



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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)  
)  
IN RE: )  
GUANTANAMO BAY )  
DETAINEE LITIGATION )  
)  
)  
)  
\_\_\_\_\_

Misc. No. 08-442 (TFH)

Civil Action No.  
02-CV-0828 (CKK)

AMENDED FACTUAL RETURN



[REDACTED]

Respondents hereby submit, as explained herein, an amended factual return pertaining to the petitioner identified as the subject of the attached Narrative. This amended return is intended to supersede the material contained in any previously filed return, except for the fact that petitioner was previously determined by a Combatant Status Review Tribunal to be an enemy combatant.

This amended return sets forth factual bases<sup>1</sup> supporting petitioner's lawful, ongoing detention pursuant to the Authorization for the Use of Military Force and the President's power as Commander in Chief.

Dated: September 18, 2008

Respectfully submitted,

GREGORY G. KATSAS  
Assistant Attorney General

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Deputy Assistant Attorney General

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<sup>1</sup> Respondents reserve the right to seek leave to further supplement the record with additional factual bases supporting petitioner's detention, as necessary.


[REDACTED]


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**DECLARATION OF REAR ADMIRAL DAVID THOMAS**

[REDACTED]

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

KHALID ABDULLAH MISHAL  
AL-MUTAIRI

Petitioner,

v.

Civil Action No. 02-CV-0828 (CKK)

UNITED STATES OF AMERICA,  
*et al.*,

Respondents.

NARRATIVE FOR AL-MUTAIRI, ISN 213

Introduction

I. Khalid Abdullah Mishal al-Mutairi ("al-Mutairi"), a <sup>b(1)</sup> [REDACTED] national, is a member of and has supported al-Qaida and the Taliban, and is thus an enemy of the United States. Al-Mutairi went to Afghanistan in September of 2001, shortly after the al-Qaida terrorist attacks of September 11, 2001. Al-Mutairi's name has been found on numerous lists of al-Qaida and Taliban fighters in Afghanistan. [REDACTED]

[REDACTED] and lists of captured al-Qaida fighters found in al-Qaida safe houses. Al-Mutairi has stated that he had the "honor" of serving with Usama bin Laden in Afghanistan. Al-Mutairi volunteered for and financially supported the al-Wafa organization in Afghanistan which provided support to al-Qaida and the

[REDACTED]

Taliban, and is on the Secretary of State's Terrorist Exclusion List. Al-Mutairi also attended an al-Wafa training camp in Afghanistan. Al-Mutairi has ties to Lashkar-e-Tayiba (LeT) and attended its annual meeting. LeT has supported al-Qaida. LeT is on the Secretary of State's Foreign Terrorist Organization list and has engaged in terrorist activities against India, an ally of the United States and a coalition partner in the Global War on Terrorism.

2. In the materials discussed herein related to the factual bases for al-Mutairi's detention and his assessment as a legally detainable enemy combatant, there are documents reflecting interviews with him and others conducted by law enforcement and intelligence personnel, as well as information derived from other sources and methods. Information received from these sources is commonly reproduced in reports created by the collecting officer. Such information is also commonly analyzed by intelligence or law enforcement personnel and used to produce other intelligence products. These reports and intelligence products are routinely relied upon by military or intelligence personnel in making decisions to act upon threats to our national security. See Declaration of <sup>D3</sup> [REDACTED] Declaration of Robert H. Holmes.

3. As with all detained enemy combatants at Guantanamo Bay, Cuba, al-Mutairi has been assigned an Internment Serial Number or ISN. The ISN is an administrative code assigned to military detainees. Al-Mutairi's full ISN is <sup>b(2)</sup> [REDACTED] 000213<sup>b(2)</sup> in which the number "213" is al-Mutairi's unique identifier and the <sup>b(2)</sup> [REDACTED] designation indicates that he is a national of <sup>b(1)</sup> [REDACTED]. Source documents attached as exhibits to this narrative may refer to al-Mutairi (also spelled al-Mutayri) by full name or various short forms of his name, full ISN, or various short forms of his

[REDACTED]

[REDACTED]

ISN such as b(2) 000213" or "ISN 213."

4. The following narrative and attached materials set forth the factual bases supporting al-Mutairi's lawful detention. This narrative is not intended to be a complete explication of the information in support of al-Mutairi's detention in those documents.

