

**U.S. Department of Justice***United States Attorney
Southern District of New York***GOVERNMENT
EXHIBIT**
OG00005
01-455-A (ID)*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

July 18, 2002

Alexander E. Eisemann, Esq.
262 Katonah Avenue, Suite 244
Katonah, New York 10590

Re: Hussein Al Attas

Dear Mr. Eisemann:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from HUSSEIN AL ATTAS ("AL ATTAS") to Counts One through Seven of a criminal information (the "Information"), which counts charge him as follows:

Count One charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Minnesota on or about August 17, 2001, concerning the purpose for his anticipated travel to Pakistan. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

Count Two charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Minnesota on or about August 17, 2001, concerning whether the individual he knew as "Shaqil" also used the name Zacarias Moussaoui. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

Count Three charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his intention to enroll at the University of Oklahoma for Fall 2001 semester classes. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

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Count Four charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his lack of knowledge about Zacarias Moussaoui's desire to participate in a Jihad. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

Count Five charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his having no intention to travel to New York City with Zacarias Moussaoui in late August 2001. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

Count Six charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(1), in connection with his making of a materially false statement to, and concealing information from, federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning the identities of individuals who knew Zacarias Moussaoui. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

Count Seven charges AL ATTAS with a violation of Title 18, United States Code, Section 1001(a)(2), in connection with his making of a materially false statement to federal law enforcement agents in Minnesota on or about August 17, 2001, which statement was his failure to disclose the fact that he had on one occasion in approximately 1998 used a firearm at a firing range. This charge carries a maximum sentence of five years' imprisonment, a maximum term of three years' supervised release, a maximum fine of \$250,000, and a mandatory \$100 special assessment.

The total maximum sentence of incarceration on all counts is 35 years' imprisonment. It is understood that it is AL ATTAS's intention to waive any and all arguments challenging venue in the Southern District of New York with respect to Counts One through Seven of the Information, and that AL ATTAS hereby agrees that no such argument will be made by him or on his behalf.

In consideration of his plea to the above offenses, the defendant will not be further prosecuted criminally by this Office (except for criminal tax violations as to which this Office cannot, and does not, make any agreement) for his participation in: (1) making false statements to federal law enforcement agents in Minnesota on or about August 17, 2001, concerning the true purpose for his anticipated trip to Pakistan and elsewhere; (2) making a materially false statement

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to federal law enforcement agents in Minnesota on or about August 17, 2001, concerning whether the individual he knew as "Shaqil" also used the name Zacarias Moussaoui; (3) making a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his intention to enroll at the University of Oklahoma for Fall 2001 semester classes; (4) making a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his knowing about Zacarias Moussaoui's desire to participate in a Jihad; (5) making a materially false statement to federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning his having no intention to travel to New York City with Zacarias Moussaoui in late August 2001; (6) concealing material information from federal law enforcement agents in Oklahoma on or about September 11, 2001, concerning the identities of individuals who knew Zacarias Moussaoui; (7) making a materially false statement to federal law enforcement agents in Minnesota on or about August 17, 2001, which statement was his failure to disclose the fact that he had on one occasion in approximately 1998 used a firearm at a firing range; and (8) his removal, concealment and/or destruction of evidence -- including papers prepared in connection with an application for a Pakistani visa, computer disks containing school transcripts, receipts, and a letter regarding travel to Pakistan -- in a Minnesota hotel room on or about August 16, 2001; to the extent that he has disclosed such participation to this Office as of the date of this Agreement.

Moreover, because the evidence of which this Office is aware does not establish that AL ATTAS was a member of any conspiracies to murder United States nationals, to use weapons of mass destruction against United States nationals or property, to attack United States nationals or property, or that AL ATTAS intended to promote any other type of terrorist activities or offenses against United States nationals or property, AL ATTAS will not be charged with any such conduct. However, should the Government become aware of additional evidence establishing AL ATTAS'S involvement in any such conduct in violation of United States laws, the Office may bring appropriate charges against AL ATTAS.

