵²T was asking if there was any progress on the legal proceedings against the suspected rapists; MEHANNA's preferred the method chosen by the terrorists to punish the crime.

MEHANNA: I want ... more BBQ sauce videos

The video that MEHANNA described as "Texas BBQ," about which he stated he "want[s] more" and "is the way to go," and for which he used ":-)" (a smile), was saved on MEHANNA's computer. It contains a horrific depiction of the mutilation of the burned bodies of what appears to be two U.S. servicemen. As stated above, MEHANNA saved the video on his computer. The third, fourth and fifth frames of the video contain the following:

"The Mujahidin Shura Council in Iraq"
"Information Committee"
"Presents the remains of two American soldiers who were kidnapped near al-Yusufiya"

The video then follows with a photograph of Usama bin Laden and the voice of bin Laden thanking the Iraqi mujahideen for their continued attacks on America and its allies. Bin Laden states that these attacks made all Muslims proud. The video then contains several minutes of individuals prodding, kicking and holding a severed head of what appears to be two American soldiers.

5. Rejection of moderation and cooperation

MEHANNA didn't just despise U.S. leaders, but he seems to feel the same way to any Muslim leader who advocates moderation and rejection of the extremists; for example, on June 12, 2006, AHMAD ABOUSAMRA (using screen name "Ahmad AS"), sent him the following: "It's about time Muslims owned up to the fact it's a Muslim problem," said Farzana Hassan-Shahid of the Canadian

Muslim Congress, adding she believes the community must forcefully denounce extremism. "We need to be more proactive, rather than issue statements of condemnation." MEHANNA's response to this was:

MEHANNA: She needs to be raped . . . with a broomstick
ABOUSAMRA: lol

Similarly, on June 28, 2006, MEHANNA had the following reaction to an MAS statement concerning the death of Abu Musab al Zarqawi:

MEHANNA: look at the wala' of the Muslims to each other:
(Link: [partially omitted])
http://www.masnet.org/pressroom_release⁵³
AR: dahh elly a7naa fal7een feeh
MEHANNA: right ... bunch of women
AR: so asyadhom al kuffar will be happy
MEHANNA: walahi, I wish I could meet Mahdi Brey⁵⁴ ... and cut off his testicles
AR: i dondt think he has any
MEHANNA: yeah ... you're right ... ya'ni ... at least stay silent ... don't say anything, if u didn't like the man ... but why kiss behind like that?
AR: man this stuff make me lose sleep man and when u tell people they look at ur weird

On February 13, 2006, MEHANNA and DS talked about the

⁵³The link was to a statement by the Muslim American Society ("MAS") Freedom Foundation in reaction to the death of Abu Musab al Zarqawi, that was posted June 9, 2006. The statement included condemnation of both the invasion of Iraq by U.S. forces, but also to the tactics of Zarqawi. The statement included language such as: "There is a lesson to be learned from Zarqawi's violent life and those who followed his lead. Violent means beget violent ends," and quotes from Mahdi Bray, Executive Director of the MAS Freedom Foundation.

⁵⁴Mahdi Bray was the Executive Director of the MAS Freedom Foundation. See previous footnote.

progress that they had made with influencing some other area youth, specifically naming two of their acolytes. They discussed how they could use the recent Danish cartoon controversy to their advantage. MEHANNA stated that the youth who were influenced by the Muslim American Society, were beyond hope, and could only be influenced with a baseball bat.

On July 19, 2006, MEHANNA had a conversation with AZ about how despicable Muslims who cooperate with the government are, citing to a then-recent report of a cooperating witness in a Canadian criminal case. MEHANNA said that this action has made the witness an infidel.

C. MEHANNA's experience in Yemen

On February 6, 2006, MEHANNA told "AAB" that he wanted to go to Yemen again, and described the school he went to, that was "more like a camp," where everyone walked around with AK-47s.

MEHANNA: I had a crazy idea, man

'AAB: what

MEHANNA: that you and I ... go study in Yemen ... as soon as u finish undergrad

'AAB: man that would be awesome ... inshaAllah, id love to do that

MEHANNA: I'm 150% serious ... when do u finish ... undergrad

* * * * *

MEHANNA: so anyway ... there's a school there ... that is very good

'AAB: is that the one that shaykh muqbils studens run or something

MEHANNA: hehe - yes. ... he is Masri ... and his name is Abul-Hasan ... like you

'AAB: haha mashaAllah

MEHANNA: I met his son
'AAB: abulhassans?
MEHANNA: yeah ... Abul-Hasan himself was on Hajj when I was
there ... but, they all walk around the camp ...
with camo jackets and AK-47s
'AAB: maaan, no way
MEHANNA: way.
'AAB: haha thats awesome
MEHANNA: It's more of a camp ... than it is a school

On April 1, 2006, MEHANNA told DS that he just got yelled at by his father for what he did two years ago (going to Yemen to train for jihad), and for arousing suspicion. For that reason, MEHANNA said he could not meet with DS. AHMAD ABOUSAMRA, who was then present with DS, then used DS' account, and wrote back, "they are disappointed in you, they want you to do it again." MEHANNA explained that his father thought that MEHANNA was part of an organization. Either DS or ABOUSAMRA asked "which one", and MEHANNA said he did not know. They then discussed having watched the Umar Hadid video, which MEHANNA translated, and they laughed with pride when "amajeed" asked who inserted the subtitles.

DS: yesterday we were watching uhadid vid. @ amajeed's
... so he asked, who put the subtitles ... in
english ... lol\\
MEHANNA: heh ... how come ... did he like the vid ... all
the tunisians
DS: he liked it

Later on April 1, DS and ABOUSAMRA again asked to visit MEHANNA or meet with him somewhere and MEHANNA responded that they didn't understand that his father would suspect that he was planning something related to jihad. DS' suggestion was:

DS: why don't you just tell him that he's right? ...
 see what he says.