**General Background of the War on Terror**

5. Al-Qaida ("the Base") was founded by Usama bin Laden and others in or about 1989 for the purpose of opposing certain governments and officials with force and violence. *See* The 9/11 Commission Report 56 (2004) (The 9/11 Commission Report), available at <http://www.9-11commission.gov/report>.

6. Usama bin Laden is recognized as the emir (prince or leader) of al-Qaida. *See id.*

7. A purpose or goal of al-Qaida, as stated by Usama bin Laden and other al-Qaida leaders, is to support violent attacks against property and nationals (both military and civilian) of the United States and other countries. *See id.* at 59-61.

8. Between 1989 and 2001, al-Qaida established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries. *See id.* at 64-67; see also Declaration of <sup>D3</sup> [REDACTED] *Guest Houses*; Declaration of <sup>D3</sup> [REDACTED] *Terrorist Training Camps*.

9. In 1996, Usama bin Laden issued a public "Declaration of Jihad Against the Americans." This declaration called for the murder of U.S. military personnel serving on the



Arabian peninsula. *See* The 9/11 Commission Report at 48.

10. In February 1998, Usama bin Laden and Ayman al Zawahiri (bin Laden's deputy) issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans - whether civilian or military - anywhere in the world. *See id.* at 47.

11. Since 1989, member and associates of al-Qaida, known and unknown, have carried out numerous terrorist attacks, including, but not limited to: the attacks against the American Embassies in Kenya and Tanzania in August 1998, which killed approximately 250 people, *see id.* at 68-70; the attack against the USS Cole in October 2000, which killed 17 United States Navy sailors, *see id.* at 190-93; and the attacks on the United States on September 11, 2001, which killed approximately 3,000 people. *See id. passim.*

12. The Taliban (students of Islamic knowledge) is an Islamic fundamentalist group that was formed in Afghanistan in 1994. *See* The Taliban in Afghanistan, at [www.cfc.org/publication/10551](http://www.cfc.org/publication/10551). After two years of violent conflict that included the capture of Kabul, Afghanistan's capital, the Taliban took control of Afghanistan's national government in 1996. *See* The 9/11 Commission Report at 65. Although it was never formally recognized by the United States, *see id.* at 124, the Taliban controlled Afghanistan's national government from 1996 until the United States-led military campaign ousted the Taliban from power in 2001. *See id.* at 337-38. During the period in which the Taliban controlled Afghanistan's national government, it provided safe harbor and support to al-Qaida and Usama bin Laden. *See id.* at 64-67.







13. On September 18, 2001, following the attacks on the United States on September 11, 2001, Congress adopted the Authorization for the Use of Military Force. *See* 115 Stat. 224 (2001). Recognizing that the attacks of September 11, 2001 “render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens at home and abroad,” Congress authorized the President “to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.” Within weeks, United States military forces were deployed in Afghanistan. *See* The 9/11 Commission Report at 337.

14. The United States led the initial aerial bombing campaign of Afghanistan, with ground forces composed of United States forces and Afghanistan militia opposed to the Taliban, including the Northern Alliance. The Northern Alliance is an association of Afghan groups opposed to the Taliban. The Northern Alliance has assisted the United States in its military campaign in Afghanistan to defeat al-Qaida and the Taliban. *See id.* at 330-34; 336-38.

15. In December 2001, the United States-led military campaign removed the Taliban from control of Afghanistan’s national government. *See id.* at 337-38. Taliban and al-Qaida forces, however, have continued to operate in Afghanistan and attack coalition forces. Currently, two major military operations are underway in Afghanistan. First, Operation Enduring Freedom



[REDACTED]

(OEF) is a multinational coalition military operation, led by the United States, initiated in October 2001 to counter terrorism and bring security to Afghanistan in collaboration with Afghan forces. See [www.state.gov/r/pa/prs/ps/2006/60083.htm](http://www.state.gov/r/pa/prs/ps/2006/60083.htm). OEF operations led to the collapse of the Taliban government and helped bring security and stability to Afghanistan. *Id.* OEF involves troops from over 20 nations, including about 19,000 United States forces and about 3,000 non-United States troops. *Id.* Second, the International Security Assistance Force (ISAF) is a United Nations-mandated international coalition operating under the command of the North Atlantic Treaty Organization (NATO). See [www.nato.int/isaf/index.html](http://www.nato.int/isaf/index.html). ISAF was established in 2002 with the goal of creating conditions for stabilization and reconstruction in Afghanistan. ISAF is comprised of approximately 50,000 troops from 40 countries. *Id.*

**Petitioner's Background and Chronology of Events**

16. [REDACTED] b(1), b(6)

[REDACTED] b(1), b(6)

[REDACTED] b(1), b(6) | b(2)

Petitioner will be referenced in this narrative as "Petitioner" or "al-Mutairi" or "al-Mutayri."