In consideration of the foregoing and pursuant to Sentencing Guidelines ("Guidelines" or "U.S.S.G.") § 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

The provision of the Guidelines applicable to the offenses charged in Counts One through Seven is U.S.S.G. § 2B1.1, which provides for a base offense level of six (6). Because these counts involve substantially the same harm, they are grouped under U.S.S.G. § 3D1.2. Therefore, the combined base offense level for the offenses charged in Counts One through Seven is six (6).

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If the defendant pleads guilty and allocutes to the satisfaction of the Court, he will have clearly demonstrated a recognition and an affirmation of personal responsibility for the offense, resulting in a two-level decrease in the offense level, pursuant to U.S.S.G. § 3E1.1(a).

In accordance with the above, the applicable Guidelines offense level is four (4).

B. Criminal History Category

Based upon the information now available to this Office (including representations by the defense), the defendant has no criminal history.

In accordance with the above, the defendant's Criminal History Category is I.

C. Sentencing Range

Based upon the calculations set forth above, the defendant's stipulated sentencing Guidelines range is zero (0) to six (6) months. In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Guidelines level 4, the applicable fine range is \$250 to \$5,000.

The parties agree that neither a downward nor an upward departure from the Sentencing range set forth above is warranted. Accordingly, neither party will seek such a departure or seek any adjustment not set forth herein. Nor will either party suggest that the Probation Department consider such a departure or adjustment, or suggest that the Court sua sponte consider such a departure or adjustment.

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and AL ATTAS, nothing in this agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Sentencing range set forth above (or such other range as the Court may determine) the defendant should be sentenced; (iii) to seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

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It is understood that pursuant to Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Guidelines range set forth above.

It is further agreed (i) that the defendant will neither appeal, nor otherwise litigate under Title 28, United States Code, Section 2255 and/or Section 2241, any sentence within the stipulated Sentencing range of zero (0) to six (6) months, and (ii) that the Government will not appeal any sentence within or above the stipulated Sentencing range of zero (0) to six (6) months. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation.

The defendant hereby acknowledges that he has accepted this plea Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on appeal or collaterally, on the ground that the Government has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

AL ATTAS consents to detention as a material witness pursuant to a subpoena served upon him by the Government, which directs him to provide testimony in the trial of Zacarias Moussaoui in United States v. Moussaoui, 01 Cr. 455, a matter currently pending in the United States District Court for the Eastern District of Virginia. Such consent shall extend to completion of the trial of Moussaoui or until the Government determines that he will not be a witness at the trial of Zacarias Moussaoui, except that if the trial has not been completed by December 31, 2002, AL ATTAS shall have the right to seek release pending his testimony at trial or, in the alternative, to invoke the provisions set forth in 18 U.S.C. §§ 3142 and 3144 and Fed. R. Crim. P. 15. The Government reserves the right to oppose any such applications.

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It is further agreed that should the conviction following AL ATTAS'S plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against AL ATTAS, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Apart from any written Proffer Agreements that may have been entered into between this Office and AL ATTAS, this Agreement supersedes any prior understandings, promises, or conditions between this Office and AL ATTAS. No additional understandings,

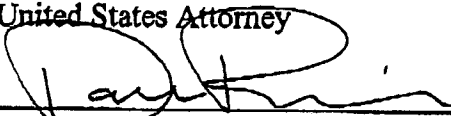
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promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

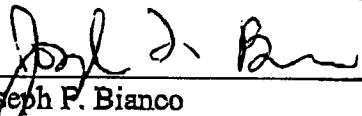
JAMES B. COMEY
United States Attorney

By:



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APPROVED:



Joseph F. Bianco
Chief, Organized Crime and Terrorism

AGREED AND CONSENTED TO:




HUSSEIN AL-ATTAS

7/22/02

DATE

APPROVED:



ALEXANDER E. EISEMANN
Attorney for HUSSEIN AL-ATTAS

7/22/02

DATE