MEHANNA: I'll just tell him ... we're planning a trip

On May 22, 2006, M told MEHANNA about his plans to live in Yemen, and asked him "tell me about marib" (a town in Yemen).

MEHANNA responded:

MEHANNA: heh ... it's a wild land ... very tribal ... full
 of bandits

M: have you seen tribe infighting there?

MEHANNA: and al-Qa'idah

M: you mean thieves with regards to bandits?

MEHANNA when I was there, there was no such fighting
 ...yes, theives ...also ...a lot of foreigners ...
 Egyptians ... from Jama'at al-Jihad ...who escaped
 Egypt in the '80s ... and came there ...but they
 are all fugitives ... and underground

D. MEHANNA's concern about law enforcement scrutiny

MEHANNA, while concerned about potential law enforcement scrutiny, nevertheless did not stop his pro-jihadi activities, because, in his view (as discussed above), they were important. However, he did attempt to encrypt some of his communications.

On February 21, 2006, Abu Mundhir encouraged MEHANNA to get a program that would encrypt his computer communications, and then helped him set it up.

On April 6, 2006, MEHANNA helped ABOUSAMRA download an encryption program.

On June 22, 2006, MEHANNA and AR discussed their concerns about what they kept on their computers:

AR: hey i found the book of muj" by basayav⁵⁵
*** AR is trying to send you "mo7adtrat.rar".
MEHANNA: link, man ... I don't want it saved on my comp
AR: sorry man the written i dont have a link to it
MEHANNA: it's on maqdisi's⁵⁶ site I think ... I'll open it
from there ... I'm trying to keep my comp free ...
from any stuff ;-)
AR: lol ... i deleted alot ... just keep the important
rare stuff
MEHANNA: yeah⁵⁷

In addition, MEHANNA warned some of his friends about what they said online; for example, on April 3, 2006, the following exchange occurred:

M: may our end be in martyrdom
MEHANNA: akhi
M: this world is accursed
MEHANNA: remember ... I am being watched ;-)
M: oh lol
MEHANNA: and I know that for a fact

On February 28, 2006, after expressing concerns about "Brian"⁵⁸, MEHANNA sent DS a link and instructions on how to download an internet security program which would help mask DS'

⁵⁵Shamil Basayev was a Chechen militant and Islamist. Basayev wrote a book entitled *Book of a Mujihadeen*.

⁵⁶Abu Muhammad al-Maqdisi is a jihad theorist who was the mentor for Abu-Musab al Zarqawi.

⁵⁷Consistent with this practice, at least one document has been found on MEHANNA's computer which was seized on October 21, 2009 which evidences that MEHANNA has received information related to or distributed by Abu Muhammad al-Maqdisi. The document is entitled a production of Manbar al-Tawhid wal-Jihad, which is the internet-based propaganda website of Abu Muhammad al-Maqdisi.

⁵⁸They regularly used "Brian" (and sometimes "Bob") as a code for FBI agents.

internet location, and thereby make law enforcement surveillance "much harder". In the same conversation, MEHANNA told DS to be cautious around one of their acolytes, who MEHANNA suspected could potentially be an informant.

MEHANNA: I'm not trying to arouse suspicion ... I'm just saying be smart
DS: obviously ... I always practice a little takiyah (hiding my beliefs) around those I don't really know... ... There is only a few people that I trust enough to be completely open with
MEHANNA: the only ppl I trust ... r u and Ahmad [ABOUSAMRA] ... period.
DS: I also trust Ali
MEHANNA: Well ... the younger they are ... the bigger their mouths are ... fact of life

On July 7, 2006, MEHANNA and DS discussed the risk of compromise of their pro-jihad activity and they thought about who might know about their activities and how to minimize the likelihood of compromise. They first expressed concern about one of their acolytes (who they had been trying to train) telling the FBI what they were doing. MEHANNA then explained that the acolyte they suspected of being an informant knew of his and ABOUSAMRA's trip to Yemen and its purpose because ABOUSAMRA's cousin told him. DS responded in coded terminology.

MEHANNA: what we were talking about ... before ... about Abu D knowing stuff ... he knows about
DS: na'am ... the Y [Yemen]?
MEHANNA: Abu Sab [Abu Sabayya, i.e, MEHANNA] and Fadls [ABOUSAMRA] field trip
DS: To the YMCA [Yemen]?
MEHANNA: ya
DS: who told him?
MEHANNA: Fadl's genius cousin

DS asked MEHANNA whether the acolyte knew anything about ABOUSAMRA's prior trips to Pakistan for the same purpose.

MEHANNA: so, he knows ... about everything ... the cheesecake ... the fake tires ... everything
DS: Does he know about al-Fadl's additional fieldtrips to P-town [Pakistan]?

MEHANNA explained that neither he nor ABOUSAMRA had confirmed anything which Abousamra's female cousin told the acolyte, but he could figure it out.

MEHANNA: then she just said ... "Did u know that Fadl and sabs did such and such...?" ... Sabs never confirmed w/ Abu D if this was true ... he just said ... "What the heck is she talking about" ... but ... Abu D isn't stupid

On February 12, 2006, MEHANNA expressed his concern to DS that law enforcement scrutiny would later inculcate him and their jihad-related activity, which they call peanut butter and jelly.