17. Al-Mutairi was born in Kuwait City, Kuwait in 1975, and is a Kuwaiti citizen.

ISN 213 FD-302 (April 8, 2002). Al-Mutairi is single with no children. ISN 213 FD-302 (April 8, 2002).

18. [REDACTED] b(1)

[REDACTED] b(1) ISN 213 [REDACTED] b(2)

[REDACTED]

[REDACTED]

19. Al-Mutairi attended one year of high school and then dropped out of high school in 1993 at age 17. ISN 213 FD-302 (April 8, 2002).

20. After dropping out of high school, al-Mutairi worked as a clerk for the Ministry of the Interior from 1993 to approximately December of 2000. ISN 213 FD-302 (April 8, 2002). Al-Mutairi often took extended leaves of absences from his job at the Ministry and took several international trips. ISN 213 FD-302 (April 8, 2002). [REDACTED]

[REDACTED] ISN 213 FD-302 (April 8, 2002); [REDACTED]

21. In 1999 al-Mutairi hired an Afghan carpenter named [REDACTED] to build a "small room" in the desert which he intended to use as a place to gather with his friends. ISN 213 FD-302 (April 8, 2002). During the completion of this project, al-Mutairi told [REDACTED] that someday he would like to build a mosque in Afghanistan. ISN 213 FD-302 (April 8, 2002).

22. [REDACTED] returned to his hometown of [REDACTED] Afghanistan, and in the spring of 2001, he contacted al-Mutairi and suggested that it would be a good time to build the mosque they had previously discussed since there was a large piece of land in [REDACTED] that was not being used. ISN 213 FD-302 (April 8, 2002). Al-Mutairi explained that building this mosque would bring him a "reward from God." ISN 213 FD-302 (April 8, 2002).

23. In mid-September of 2001, a few days after the terrorist attacks of September 11, 2001, al-Mutairi made travel arrangements to go to Afghanistan. Al-Mutairi claimed that he had no prior knowledge of the September 11 terrorist attacks, and that the fact that he made his travel

[REDACTED]

arrangements to Afghanistan shortly after the attacks was merely a coincidence. ISN 213 FD-302 (April 8, 2002). [REDACTED] b(1)

[REDACTED] b(1) ISN 213 FD-302 (April 8, 2002); [REDACTED] b(2)

24. Al-Mutairi flew from Kuwait City, Kuwait to Mashad, Iran, and then took a taxi from Mashad to Taibat, Iran, where he spent one night. ISN 213 FD-302 (April 8, 2002). The next day al-Mutairi took a taxi to the Afghanistan border, walked across the border, and met [REDACTED] who was waiting for him. ISN 213 FD-302 (April 8, 2002). [REDACTED] and al-Mutairi took a taxi to [REDACTED] Afghanistan, and stayed at [REDACTED] house for one night. ISN 213 FD-302 (April 8, 2002).

25. [REDACTED] told al-Mutairi that it would only cost \$9,000 to build the mosque. ISN 213 FD-302 (April 8, 2002). [REDACTED] b(1), b(6) [REDACTED] b(1), b(6) [REDACTED] b(2) ISN 213 FM40 (January 17, 2007). Al-Mutairi claimed that because he had brought \$15,000, [REDACTED] suggested that they travel to Kabul to visit the al-Wafa organization in order to donate some of the remaining money to one of their charitable projects. ISN 213 FD-302 (April 8, 2002). Al-Mutairi contended that he had never heard of al-Wafa before [REDACTED] mentioned it. ISN 213 FD-302 (April 8, 2002).

26. Al-Mutairi and [REDACTED] traveled to Kabul to visit the al-Wafa organization. ISN 213 FD-302 (April 8, 2002). [REDACTED] b(1), b(2), b(6) [REDACTED] b(1), b(2), b(6) [REDACTED]

[REDACTED]

b(1), b(2), b(6) [REDACTED] b(2) [REDACTED] ISN 213 FD-302 (April 8, 2002); Declaration of

D3 [REDACTED] b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] ISN 213 FD-302

(April 8, 2002); b(2) [REDACTED] Batarfi offered al-Mutairi a receipt for his donation, but al-Mutairi declined. ISN 213 FD-302 (April 8, 2002). In more recent interviews, al-Mutairi contended that he gave \$2,000 to al-Wafa. ISN 213 FM40 (January 17, 2007); ISN 213 FM40 (January 18, 2007).

