

1 THE COURT: Ladies and gentlemen of the jury, good
2 morning. We are ready to proceed.

3 Mr. Dratel?

4 MR. DRATEL: Thank you, Your Honor.

5 Q. (BY MR. DRATEL) Good morning.

6 A. Good morning.

7 Q. Are you all set?

8 A. Yes.

9 Q. Just going back when we talked about the telephone
10 conversations that you have put in on your direct examination
11 involving Mr. El Mezain, there was one I didn't mention. I
12 just want to mention it, El Mezain Wiretap No. 9.

13 A. Okay.

14 Q. And I have a copy just to confirm the date on it. And
15 this one is May 18th, 2000. Correct?

16 A. Correct.

17 Q. Now, another document that you put in evidence during
18 your direct testimony was the address book of Mr. Abu Marzook.

19 A. That is correct.

20 Q. And that was seized from him when he was arrested?

21 A. That is correct.

22 Q. And that was July of 1995?

23 A. Yes.

24 Q. So that is more than two years before October '97.

25 A. That is correct.

1 Q. And if you could pull that out for us, please. Do you
2 have it in your binders?

3 A. I do.

4 Q. Thanks.

5 A. I have it.

6 Q. Okay. Now, there is a gentleman named Mahmoud Abu
7 Marzook. Do you know that name?

8 A. I do.

9 Q. And during the relevant time period during the mid to
10 late '90s, he was a general with the Palestinian Authority.
11 Correct?

12 A. Correct.

13 Q. And that was the group, the secular group that we have
14 talked about -- Well, the Palestinian Authority was a secular
15 government of West Bank, parts of the West Bank and Gaza under
16 the Oslo Accords. Right?

17 A. Correct.

18 Q. And Hamas was opposed to that Government. Correct?

19 A. Yes, they were.

20 Q. And Mahmoud Abu Marzook, a general in the Palestinian
21 Authority, is in fact Mousa Abu Marzook's brother.

22 A. That is correct.

23 Q. If you will look at page 57 of the address book.

24 A. I have it.

25 Q. And that has his brother listed. Right? Mahmud Abu

1 Marzook.

2 A. It does.

3 Q. And he was with Fatah. Right?

4 A. That is correct.

5 Q. The secular party?

6 A. That is correct.

7 Q. And go to page 43, please. Do you see an entry for
8 someone named Abu Hussein?

9 A. I do.

10 Q. And it says Abu Mazin's office director.

11 A. It does.

12 Q. And Abu Mazin is in fact the head of Fatah?

13 A. Yes.

14 Q. And he was the prime minister of the Palestinian
15 Authority during -- after the death of Yasser Arafat?

16 A. He was -- Let me state I haven't checked this phone
17 number, so I can't tell you if this is the same Mahmoud Abu
18 Mazin.

19 Q. But he is the most famous Abu Mazin. Correct?

20 A. He is.

21 Q. And if you look down on page 62, the fourth entry, do you
22 see Riyadh al-Za'noun?

23 A. I do.

24 Q. And in fact, he was the health minister for the
25 Palestinian Authority when Fatah controlled the Government.

1 A. He was a minister. I can't recall if he was the health
2 minister or not.

3 Q. He was a minister in that government. And as we noted
4 yesterday, Mr. El Mezain and Mr. Marzook are related.

5 Correct?

6 A. That is correct.

7 Q. And Mr. El Mezain has brothers as well. Correct?

8 A. He does.

9 Q. One Dawud?

10 A. Yes.

11 Q. Who lives in Saudi Arabia?

12 A. I think that is where he lives, or at least he did at one
13 time.

14 Q. And Mahmoud who lives in the Gaza Strip?

15 A. I believe that was his name.

16 Q. Okay. Thank you.

17 You also put in -- You also used a demonstrative. This
18 demonstrative I am showing you, I think it is called -- I am
19 not sure what it is called. It is called Marzook/Defendants
20 phone calls. Right.

21 A. Correct.

22 Q. And you have calls between Mr. El Mezain and Mr. Marzook.

23 A. That is correct.

24 Q. During time periods 1989 through January of '93.

25 Correct?

1 A. Correct.

2 Q. And January of '93 represents more than two and a half
3 years -- more than four and a half years before October 8th,
4 1997.

5 A. That is correct.

6 Q. And this is based on -- By the way, Mr. El Mezain's calls
7 are between December -- All in December of '92. Correct?