DS: I'm downloading some of Shaykh Abdullaah el-Faisal's lectures right now, alhamdulillah
MEHANNA: akhi ... don't reveal everything online
DS: I know
MEHANNA: that can be used againt u
DS: But these are publically available talks
MEHANNA: yeah, but still ... that doesn't matter these days
DS: against the Shee'ah and stuff ... not peanut butter and jelly [Jihad] stuff ... But I understand your point ... jazak'u'llaah khayr
MEHANNA: ;-)

E. MEHANNA's continuing interest in participating in violent jihad, and additional efforts to convince and radicalize others

Although he had been previously unsuccessful in his attempts to participate in acts of violence in support of jihad, MEHANNA continued to be inspired by Usama bin Laden and others and

maintained his desire to join with al Qa'ida, beyond just his media and other supportive activities. On March 23, 2006, he had the following exchange with AAB:

MEHANNA: yo ... go to ... memritv.com ... and check out the first clip
MEHANNA: (Link: [omitted])
MEHANNA: that
'AAB: about saudi mujahideen in iraq ... oh u sent me the link
MEHANNA: ya ... ya ... he talks about ... the shaykh
'AAB: man between the ages of 15-25
MEHANNA: yeah ... the shaykh himself was around 25 at the time
'AAB: man ... haha he said the shaykh is "the commander of the arab mujahideen in afghanistan"
MEHANNA: ;-) ... see how easy it was back then
'AAB: alhamdulillah, more reward for us
MEHANNA: check this next one out
MEHANNA: (Link: [omitted])

* * * * *

MEHANNA: hehe ... did u see the last clip
'AAB: yea
MEHANNA: akhi ... u should realize ... that such people ... when they were at their homes ... living with their families ... and interacting w/ their communities ... they were the most pious of all people ... and the most abstinent from the fallacies of the dunya ... they had attained a certain level of iman and 'ibadah and taqwa ... which qualified them ... for the status that they achieved ... so, think about what implications that has ... for you and I ... and how we live our lives on a day to day basis
'AAB: man subhanAllah ... subhanAllah akhi, the circumstances we live in today for leaving "for peanut butter⁵⁹" are unique
MEHANNA: hehe, indeed ... in fact ... the one who does so ... is pretty much though of as a nut case

On April 1, 2006, MEHANNA told ABOUSAMRA "I am almost done

⁵⁹"Peanut butter and jelly" was a code phrase for jihad.

... w/ 39." MEHANNA confessed to his friend "but ... honestly ... the more I do of it ... the more I fear ... Why do you say that which you do not do." Apparently, he was feeling guilty that he was not doing enough to personally prepare for and participate in violent jihad.

On February 8, 2006, MEHANNA and DS expressed their self-loathing for not having yet engaged in homicidal terrorism operations.

MEHANNA: did u see ... the pictures of the martyrdom operation?
DS: some brave mujaahid destroyed that traffic light...
MEHANNA: Masha Allah ... yes
DS: If only we had such courage ... alas we are cowards ... why do we say what we do not do?

On March 6, 2006, MEHANNA solicited "S" for recommendation to go to a school in Saudi Arabia. MEHANNA said he had already asked Imam Muhammad Masood, as well as his brother who had been an Imam in the Worcester area. S suggested that Muhammad Masood's other brother⁶⁰ studied there, and he may be able to give MEHANNA a recommendation. S asked MEHANNA whether his future plans were in pharmacy or in Islam? MEHANNA responded:

MEHANNA: Islam, insha' Allah ... at least for now ... I'm not ruling anything out
S: ic. and they don't mind that?
MEHANNA: but I would like to take advantage of my youth ... as long as I have a degree, that's all they want

⁶⁰Masood's other brother is Hafiz Saeed, who is the founder and leader of Pakistan-based designated foreign terrorist organization Lashkar e Tayiba.

... to be able to say: "Our son is such and such"
 ... u know how it is :-)

On June 8, MEHANNA and an associate who used the screen name "E" discussed the death of Abu Musab al Zargawi.⁶¹ It was an occasion for MEHANNA to berate himself for not doing enough to further the violent jihad conspiracy:

E: Celebrate man, our brother got Paradise Enshallah
 MEHANNA: :-(
 E: He got what he wanted ... too bad we're left with the mess here ... yaa bro, if all the video and clips that we see on the internet should teach us anything, is that there are a MILLION lined up to replace ... just as worthy, just as wa7sh, just as cunning just as on Islam, we just dont know their names ... make du3aa for them ... Allah knows them
 MEHANNA: yeah ... ah well
 E: NEXT ... we should get a group of bros together to pray Janazeh
 MEHANNA: if it takes two American F-16s to kill you ... then you know you're something

* * * * *

E: to be honest, this brother is shaheed ENshallah,

⁶¹On June 8, 2006, ABOUSAMRA expressed loss over the death of Zargawi:

ABOUSAMRA: Man, I'm very sad. ... Like, his voice... no we can't hear it anymore.

* * * * *

ABOUSAMRA: They made the man into a giant of history. ... Maybe before, some people didn't respect him due to him still being alive. ... Although they supported him in general. ... Now his words have been made with blood. ... i'm not joking, i'm really sad... ... unlike abhjr or abhfs... we heard his tapes regularly ... full of emotions ... to the point that it felt like you knew the man personally ... and then this man who you felt like was you bst frnd ... suddenly murdered

he got what we all yearn for, so Meshallah 3leyh, I am not sad. I am happy for him. Anyone who knows anything knows that we are just at the beginning..... ... but what makes me sick is the nifaq

MEHANNA: bro ... what makes me sick ... is me

E: your life isn't over akhi, hope for the best and PREPARE PREPARE PREPARE

MEHANNA: bro

E: can any of us run a mile in 7 minutes? ... no

MEHANNA: take it easy ... online ... ;-)

E: I know

MEHANNA: but, I mean ... u know

E: I know what you mean

MEHANNA: to be honest ... I wan't thinking about him too much ... I was thinking about me ... and what I am doing ... for this Din ... and those around me

E: its good to think this way but dont be too hard on yourselfthere are other things to consider

Similarly, on February 28, 2006, while expressing their love and admiration for a number of the terrorist leaders, including "Abu Anas,"⁶² "omar hadeed,"⁶³ "abo mohamed al magdesy,"⁶⁴ "Sayyid Qutb,"⁶⁵ "Abdullah 'Azzam,"⁶⁶ and others, AR and MEHANNA also

⁶²In the mid-1990s Abu Anas Al-Shami went to Bosnia where he embraced radicalism. In 2003, after USA invasion to Iraq, Abu Anas Al-Shami joined Abu Musab al Zarqawi in Northeastern Iraq. He was appointed to the advisory council of al-Tawheed wal-Jihad and soon became Zarqawi's second in command. Abu Anas Al-Shami was killed, in 2004, in Western Baghdad by an American missile strike.