27. A6 [REDACTED] claimed that he did not know the Petitioner. ISN A2 [REDACTED] FM40 (November 17, 2005).

28. In a more recent interview, al-Mutairi contended that it was A6 [REDACTED] acquaintance who told him about al-Wafa and took him to the al-Wafa office in Kabul. ISN 213 FM40 (January 17, 2007).

29. According to al-Mutairi, after they left the al-Wafa office, [REDACTED] took al-Mutairi to a village about one hour outside of Kabul where [REDACTED] left al-Mutairi at the home of [REDACTED] friend. Al-Mutairi cannot remember the name of [REDACTED] friend. ISN 213 FD-302 (April 8, 2002). Al-Mutairi contended that he stayed at the house of [REDACTED] friend for four days. During this time, al-Mutairi again visited the al-Wafa office and discussed al-Wafa projects with Batarfi. ISN 213 FD-302 (April 8, 2002). While at the al-Wafa office in Kabul, al-Mutairi admits that he saw [REDACTED] who was the head of the al-Wafa office. ISN 213 FD-302 (April 8, 2002). b(1), b(6) [REDACTED] ISN 213

[REDACTED]

[REDACTED]

FD-302 (April 8, 2002); b(2) [REDACTED]

30. Al-Mutairi claimed that he gave [REDACTED] friend \$2,000 which the friend said he would use to buy food and clothing to distribute to refugees. ISN 213 FD-302 (April 8, 2002).

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED] In another interview, al-Mutairi claimed that he gave \$1,000 to <sup>A6</sup> [REDACTED] acquaintance and that he had no knowledge if this donation actually was used to assist refugees. ISN 213 FM40 (January 17, 2007). b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED] ISN 213 FD-302 (March 12, 2003).

31. b(1) [REDACTED]

b(1) [REDACTED] b(2) [REDACTED]

32. After staying in the Kabul area for about four days at the house of [REDACTED] friend, al-Mutairi claimed that he tried to go home but the border between Afghanistan and Pakistan had been sealed. ISN 213 FD-302 (April 8, 2002). Al-Mutairi contended that he then stayed in [REDACTED] friend's house for three more weeks at which point his bag with his passport and some money was stolen. ISN 213 FD-302 (April 8, 2002).

33. b(1) [REDACTED]

b(1) [REDACTED] ISN 213 FD-302 (April 8, 2002); b(2) [REDACTED] Al-Mutairi contended that he hired an Afghan guide to take him to the Pakistan border, and was ultimately captured by Pakistani guards. ISN 213 FD-302 (April 8, 2002). Al-Mutairi contended that he

[REDACTED]

[REDACTED]

was treated for frostbite at a hospital, and that he asked to be taken to the Kuwaiti embassy, but was instead taken to a Pakistani jail. ISN 213 FD-302 (April 8, 2002); ISN 213 FM40 (January 17, 2007). In a recent interview, al-Mutairi contended that the Pakistani authorities took his passport and did not return it. ISN 213 FM40 (January 17, 2007).

**Al-Mutairi is a Member of Al-Qaida and Has Supported Al-Qaida and the Taliban as Evidenced by His Name Being on Numerous Lists of Al-Qaida and Taliban Fighters.**

34. The following documents, which are attached hereto, demonstrate the Petitioner's membership in and/or support to al-Qaida and the Taliban.

35. The Petitioner's name and family phone number appeared in a document printed from the Alneda internet site, the official al-Qaida website, which contained information regarding the capture of Taliban and al-Qaida fighters who crossed the border from Afghanistan into Pakistan. <sup>D2</sup> [REDACTED] (al-Mutairi listed on page 4); AFGP-2002-807467 (#29 on the list); Open Source Center (OSC), *Jihadists Websites* (GMP20080123078003) (noting that Alneda is al-Qaida's official internet publication).

36. [REDACTED]

[REDACTED]

[REDACTED] Declaration of <sup>D3</sup> [REDACTED] b(1), b(2), b(6)

b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) b(2) [REDACTED] 1

<sup>1</sup> The author of a Department of Defense Criminal Investigation Task Force (DOD/CITF) memorandum commented in describing <sup>A6</sup> [REDACTED] (ISN <sup>A2</sup> [REDACTED]) statement with respect to another detainee that his credibility was in question

[REDACTED]

[REDACTED]

37. Al-Mutairi is on a similar list to the one from the al-Qaida website which was published in the London al-Quds newspaper, an anti-U.S. publication sympathetic to Usama bin Laden. FBIS GMP20020111000090 (#29 on the list, spelled "al-Mutayri").