8 A. The ones he made to Marzook, for the records that we
9 have, that is correct.

10 Q. Okay. And you have his records for 1993 -- '92 through
11 the end of '93. Right?

12 A. Yes.

13 Q. And those are in evidence as New Jersey Bell. Right?

14 A. Yes.

15 Q. And the calls from Mr. Marzook to Mr. El Mezain to the
16 numbers, the phone calls between those numbers are based on
17 phone records you have for Mr. Abu Marzook.

18 A. That is correct.

19 Q. And those are in evidence as well. Right?

20 A. That is correct.

21 Q. Now, on a phone bill. Right? Which is what you were
22 operating off of. Correct?

23 A. That is correct.

24 Q. You don't have any interceptions of those conversations.

25 A. Not in those early years.

1 Q. No transcripts or nothing. Right?

2 A. Not in the early years.

3 Q. Since '94 you had a wiretap for virtually a decade until
4 November 2003 on Mr. El Mezain's phone?

5 A. On the phone numbers we had for him.

6 Q. You had a wiretap on Mr. El Mezain.

7 A. That is correct.

8 Q. Now, on a phone, a one-minute entry for a phone call is
9 the shortest entry possible. Right?

10 A. Correct.

11 Q. And it could be someone leaving a message.

12 A. Could be.

13 Q. It could be calling and finding someone is not home.

14 A. That is correct.

15 Q. Could even be a hang-up.

16 A. Could be.

17 Q. And in fact, from a phone bill you can't tell who the
18 participants are on a phone call.

19 A. You can't tell who answered the phone. That is correct.

20 Q. It could be Ms. Abu Marzook calling Ms. El Mezain.

21 A. I don't know.

22 Q. It could be. Right?

23 A. Correct.

24 Q. And it could be some of the children calling their
25 cousins. Correct?

1 A. Correct.

2 Q. Now, I want to review that phone bill with you, those
3 phone bills, the phone records you worked off of for those
4 calls. And this is from New Jersey Bell. I will put it on
5 the elmo. Can you see it?

6 A. I can.

7 Q. Okay. Now the highlighted call, this is from Mr. El
8 Mezain's phone number, charged to Mr. El Mezain's phone
9 number, to the Abu Marzook number. Correct?

10 A. Correct.

11 Q. And the highlighted call is a one-minute call. Correct?

12 A. Correct.

13 Q. And that is December 2nd of 1992. Right?

14 A. Correct.

15 Q. Okay. So that is one. I am going to keep a tally as we
16 go. That is a one one-minute call. Now I am going to go to
17 Bell Atlantic No. 1, which is one of the Abu Marzook phone
18 records. Correct?

19 A. Correct.

20 Q. Can you see the highlighted call?

21 A. I can.

22 Q. And that is to Paterson, New Jersey. Correct?

23 A. Correct.

24 Q. And that is one of the numbers for Mr. El Mezain.

25 A. It is.

1 Q. Now, you had three lines. Right? That you listed on
2 your chart. Right?

3 A. I believe that is correct.

4 Q. And the 3574 is the home number. Right?

5 A. Yes.

6 Q. And the 7070 number is the mosque where Mr. El Mezain
7 worked. Is that correct?

8 A. I can't recall which one that was. I would have to look
9 at the records.

10 Q. And the 6362 is a fax number.

11 A. I believe that is correct.

12 Q. So if you look at this one, which is January 19th --

13 A. We can't see the date.

14 Q. I will move it over. Is the date visible now?

15 A. It is.

16 Q. So January 19th -- Do you know the year offhand?

17 A. I would want to scroll up to the top to confirm.

18 Q. Well, it is not on this one. I will just find the
19 original exhibit so we can make sure. And these are the phone
20 records. Right?

21 A. Correct.

22 Q. So that would be '92. Correct? Would that be --

23 A. I can't see the year.

24 MR. DRATEL: May I approach, Your Honor?

25 THE COURT: Yes.

1 Q. (BY MR. DRATEL) That is '92?

2 A. It is.

3 Q. 1992. And if you look at that call, that is a one-minute
4 call also. Right? To the home number?

5 A. Correct.

6 Q. Okay. So that is two one-minute calls. Can you see the
7 year of the highlighted call here? I mean, the date, rather.
8 This is on page five. Just one second. That was page three
9 of the records. This is page five. Can you see the date?

10 A. I think if you scoot it over just a little bit. February
11 16th.

12 Q. Right. 1992.

13 A. Correct.

14 Q. And that is another one-minute call. Right?

15 A. Correct.

16 Q. To the home number for Mr. El Mezain from Mr. Marzook's
17 number. Let me show you page 15, and do you see -- first we
18 will do the bottom one. September 27th. Right?