⁶³Umar Hadid was a terrorist in Fallujah, Iraq, who was affiliated with Abu Musab al-Zarqawi, who was the leader if al Qa'ida in Iraq.

⁶⁴Abu Muhammad al-Maqdisi was considered the spiritual mentor of Abu Musab al_Zarqawi.

⁶⁵Sayyid Qutb was an Egyptian Islamist of the 1950s-1960s who was executed. His philosophy was at the heart of the Egyptian Muslim Brotherhood. Some subscribers to this philosophy

discussed their own feelings of inadequacy:

AR: man wallahi man i love all of them more then myself ... man hearing abotu them hurts me so much man it reminds me where they are and where iam ... man the list goes on ... abo yahya⁶⁷ ... and abo hamza al masry⁶⁸

* * * * *

AR: man i never knew man that u could love poeple u never talked to or saw in real life this much ... to the point that u would give ur life for them

* * * * *

MEHANNA: akhi ... have u heard ... the explanation of Thawabit 'ala Darb al-Peanut Butte ... by Shaykh Yusuf⁶⁹

AR: no onaly one of the tapes worked

MEHANNA: ok

AR: the english one

MEHANNA: I fund a working link

AR: i lisented to it

MEHANNA: (Link: [omitted])

MEHANNA: go down to Anwar al Awlaki

MEHANNA: (Link: [omitted])

* * * * *

went on to form Al Qa'ida.

⁶⁶Abdullah Azzam was a teacher and mentor of Usama bin Laden and helped persuade Usama Bin Laden and other pro-jihad foreign Muslims to go to Afghanistan to aid the jihad. He was assassinated in 1989.

⁶⁷Abu Yahya al-Libi is a member of al Qa'ida and fought with the mujahideen in Afghanistan.

⁶⁸Abu Hamza al Masri (i.e. from Egypt) is a radical Imam in London, who fought in Bosnia and Afghanistan with the mujahideen.

⁶⁹*Thawabit 'ala Darb al-Jihad*, or "Constants on the Path of Jihad," by Sheik Yusuf al-'Uyayree. As discussed above, "peanut butter" was code for jihad.

MEHANNA: when compared to these people
 AR: i know man most of us are man ... it hurts ...
 hurts ... man u have no diea ... i like think
 about it so much ... man u know i have so many
 high dreams and hopes but i feel like im so small
 and i keep making zonoab my dreams are just so
 much biger then me
 MEHANNA: dreams ... are there ... so that u can try to
 fulfill them
 AR: i know man i wish i could just get myself straigh
 MEHANNA: Akhi ... just keep doing what you're doing
 AR: man i feel so bad man that al nass deeh no body
 knows them man ... i wish more youth would know
 them
 MEHANNA: that's why ... they are called al-ghuraba' ...
 yeah, man ... if more youth knew ... things would
 be so different

On June 8, 2006, AR and MEHANNA also discussed the death of
 Abu Musab al Zargawi; AR told MEHANNA: "i could not stop crying
 all day ... i tried callin u ... man i never been so sad about
 anyone even my own grandmother like that."

AR: did u see his pic
 MEHANNA: yeah
 AR: man he looked so beautiful ... his face is full of
 light ... my dad woke me up at 7am or something to
 tellme and i could not sleep since then

On February 8, 2006, MEHANNA and DS discussed who are the
 appropriate Jihadi scholars from which to learn for more than
 "general love and respect".

MEHANNA: who can u really go to? ... well ... all of the
 scholars of J [Jihad] ... no question ... like,
 Abdul Qadir Abdil Aziz, Abu Muhammad, etc ... but,
 if ur talking like mainstream

They then specifically named a number of pro-jihad scholars such
 as: Shaykh Muqbil, Abu Anas ash-Shami, Abu Muhammad, Abu Muhammad
 al-Maqdisi, Shaykh Bin Baz, Imam al-Albaani, Imam Abdullaah

Azzam, Shaykh Abu Hamza al-Misri, Abu Hamza, Ahmad Jibril.

On July 8, 2006, MEHANNA and N discussed an apparent discussion occurring on the internet. MEHANNA responded that he should only follow those who have knowledge as well as zeal. Specifically he mentioned Abu Muhammad (Zawahiri), Abu Qatadah and Abu Mus'ab (Zarqawi). After criticizing the person with whom MEHANNA was engaged in an online argument, MEHANNA said that the person did not have any response to whether he had a legitimate excuse as to why he was not either in jail or in jihad. MEHANNA and N then complained about the fact that people like this adversary were too busy merely watching videos and not doing anything, as if they were blowing themselves up or beheading the Jew. MEHANNA then said that he (Abu Sabaaya) translated the Umar Hadid video, but afterwards, realized that the people who watch it think that watching these "jihadeos" was all that was necessary, that they were so close to the mortar round that "Usamah" would be proud.

On April 15, 2006, MEHANNA and a person named N, who appeared to be in New York, had a long conversation about a number of topics. N asked MEHANNA how the Dawah, or the spreading of the faith, was going in the Boston area. MEHANNA, exasperated, answered that there were only like 3 people in the area who understood what the faith was about, and that he was one of them. MEHANNA then went on to say that he was "working on it"

and that he was trying "one-on-one efforts like, befriend a person slip stuff in here and there", to which N said, "recruit, brainwash", and MEHANNA agreed. MEHANNA agreed that they could not march forward until they get some numbers (of similarly-minded people). N disagreed and said that his group of four was enough, and that if MEHANNA was one of three "hardcore" brothers, then he was all set to do "demos", and also to spread the faith.