38. Al-Mutairi's name was found in a computer file listing al-Qaida associates incarcerated in Pakistan. <sup>D1</sup> [REDACTED]

D1

D2

39. [REDACTED]

[REDACTED]

40. [REDACTED]

[REDACTED]

with interrogators. DOD/CITF Memorandum (May 14, 2004). <sup>b(1), b(2), b(6)</sup> [REDACTED]  
<sup>b(1), b(2), b(6)</sup> [REDACTED] <sup>b(1), b(5)</sup> [REDACTED] <sup>b(2)</sup> [REDACTED]  
<sup>b(2)</sup> [REDACTED]

[REDACTED]



[REDACTED]

[REDACTED] Declaration of <sup>D3</sup> [REDACTED] Declaration of <sup>D3</sup> [REDACTED] *Guesthouses*.

[REDACTED] As noted above, al-Mutairi contended that his passport was stolen or was taken by Pakistani authorities. ISN 213 FD-302 (April 8, 2002).

41. [REDACTED]

[REDACTED]

42. [REDACTED]

[REDACTED]

43. C1, C2, C6 [REDACTED]

C1, C2, C6 [REDACTED]

C1, C2, C6 [REDACTED] C2 [REDACTED] b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED]

b(2) [REDACTED] see also Declaration of <sup>D3</sup> [REDACTED] *Guest Houses*; Declaration of <sup>D3</sup> [REDACTED]

*Terrorist Training Camps.*

44. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

45. [REDACTED]

[REDACTED]

46. Petitioner's name was found by allied personnel on a letter with materials linked to al-Qaida which listed probable al-Qaida members who were incarcerated in Pakistan. [REDACTED]

[REDACTED] [REDACTED]

47. Al-Mutairi claimed that he does not know anyone affiliated with al-Qaida. ISN 213 FD-302 (April 8, 2002). Petitioner also claimed that the first he had ever heard of al-Qaida was when he was imprisoned. ISN 213 FD-302 (April 8, 2002).

48. [REDACTED]

[REDACTED]

Al-Mutairi Came to Afghanistan for Jihad.

49. [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

b(2) [REDACTED] 2

50. Al-Mutairi contended that he had angry words with [REDACTED]<sup>A6</sup> (ISN [REDACTED]<sup>A2</sup>) and claimed that not everything [REDACTED]<sup>A6</sup> said about other detainees was true. ISN 213 FM40 (January 17, 2007).

51. Al-Mutairi contended that he did not fight against anyone while in Afghanistan, and denied having ever carried a weapon. ISN 213 FM40 (January 17, 2007); ISN 213 FD (April 8, 2002). However, al-Mutairi went to Afghanistan less than two weeks after the September 11, 2001, terrorist attacks against the United States, and his name was listed on numerous lists of al-Qaida and Taliban fighters.

[REDACTED]

52. [REDACTED]<sup>b(1)</sup>

[REDACTED]<sup>b(1)</sup> ISN 213

[REDACTED]<sup>b(2)</sup> [REDACTED]<sup>b(1)</sup>

[REDACTED]<sup>b(1)</sup> [REDACTED]<sup>b(2)</sup> ISN 213 [REDACTED]<sup>b(2)</sup> [REDACTED]<sup>b(1)</sup>

[REDACTED]<sup>b(1)</sup>

[REDACTED]<sup>b(1)</sup> ISN 213 [REDACTED]<sup>b(2)</sup>

<sup>2</sup> [REDACTED]<sup>b(1), b(6)</sup>  
[REDACTED]<sup>b(1), b(6)</sup> ISN A2 FM40 (January 18, 2007); [REDACTED]<sup>b(2)</sup>

[REDACTED]

[REDACTED]

**Petitioner Supported Al-Qaida and the Taliban**  
**By Means of his Support of the Al-Wafa Organization.**

53. The Petitioner supported al-Qaida and the Taliban by means of his participation in and support of the al-Wafa organization.