19 A. I see September 17th.

20 Q. Look at the bottom, the second highlighted one. Do you
21 see September 27th?

22 A. I don't think we can see it on the screen.

23 Q. It is not high enough. There we are. If you look at the
24 top you can see it says 10/26/92 bill date?

25 A. It does.

1 Q. Okay. So this would be September 27th, 1992?

2 A. That is correct.

3 Q. That is a one-minute call?

4 A. It is.

5 Q. From Mr. Abu Marzook's number to Mr. El Mezain's number?

6 A. Correct.

7 Q. That is four. And if we look at the top one, that is
8 September 17th. Right?

9 A. Correct.

10 Q. From Mr. Abu Marzook's number to Mr. El Mezain's.

11 A. Correct.

12 Q. And it is a two-minute call. Right?

13 A. That is correct.

14 Q. So we have one two-minute call so far.

15 Now we will go to Bell Atlantic No. 2. That is another
16 set of Marzook records. Correct?

17 A. Correct.

18 Q. Phone records. These were obtained from the phone
19 company. Right?

20 A. These were obtained way before I came in, but I believe
21 that they were.

22 Q. Okay. Now can we see the date?

23 A. I can.

24 Q. Okay. This is page 6 of Bell Atlantic No. 2. And just
25 to orient all of us to the year, it is still 1992.

1 A. That is correct.

2 Q. Now, so can you see that call, the highlighted call?

3 A. I can.

4 Q. And that is to Mr. El Mezain's home number?

5 A. It is.

6 Q. And that is a one-minute call?

7 A. It is.

8 Q. That is five. This is page 9 of those records, and you
9 see four calls on February 3rd, 1992?

10 A. Yes.

11 Q. And the first two are to Mr. El Mezain's home number. Do
12 you see those?

13 A. I do.

14 Q. And those are both one minute?

15 A. That is correct.

16 Q. So it is two more, seven. And then you see another one
17 to Mr. El Mezain's home number for one minute.

18 A. That is correct.

19 Q. And then directly underneath that you see another one to
20 the 7070 number. Correct?

21 A. Correct.

22 Q. And that is also a one-minute call. Right?

23 A. It is.

24 Q. So there is four on that page for a total of nine now.
25 Now, page 10 Of Bell Atlantic No. 2. Can you see the

1 information?

2 A. I can.

3 Q. Okay. Now, you see the highlighted portion on February
4 16th?

5 A. I do.

6 Q. To the El Mezain home number?

7 A. Yes.

8 Q. And that is a one-minute call. Correct?

9 A. Correct.

10 Q. That is ten. Page 12 of The Bell Atlantic records. Can
11 you see the highlighted portions?

12 A. I can.

13 Q. The first one March 1st, 1992, that is to the El Mezain
14 home number. Correct?

15 A. It is.

16 Q. And it is a one-minute call?

17 A. Correct.

18 Q. And then on the second group, the first one is to the
19 home number for two minutes. Right?

20 A. That is correct.

21 Q. And then right after that is a call to the 7070 number.
22 Right?

23 A. That is correct.

24 Q. And that is a five-minute call.

25 A. It is.

1 Q. So now we have two two-minute calls and 11 one-minute
2 calls.

3 Now we are at page 14 Of Bell Atlantic No. 2. And you
4 see the three highlighted calls?

5 A. I do.

6 Q. The first one is to the El Mezain home number for one
7 minute. Right?

8 A. That is correct.

9 Q. That makes 12. Then the next one is again the El Mezain
10 home number for one minute.

11 A. That is correct.

12 Q. Thirteen. And then there is a three-minute call right
13 after that to the 7070 number. Right?

14 A. Correct.

15 Q. Now we have page 17, and that is May 16th of 1992.

16 A. That is correct.

17 Q. To the El Mezain home number.

18 A. Correct.

19 Q. For two minutes. Right?

20 A. That is right.

21 Q. So that is three two-minute calls. Do you see the
22 highlighted call there on page 19?

23 A. I do.

24 Q. And that is May 16th?

25 A. Correct.

1 Q. And that is another call to the El Mezain home number?

2 A. It is.

3 Q. For two minutes?

4 A. Correct.

5 Q. So that is another two-minute call.

6 Page 21, August 11th. Do you see that one in the middle
7 of the page?

8 A. Is it June or August 11th?

9 Q. I am sorry. You are right. It is June 11th. June 11th
10 to the El Mezain home number for one minute. Right?

11 A. Correct.

12 Q. So that is 14.

13 Do you see the call highlighted here?

14 A. I do.

15 Q. That is July 4th, 1992 to Mr. El Mezain's home number for
16 two minutes. Right?

17 A. That is correct.

18 Q. So that is five two-minute calls.

19 Now, if you look at the call that is highlighted in this
20 section, that is July 30. Right?

21 A. Correct.

22 Q. 1992. It is a one-minute call. Right?

23 A. Correct.

24 Q. That is 15.

25 And then down here, this is page 26, same page, August

1 10th, 1992 to Mr. El Mezain's home number, a one-minute call.