On February 1, 2006, MEHANNA had a long conversation with DS in which he talked about the progress in his efforts to create like-minded youth, as well as made reference to his trip to Yemen with ABOUSAMRA. Both of them named people with whom they had made progress by slowly sending them the works of certain scholars of jihad.

MEHANNA: I was talking w/ Abu D⁷⁰ ... he is starting to see things the right way
DS: I noticed ... I've been working on Hamza P. and Insaf myself
MEHANNA: I lent him the state of the ummah cd ... and after he saw it ... he told me ... "Things are much clearer now."
DS: I've been sending them stuff by Shaykh Hammoud al-Uqla and Abu Muhamamd al-Maqdisi ... Nothing to over the top
MEHANNA: Yeah ... just the basics

The pair joked that ABOUSAMRA was forming a Brigade with these young acolytes called the "Shukri [Abousamra] Brigade," who would rival the Abu Hafs al Masri Brigade, an al Qa'ida related terrorist organization.

⁷⁰The name has been altered.

On February 4, 2006, MEHANNA and DS discussed an incident where one of their acolytes questioned whether there were any pre-conditions to engaging in jihad, and was summarily excoriated by ABOUSAMRA, who said that it was a duty to engage in it without delay.

On February 25, 2006, MEHANNA told T3 to download a specific video from a link which he sent him. T3 asked whether the document was a "jihad recruiting video", and MEHANNA said that it was a "documentary". T3 said that he was watching the introduction and asked MEHANNA what Rafidayn means, MEHANNA explained that it meant the two rivers, Tigris and Euphrates (the land of Iraq). T3 then said:

T3: it took like 20-30 mins to download ... when it finished ... it turned out to be like a jihadi recruiting video

MEHANNA responded by saying that he would send him a similar one, and then did send a link to another video. T3's response was "yo u knows hardcore".

On February 27, 2006, MEHANNA had a long conversation with T3 about how to influence people to embrace the jihadi scholars slowly. MEHANNA said:

MEHANNA: u don't have to come out with everything at once ... not everyone is ready for everything ... like, start with stuff ... that people can easily accept

On February 28, 2006, MEHANNA explained what he thought to be the greatest form of jihad.

T3: can there be a political or intellectual jihad
 MEHANNA: yes ... but the form that is the highest ... is, well, u know
 T3: u kno the hadith ... when RasulAllah(sallahu alayhis wasalaam)... said the best of jihad is the one who stands up to the tyrants
 MEHANNA: yes ... do u know why? ... do u know why this is the best?
 T3: its the hardest?
 MEHANNA: b/c ... generally ... when a Muslim stands up to a tyrant like this ... the tyrant ends up killing him ... to he attains shahadah

On February 14, 2006, MEHANNA sent AZ a link to a video. AZ explained that he was at work, and asked whether he could open the video without going to jail and whether it had any "training." MEHANNA replied that it was a semi-documentary, and that there were no beheadings or anything.

On April 3, 2006, MEHANNA directed AZ to some pro-jihad literature.

MEHANNA: U want Walaa' and Baraa' ... and PB and J⁷¹ ... there it is
 AZ: yes ... is it from mawdudi himself?
 MEHANNA: no ... it's from ... a Pakistani ... scholar ... named ... Mas'ud Azhar ... he was one of the commanders
 AZ: is he jamaat islami ... ??
 MEHANNA: of the Kashmiri muj

On April 7, 2006, MEHANNA sent a link of a video to AZ and said the following:

MEHANNA: I want to show u a video ... of the bravest people ... in the world
 MEHANNA: (Link: [omitted])
 MEHANNA: :-D
 AZ: where are the pbj-ers?

⁷¹As stated above, "P B and J" is code for violent jihad.

MEHANNA: they are the ones firing the mortars ... at the base

On June 3, 2006, MEHANNA updated Maldonado about a recent gathering of several of their mutual friends in the Boston area at which ABOUSAMRA and another person were discussing "who it is halal [proper] to kill." MEHANNA expressed frustration that ABOUSAMRA was not trying to persuade people through Islam anymore. In the same conversation, MEHANNA encouraged Maldonado to listen to a pro-al Qa'ida lecture by Anwar al Alawqi, a U.S.-born ideologue living in Yemen, in which Alawqi "pull[ed] no punches."

On July 29, 2006, MEHANNA and DS discussed the progress of one of their acolytes. They appreciated that the acolyte praised Ibn ul Khattab (jihad leader in Chechnya) and Abdullah Azzam, and that he bashed Egyptian president Hosni Mubarak. They said he was making progress.⁷²

DS: Oh, Esmail was also praising Khattab and A. Azzam
MEHANNA: heh nice ... what was the context?
DS: just praising their character ... and saying they are good examples of Muslims in our times
MEHANNA: we should get Ismail a TP account
DS: well, I don't know about that ... But I think he is headed in the right direction ... insha'Allaah ... He also kept bashing Hosni Mubarak

Evidence found thus far on MEHANNA's computer which was seized on October 21, 2009 further demonstrates that MEHANNA

⁷²This "teaching" of others is particularly concerning given that MEHANNA apparently has been teaching his interpretation of religion and science to fifth-eighth graders at a local school.

continues to spread the word of the pro-jihad scholars. For example, among the documents located is one prepared by "The Martyr 'Azzam Center [...] Peshawar, Pakistan, which refers to the teachings of Sayyid Qutb and discourages anyone from leaving the land of jihad to go live in America, which is the world of polytheists. In another document which appears to have come from Abu Muhammad al-Maqdisi's website, the author indicates that he has written a book during his imprisonment, which he gave to some brothers in Pakistan. The author explained, "it is enough for you to have a jihadi mind and to acquire weapons; whenever an armed person was captured, we found he had this book." The author continues that the reader should disassociate himself and be an enemy of the kuffar [infidel] because they are the enemies of Allah. Consequently, the author stated, that the reader should not obey the tyrants and their laws.