54. [REDACTED]

[REDACTED] D2

Declaration of D3

55. Al-Wafa has been named by the President as a Specially Designated Global Terrorist pursuant to the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1701 *et seq.* See Exec. Order 13224, 66 Fed. Reg. 49079, 49082 (Sept. 23, 2001); *see also* 66 Fed. Reg. 54404, 54405 (Oct. 26, 2001). This Executive Order provides authority for the designation and blocking of assets of certain listed organizations and individuals (supplemented by later designations) who have committed or pose a significant risk of committing certain terrorist acts. Exec. Order 13224, 66 Fed. Reg. at 49079-80. Among other things, this designation blocks United States assets of the organization and prohibits any United States person or person within the United States from dealing with the organization or conducting transactions involving blocked assets. See 50 U.S.C. § 1702. Shortly after the President signed the Executive Order, he specifically designated al-Wafa as one of the organizations linked to terrorism, defined as an activity that “involves a violent act or an act dangerous to human life, property, or infrastructure[,] and appears to be intended to (A) intimidate or coerce a civilian population, (B) influence the policy of a government by intimidation or coercion, or (C) affect

[REDACTED]

[REDACTED]

the conduct of a government by mass destruction, assassination, kidnapping or hostage-taking.”  
*Id.* § 3(d), 66 Fed. Reg. at 49080. As of August 2008, al-Wafa remains on this designation list.  
*See* <http://www.treasury.gov/offices/enforcement/ofac/programs/terror/terror.pdf>; Specially Designated Nationals, p. 1, 22.

56. Al-Wafa has also been included on the Secretary of State’s Terrorist Exclusion List. Department of State Terrorist Exclusion List Fact Sheet; Department of Homeland Security (DHS) Terrorist Organization Reference Guide, p. 5-6. Title 8, United States Code, Section 1182 authorizes the Secretary of State, in consultation or upon request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the Terrorist Exclusion List (TEL) authority. An organization can be placed on the TEL if the Secretary of State finds that the organization:

- a. Commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- b. Prepares or plans a terrorist activity
- c. Gathers information on potential targets for terrorist activity, or
- d. Provides material support to further terrorist activity.

*See* 8 U.S.C. § 1182. Individual aliens can be found “inadmissible” to the United States if they supported or associated with TEL-designated organizations by, among other things, being a member of the organization or committing an act that the alien knows, or reasonably should have known, affords material support to an organization on the TEL list. On December 7, 2001, Secretary of State Colin Powell, in consultation with the Attorney General, designated al-Wafa, thereby placing it in the TEL list, where it remains. *See* 66 Fed. Reg. 63620, 63620 (Dec. 7,

[REDACTED]

2001); 69 Fed. Reg. 23555, 23555 (Apr. 29, 2004); *see also*

<http://www.state.gov/s/ct/rls/fs/2002/15222.htm>.

57. Additionally, on October 6, 2001, the United Nations Security Council Committee designated al-Wafa as an “entity and other group and undertakings associated with al-Qaida,” authorizing three sanctions measures – freezing assets, banning travel and an arms embargo - imposed by the Security Council on individuals and entities belonging to or associated with the Taliban, Usama Bin Laden and the al-Qaida organization. *See* <http://www.un.org/sc/committees/1267/consolist.shtml>; UNSCR 1267 List. As of August 2008, al-Wafa remains on this designation list. *Id.*

58. [REDACTED] b(1)

b(1) [REDACTED] b(2) *see also* Declaration of [REDACTED] D3

[REDACTED] b(1), b(2), b(6)

[REDACTED] b(1), b(2), b(6) [REDACTED] b(2)

[REDACTED] b(2) [REDACTED] b(1), b(6)

[REDACTED] b(1), b(6) [REDACTED] b(2)

[REDACTED] b(2)

59. [REDACTED] D1

[REDACTED] D1 [REDACTED] D1, D6

[REDACTED] D1, D6

[REDACTED] D1, D6

[REDACTED]

[REDACTED]

D1, D6 [REDACTED] Declaration of D3 [REDACTED]

60. b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) [REDACTED] b(2) [REDACTED]

Declaration of D3 [REDACTED] Al-Mutairi also met with [REDACTED] a second time at the al-Wafa office to discuss al-Wafa projects. ISN 213 FD-302 (April 8, 2002).

61. A6 [REDACTED] worked for Usama bin Laden procuring medical supplies and, pursuant to bin Laden's request, treating wounded al-Qaida fighters during the al-Qaida retreat from Tora Bora. ISN A2 [REDACTED] FM40 (July 24, 2003). A6 [REDACTED] admitted having met with Usama bin Laden twice. ISN A2 [REDACTED] FM40 (July 24, 2003).