**F. Additional Conversation re: support for bin Laden -
MEHANNA: "my real father"**

On April 28, 2006, MEHANNA had a very revealing conversation with AAB concerning his relationship to and inspiration by Usama bin Laden (as well as his desire to help and educate⁷³ the less knowledgeable man, i.e., AAB):

MEHANNA: that book ... about the Shaykh ... the orange one
... the intro to it ... I read it in the Harvard

⁷³On March 22, 2006, MEHANNA spent a great deal of time explaining to AAB the role of the Arab mujihadeen in the Chechen conflict.

Coop the other day ... and started crying
 'AAB: which book is this
 MEHANNA: Messgs to the world⁷⁴
 'AAB: ooh ... lematha
 MEHANNA: the way they were describing him ... made me realize ... how much he truly gave up ... and why he gave it up ... and then I realized ... that I look to him ... as being my real father, in a sense
 'AAB: that man...subhanAllah
 MEHANNA: u know how ... some u'ama ... ulama say ... everytime u read the Qur'an ... u learn something from reading a particular verse ... that u didn't pick up before
 'AAB: yea
 MEHANNA: yeah ... for me ... it' like ... every time ... I see him speak ... or read anything about him ... I love him ... more than I did before
 'AAB: subhanAllah
 MEHANNA: without exception ... and I have been following him ... for over 6 yrs now ... from the moment I saw him ... the hair on my arms ... stood on end ... without even knowing who he was ... or what he was all about ... he's the reason ... I started practicing
 'AAB: wow really
 MEHANNA: yeah ... Jazah Allah khayr al-jaza'
 'AAB: amin ... u know how i feel about him
 MEHANNA: anyone with manhood ... and ghirah ... feels the same way about him
 'AAB: yea man, subhanAllah, with me ... ever since i really felt attatched to him, and following whats happening with him ... well before i found the stories of the sahabah and the tabiyeen and the great scholars to be amazing ... and i was jealous that we didnt have people like that ... now, because of him, i dont have that feeling at all anymore ... i dont even see a difference bewteen them
 MEHANNA: yeah, u feel that there's hope in the world ... u have ... a living example ... of taqwa ... like ... u know ... there is this sahih hadith ... where the Prophet ... that the awliya' of Allah

⁷⁴There is a published book available that is entitled *Messages to the World The Statements of Osama bin Laden*, edited and introduced by Bruce Lawrence. The cover is orange.

... are those whom ... when you simply look at them ... u remember Allah. ... just by looking at ... ur iman goes up ... I cannot think ... of a single person on earth ... without exception ... that fulfills this ... he's ... the 'Uthman bin 'Affan of our times ... took all his wealth ... gave it to the jaysh

'AAB: subhanAllah, man its hard to believe someone like that even exists

MEHANNA: even Abu Musb ... as ma sha Allah as he is ... but even he looks up to him ... and considers him his Shaykh ... wallahu A'lam

'AAB: yea that was amazing

MEHANNA: akhi ... do u need anything else from me ... before I log off

'AAB: i think bithnil Allah i am allah set ... jazakum allahu khairun

MEHANNA: call me in the morning

'AAB: i really appreciate the help

MEHANNA: if u need ANYTHING ... anything at all

Numerous photographs of Usama bin Laden were found on MEHANNA's computer.

G. The lessons of *39 Ways to Serve and Participate in Jihad*

As stated above, the defendant MEHANNA translated, and presented to at-Tibyan Publications for distribution, the book *39 Ways to Serve and Participate in Jihad*. We will not attempt to summarize the entire book in this submission. (A printed copy is attached hereto.) However, it is clear from many of the excerpts discussed above, that MEHANNA was serving jihad, and following many of the "Steps" set forth in *39 Ways*, which was translated by him for more wider distribution and availability.

Leaving no doubt that, when discussing "jihad" the author of *39 Ways* means "terrorism," in the Introduction to *39 Ways* the

author states that "the entire world has announced its war on terrorism - or, rather, on *Jihad*." *39 Ways*, at page 5. "[W]hen the word '*Jihad*' is mentioned, it refers to *qital*," (which is translated to mean) "fighting." Further, "there is nothing more obligatory upon Muslims after having belief in Allah than *Jihad*." *39 Ways*, at page 5. "*Jihad* is the *Ummah*'s only choice." Id.

Step 2 is "Truthfully Ask Allah for Martyrdom." *39 Ways*, at page 9. MEHANNA authored a poem entitled "Make Martyrdom What You Seek." On July 25, 2006, DS asked MEHANNA whether he wrote the poem "Make death what you seek" which was available on the internet. MEHANNA confirmed that he had and marveled that it was still available on-line. It was still available and was discussed in 2009. A copy is attached hereto.

On March 13, 2006, AR and MEHANNA talked about working out (running and lifting) and encouraged each other to continue. In a vacuum, such a conversation between two men in their twenties would have no great significance in connection with charges of material support. However, when placed next to the directives in *39 Ways* (Step 25: "Become Physically Fit") and in the context of most of the conversations between MEHANNA and AR that support jihad and the leadership of al Qa'ida, the reason for their interest in physical fitness is seen in a different light.

Many examples were described above wherein MEHANNA and many of his like-minded associates discussed and praised the actions

of al Qa'ida and other terrorists. He spread praise for the individuals and glorified their military successes. In *39 Ways*, the author directs the readers to "praise the *Mujahidin* and to raise one's head with them and to boast their actions and mention their stories and what occurs to them ..." *39 Ways*, at page 22. (Step 12: "Praise the Mujahidin and Mention their Accounts and Call the People to Follow in Their Footsteps.") The purpose of this discussion is not idle gossip, but rather, "in mentioning their stories, there is a call for the people to follow in their footsteps." Id. Similarly, the reader is urged to "Follow and Spread the News of the Jihad" (Step 21). *39 Ways*, at page 33. MEHANNA, as instructed by the teachings in *39 Ways*, acted "out of love and concern for *Jihad*, ... [he was] happy when they (the *Mujahidin*) are happy, and he is saddened when they are saddened." Id. "Therefore, it is necessary to spread the news and messages of the *Mujahidin* between Muslims." *39 Ways*, at page 34.

"[T]he most important methods available to one who cannot make *Jihad* himself ... it is upon him to incite others." (Step 16: "Call and Incite the People to Jihad.") *39 Ways*, at page 28. As described above, MEHANNA (and ABOUSAMRA) encouraged others (not just Maldonado).

As discussed above, MEHANNA was a teacher who provided information to others who were less knowledgeable. In *39 Ways*, the author directs the readers to "Advise the Muslims and the

Mujahidin" (Step 17). The reader was also urged to "Speak Out For the Mujahidin and Defend Them," (Step 14).

MEHANNA often criticized those in Muslim community who urged moderation or criticized the violent tactics of the mujahidin; MEHANNA was taking the step that urged him to "Expose the Hypocrites and Traitors" (Step 15). Similarly, he often expressed true hatred for, for example, U.S. leaders and other "infidels." (Step 31: "Have Enmity Towards the Disbelievers and Hate Them.")

MEHANNA participated in message boards and other forums for discussions. His efforts were intended to "assist the *Jihad* on the internet." *39 Ways*, at page 45. (Step 34: "Electronic Jihad.") "[T]his is a blessed field which contains much benefit, such as following and spreading of news between the people, in addition to a chance to defend and stand up for the *Mujahidin* and spread their ideas and their requests to the people." *Id.*

As for the discussion boards, then a group of brothers should get together and assign each other from the well-known discussion boards to register in and post messages that fall into the following categories:

- * Inciting to *Jihad* and mentioning its virtues, especially in our times
- * Defending the *Mujahidin* and protecting their honor from any who speak ill of the[m]
- * Awakening the idea of *Jihad* in the minds of the masses
- * Putting out researches and knowledge-based articles related to *Jihad*
- * Going after those who oppose *Jihad* from

amongst the modernists and apostates,
and exposing their faults

So, the brothers should spread these messages throughout each discussion board on a daily basis so that each subject is posted, and then the other brothers can respond to the postings on each board in order to keep it at the top of each forum.

As discussed above, MEHANNA was also constantly sharing speeches of al Qa'ida leaders in video, audio and text files, and other pro-jihadi media. He was thereby following Step 22, that directed him to "Participate in Spreading Their Releases of Books and Publications." *39 Ways*, at page 34. "[I]t is necessary for you to think of spreading everything related to the *Jihad* and that which incites and calls to it in order to aid its people, and to make use of various methods of doing so. For example, collecting heroic accounts involving sacrifice and bravery, Xerox-copying them, and distributing them amongst the people and on the internet." *39 Ways*, at page 34. MEHANNA took it a step further and created media projects - following the instructions "everyone should try and prepare some media projects regarding *Mujahidin* and their affairs." *Id.* ("[I]f you are incapable of releasing something yourself, then it is upon you to spread any thing related to the *Mujahidin*, of publications, books, etc. in order to serve the *jihad* and the *Mujahidin*." *39 Ways*, at page 35.)

The United States anticipates presenting at trial the testimony of one or more witnesses, concerning both the use of

the internet in furtherance of the international terrorist conspiracy, as well as the importance of MEHANNA's translation of *39 Ways*. MEHANNA's version, which was distributed by Tibyan Publications, is the most widely distributed and is acknowledged as the most accurate. It is anticipated that there will be testimony that MEHANNA's version is the version found on hard drives of other terrorism defendants around the world.⁷⁵ In addition, MEHANNA's version is the one that is the basis for translations into other languages. MEHANNA is not an inept, "wannabe" jihadi -- particularly in connection with "electronic jihad," he was very important and successful. The only failure in MEHANNA's mind was in failing to fulfill his desire to participate personally in crimes of violence directed at U.S. personnel and interests.

V. Factors to be considered

[I]n determining whether there are conditions of release that will reasonably assure the appearance of the [defendant] ... as required and the safety of the community, [the Court shall] take into account available information concerning -

- (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence ... a Federal

⁷⁵As described above, MEHANNA desired to translate materials which brought people to violent action. This is also consistent with information which showed MEHANNA's desire to emulate his heroes. For example, as recently as October 21, 2009, MEHANNA had a document on his computer from Abu Muhammad al-Maqdisi's website which explained, "whenever an armed person was captured, we found he had this book."

- crime of terrorism
- (2) the weight of the evidence against the [defendant] ...
 - (3) the history and characteristics of the [defendant] ... including -
 - (A) the [defendant]'s ... character
 - ...
 - (4) the nature and seriousness of the danger to any person or the community that would be posed by the [defendant]'s ... release.

18 U.S.C. §3142(g).

The defendant is charged with "a Federal crime of terrorism" that "is a crime of violence." As set forth in the affidavits identified above and in the additional evidence set forth herein, the strength of the evidence against the defendant is strong, and includes several cooperating witnesses⁷⁶, consensual recordings, and other evidence of the defendant's own statements and actions in support of terrorism, some of which were recorded on, and obtained pursuant to searches of his computer.

The defendant has demonstrated by his words and actions that he fully intends to leave the United States permanently. When he was arrested in November 2008, he was about to board an airplane to begin a one-way journey to Saudi Arabia, where he had obtained employment.