62. A6 [REDACTED] claimed that al-Wafa did not support al-Qaida. ISN A2 [REDACTED] FM40 (November 17, 2005). D1, D6 [REDACTED]

D1, D6 [REDACTED]

D1, D6 [REDACTED] Declaration of D3 [REDACTED] b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED]

63. b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED]

b(2) [REDACTED] ISN 213 FM40 (January 17, 2007). b(1) [REDACTED]

[REDACTED]

[REDACTED]

b(1) [REDACTED]

b(1) [REDACTED] b(2) [REDACTED] Declaration of D3 [REDACTED] Further, Petitioner admitted that he refused [REDACTED] offer of a receipt for Petitioner's "donation" to al-Wafa. ISN 213 FD-302 (April 8, 2002).

64. b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) [REDACTED] b(2) [REDACTED] D1, D6 [REDACTED]

D1, D6 [REDACTED] ISN [REDACTED]

FD-302 (February 15, 2002); Declaration of D3 [REDACTED] D1, D6 [REDACTED]

D1, D6 [REDACTED] Declaration of D3 [REDACTED]

C1 [REDACTED]

C1 [REDACTED] C2 [REDACTED]

65. [REDACTED] stated that he met with Usama bin Laden in 2000 in Kandahar, Afghanistan to discuss the opening up of al-Wafa offices in Afghanistan, and that bin Laden provided assistance in establishing the "religious institutes." ISN [REDACTED] FD-302 (February 15, 2002). D1, D6 [REDACTED] Declaration of D3 [REDACTED]

D3 [REDACTED]

66. D1, D6 [REDACTED]

D1, D6 [REDACTED]

D1, D6 [REDACTED] ISN [REDACTED] FD-302 (February 15, 2002);

Declaration of D3 [REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED] However, the laser-guided missile system was not purchased because Kabul fell and the broker could not be contacted again. ISN [REDACTED] FD-302 (February 15, 2002). [REDACTED]

[REDACTED]

[REDACTED] stated that "Al Wafa never purchased any weapons before to assist the Taliban or Al-Qaeda." ISN [REDACTED] FD-302 (February 15, 2002).

67.

[REDACTED]

[REDACTED]

68. [REDACTED] has stated that there is no relationship between al-Qaida and al-Wafa, and that al-Qaida disliked al-Wafa and thought that Arabs in Afghanistan should be fighting the jihad instead of conducting humanitarian issues with al-Wafa. ISN [REDACTED] FD-302 (February 15, 2002). [REDACTED] also stated that he told Usama bin Laden that al-Wafa's position was to be in Afghanistan to assist the Afghani people only and was not there for any political reasons. ISN

[REDACTED] FD-302 (February 15, 2002). [REDACTED] b(1), b(6)

[REDACTED] b(1), b(6) [REDACTED] b(2)

[REDACTED] b(2) D1, D6

[REDACTED] D1, D6

[REDACTED] D1, D6 Declaration of [REDACTED] D3 ISN [REDACTED] FD-302 (February 22, 2002).

[REDACTED]

[REDACTED]

b(1) [REDACTED]

b(1) [REDACTED] ISN 213 FD-302 (April 8, 2002); b(2) [REDACTED]

69. b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED] Because of al-Wafa's role as a terrorist organization that supports and finances al-Qaida operations, the funds that al-Mutairi provided to al-Wafa served to support al-Qaida and terrorism.

70. Al-Mutairi has denied ever having heard of al-Wafa before he came to Kabul and has denied any knowledge of al-Wafa's connection to any terrorist organization including al-Qaida. ISN 213 FD-302 (April 8, 2002); Unclassified Summary of Administrative Review Board Proceedings for ISN 213. Petitioner also claimed that he was not aware that the money he gave to al-Wafa was used to support al-Qaida. ISN 213 FD-302 (March 12, 2003). b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED]

b(1), b(6) [REDACTED] b(2) [REDACTED] ISN [REDACTED]

FD-302 (February 22, 2002); Declaration of <sup>D3</sup> [REDACTED]

71. C1 [REDACTED]

C1 [REDACTED] C2 [REDACTED] C1, C6 [REDACTED]

C1, C6 [REDACTED]

C1, C6 C1 [REDACTED]

[REDACTED]

[REDACTED]

C1 [REDACTED] C2 [REDACTED] also stated that on behalf of al-Wafa, [REDACTED] purchased 12 land cruiser vehicles to be used by the Taliban and sent road paving equipment and medical equipment to the Taliban. ISN [REDACTED] FD-302 (February 15, 2002). Finally, A6 [REDACTED] (ISN A2 [REDACTED]) acknowledged that al-Wafa supported the Taliban. ISN A2 [REDACTED] FM40 (November 17, 2005).