⁷⁶The cooperating witnesses discussed in Agent Nambu's affidavits (and in the Affidavits submitted in support of the Complaint and Search Warrants in this matter) are not the only witnesses who have corroborated the allegations contained herein (and in the charging documents in this case). Other individuals with personal knowledge of the actions and statements of MEHANNA and ABOUSAMRA, have given similar testimony and have provided similar information.

From the quotes set forth above, there can be no doubt that he hates the United States, despises our leaders, takes great pleasure in our defeats, and will continue to work in support of our enemies. (While these beliefs are protected, his actions in furtherance of them are not -- and he will be better situated to engage in these activities outside of the United States than within.)

This is not a case in which a government agent assisted the Defendant in an attempt to commit a crime.⁷⁷ The cooperating witnesses discussed in the affidavits listed above all began to cooperate after much of the activity and statements discussed herein. The Defendant and some of his coconspirators self radicalized themselves, and attempted to and successfully radicalized others. This was accomplished in part through the use of the internet and the translation and distribution of radical jihadi texts, as well as the speeches and teaching and discussions of the exploits of leaders of al Qa'ida and other "martyrs." Many in their target audience (Maldonado is but one example) are not fluent enough in the original language of some of these materials (e.g., *39 Ways*), that is, Arabic, and translating these into English and distributing them over the internet, make them more widely available to inspire and

⁷⁷This should not be taken as a suggestion that there is anything wrong with using cooperating witnesses and undercover agents pro-actively in the midst of an ongoing conspiracy.

radicalize others. As stated above, this is an important component of the worldwide terrorist conspiracy.

Based on all that is set forth above, the disrespect for the Court that the Defendant demonstrated at his initial appearance was likely based on his feelings towards kuffars (and uluj) and the government, our values and the source of the authority of the Court (or of any court), and not based on anger at the charges or some other reason.

From all of his statements discussed above, there is no reason that this Court should have any confidence that MEHANNA will comply with any conditions of release or in any way feel obligated to follow the instructions issued by the authority of the kuffar laws and Constitution he so despises.⁷⁸

There can be no stronger evidence of the defendant's character than his reaction to the horrific video of the mutilation of the bodies of American servicemen ("Who cares [about any court action] ... I want ... more BBQ sauce videos.")

The danger he poses is not limited to the commission of crimes of violence (whether here or abroad) against Americans and American interests. The weapons he used included a keyboard and computer. After their initial frustration over the failure of ABOUSAMRA to find a training camp in Pakistan, MEHANNA and his

⁷⁸In the words of his friend M, quoted above: "their filthy constitution ... their accursed "bill of rights."

coconspirators contemplated acts of terror against innocent civilians and public officials in the United States. After their frustration in Yemen (and ABOUSAMRA's experience in Iraq), MEHANNA continued to provide support to al Qa'ida and other terrorist organizations from the comfort of his parents' home in Sudbury. There are no conditions that this Court can formulate that would prevent MEHANNA from continuing these effort.

While defense counsel may suggest that his parents can be tasked with assuring that he has no access to a computer, that would be ineffective and inappropriate. First, with all due respect to the defendant's parents, for nearly the last decade, while aware of his radical beliefs (which, it appears, they do not share) and advocacy⁷⁹, they failed to control his actions or influence his beliefs.⁸⁰ Second, the only way to insure that he does not have access to computers and the internet, and to otherwise protect the public, is to give that task to those whose role it is to do this, that is, the U.S. Marshals Service and the Bureau of Prisons. See United States v. Tortora, 922 F.2d 880,

⁷⁹On June 22, 2006, MEHANNA told DS that, based on what MEHANNA had said at the Sharon mosque, someone came to his father and told the elder MEHANNA: "if we didn't know he was ur son ... we would say that he was a member of al-Qaida." MEHANNA told DS that, as a result, "I can't speak anymore ... and I have to pack up all my books."

⁸⁰Also, see above, MEHANNA, when referring to Usama bin Laden stated: "I realized ... that I look to him ... as being my real father."

887 (1st Cir. 1990) ("Given the breadth of human imagination, it will always be possible to envision some set of release conditions which might reasonably assure the safety of the community. ... But the Bail Reform Act, as we read it, does not require release of a dangerous defendant if the only combination of conditions that would reasonably assure societal safety consists of heroic measures beyond those which can fairly be said to have been within Congress' contemplation.")

When charged with a violation of 18 U.S.C. §1001, the Defendant MEHANNA faced the possibility of 8 years' imprisonment. He now faces the possibility of life in prison. A preliminary calculation of the advisory sentencing range suggests a sentence of 235 to 293 months or 324 to 405, depending on how the offenses are grouped. In either case, a sentence of between approximately 20 years and 34 years creates overwhelming pressure to flee, particularly when the Defendant already expressed a desire to leave the United States permanently (and assist its enemies). Only detention will prevent MEHANNA from fleeing. Now that he faces a terrorism charge, the risk of conviction and the penalty he faces, in light of the strength of the evidence against him, makes flight the natural and logical choice, especially for someone whose desire, even prior to his arrest, was to live overseas, that is, flee the land of the kuffars and infidels.

VI. Conclusion

Wherefore, because there are no conditions or combination of conditions that will reasonably assure the appearance of the defendant or the safety of the community, the defendant TAREK MEHANNA should be detained pending trial.

Respectfully submitted,
MICHAEL K. LOUCKS
Acting United States Attorney

By: /s/ Jeffrey Auerhahn
JEFFREY AUERHAHN and
ALOKE CHAKRAVARTY
Assistant U.S. Attorneys

Certificate of Service

I do hereby certify that a copy of the foregoing response was served upon the counsel of record for the defendants by electronic notice on this 5th day of November, 2009.

/s/ Jeffrey Auerhahn
Jeffrey Auerhahn
Assistant U.S. Attorney