72. Petitioner denied ever attending any training camp. ISN 213 FM40 (January 17, 2007). A6 [REDACTED] (ISN A2 [REDACTED]) stated that to his knowledge, Petitioner had not attended any training camps. ISN A2 [REDACTED] FM40 (January 18, 2007). b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) [REDACTED]

b(1), b(2), b(6) b(2) [REDACTED] D1, D6 [REDACTED]

D1, D6 [REDACTED]

Declaration of D3 [REDACTED] D1 [REDACTED] D1, D6 [REDACTED]

D1, D6 [REDACTED]

D1, D6 [REDACTED] Declaration of D3 [REDACTED]

73. D1, D6 [REDACTED]

D1, D6 [REDACTED]

D1, D6 [REDACTED] Declaration of D3 [REDACTED]

74. By means of his financial contribution to al-Wafa, his work for al-Wafa, and his attendance at the al-Wafa training camp, the Petitioner has supported al-Wafa, al-Qaida, and the Taliban.

[REDACTED]

[REDACTED]

**Petitioner is a Member of and/or has Supported Lashkar-e-Tayiba.**

75. [REDACTED], who participated in 21 days of training at a Lashkar-e-Tayiba ("LeT") training camp in Pakistan, reported that Petitioner has ties to LeT, attended their annual meeting in Punjab, Pakistan, and has a point of contact at the LeT headquarters in Lahore, Pakistan. ISN [REDACTED] FD-302 (June 24, 2003).

76. LeT is a force associated with al-Qaida, which is engaged in hostilities against India and is on the Secretary of State's list of Designated Foreign Terrorist Organizations. Department of State, Office of the Coordinator for Counterterrorism, *Foreign Terrorist Organizations Fact Sheet* (#24 on the list); Designation of Terrorist Organizations; Declaration of <sup>D3</sup> [REDACTED] DHS Terrorist Organization Reference Guide (#19 on the list).

77. LeT is the armed wing of a Pakistani religious organization known as Markaz-ud-Dawa-wal-irshad ('MOI'). DHS Terrorist Organization Reference Guide. LeT is a large and well-trained group presently fighting in Kashmir against India. DHS Terrorist Organization Reference Guide. LeT has conducted a number of operations against Indian military and civilian targets since 1993, and has claimed responsibility for numerous attacks in 2001, including:

...an attack in January [2001] on Srinagar airport that killed five Indians along with six militants; and attack on a police station in Srinagar that killed at least eight officers and wounded several others; and an attack in April against Indian border-security forces that left at least four dead.

*Id.*

78. Senior al-Qaida leader Abu Zubaydah was captured at a LeT safe house in Faisalabad, Pakistan in March of 2002. DHS Terrorist Organization Reference Guide. This

[REDACTED]

[REDACTED]

suggests that LeT is facilitating the movement of senior al-Qaida members and providing support to al-Qaida.

79. [REDACTED]

[REDACTED]

Declaration of <sup>D3</sup> [REDACTED]

Conclusion

80. Petitioner's participation in al-Qaida, support for al-Qaida, support for al-Wafa, support of the Taliban, and support of LeT establish that he is an enemy combatant. Petitioner admitted that he went to Afghanistan less than two weeks after the terrorist attacks of September 11, 2001. Petitioner's name was found on numerous lists of al-Qaida and Taliban fighters who fought in Afghanistan against the United States and/or its ally the Northern Alliance. Petitioner stated that he had the "honor" of being Usama bin Laden's "humble servant" in Afghanistan. Petitioner has admitted that he made a financial contribution to the al-Wafa organization, which is a terrorist organization that has provided support to both al-Qaida and the Taliban, and is listed on the Secretary of State's Terrorist Exclusion List. Petitioner also attended an al-Wafa training camp. Finally, Petitioner is associated with LeT and attended their annual meeting. LeT has supported al-Qaida, [REDACTED] and harboring a senior al-Qaida leader, has engaged in terrorist activity against India, an ally and coalition partner of the United States, and is on the Secretary of State's list of Designated Foreign Terrorist

[REDACTED]

Organizations. For all these reasons, the Petitioner is properly detained by the United States.

[REDACTED]