2 Correct?

3 A. Correct.

4 Q. And the top one was also to Mr. El Mezain's home number.

5 Right?

6 A. Correct.

7 Q. Those are the two calls that are on your Demonstrative

8 No. 8. Right?

9 A. Correct.

10 Q. Now, those are one-minute calls. Right?

11 A. Correct.

12 Q. We have no idea whether Mr. El Mezain spoke to Mr. Abu

13 Marzook. Right?

14 A. Based on how --

15 Q. You don't know, do you, whether they spoke?

16 A. I was not there so I don't know who answered the phone.

17 Q. Right. And you don't know who made the call either.

18 A. I know who spoke and --

19 Q. But you don't know who made the call.

20 A. Right.

21 Q. Page 33. This is October 29th, 1992. Right?

22 A. Correct.

23 Q. A one-minute call from the Abu Marzook number to the El

24 Mezain home number. Right?

25 A. Correct.

1 Q. That is 17.

2 Same page, can you see that?

3 A. I can.

4 Q. November 8th to the El Mezain home number, one minute.

5 A. Correct.

6 Q. Eighteen.

7 If you look -- Can you see the top one, November 30 call?

8 A. Yes.

9 Q. And that is a one-minute call to the El Mezain home
10 number?

11 A. It is.

12 Q. Nineteen.

13 And you see the four in a row that are highlighted below
14 that?

15 A. I do.

16 Q. And the first one is to the home number for one minute.
17 Right?

18 A. Correct.

19 Q. That is 20.

20 The second is to the 7070 number for two minutes. Right?

21 A. Right.

22 Q. That is another two-minute call.

23 And then there is a seven-minute call to the 7070 number.
24 Right?

25 A. Correct.

1 Q. And then there is a one-minute call to the home number.

2 Right?

3 A. Correct.

4 Q. So that is another -- That is 21 one-minute calls.

5 Can you see the information at the top of the page?

6 A. I can.

7 Q. Okay. Now, this is page 39, and this would be January of

8 '93.

9 A. That is correct.

10 Q. And those are two calls, the first one to the home number

11 for Mr. El Mezain, and that is a one-minute call. Correct?

12 A. It is.

13 Q. And that is followed by a call to the 7070 number.

14 A. Yes.

15 Q. And that is also a one-minute call.

16 A. Right.

17 Q. So that is 21 one-minute calls.

18 Now, the South Central Bell bill is also for Mr. Abu

19 Marzook. Right?

20 A. It is.

21 Q. And that is also in evidence as well. Right? Do you

22 need to see the time period for that?

23 A. I would like to if we are going to be discussing dates.

24 MR. DRATEL: If I may, Your Honor?

25 THE COURT: Yes.

1 Q. (BY MR. DRATEL) And this is 1990. Correct?

2 A. Correct.

3 Q. Can you see that?

4 A. I do.

5 Q. And that is a call from the Abu Marzook phone number, a
6 phone listed in his name?

7 A. Correct.

8 Q. And it is to the home number for El Mezain. Right?

9 A. That is correct.

10 Q. One minute. Right?

11 A. That is.

12 Q. So that is 24. That was January 26th. Do you want me to
13 put that back up there? Let me put that back up for a second.
14 The page numbers on this one, it says 26, but that is January
15 26th, 1990. Right?

16 A. Correct.

17 Q. Okay. And you can see this one?

18 A. Yes.

19 Q. This is January 26th, 1990 as well?

20 A. That is correct.

21 Q. And it is a call to the El Mezain home number?

22 A. It is.

23 Q. And it is one minute. Right?

24 A. Correct.

25 Q. Now, this is December -- Can you see it?

1 A. I can.

2 Q. That is December 29th.

3 A. That is correct.

4 Q. 1989. Right?

5 A. It would be.

6 Q. And that is again to Mr. El Mezain's home number. Right?

7 A. Correct.

8 Q. And that is one minute.

9 A. Yes.

10 Q. Twenty-six.

11 Can you see the highlighted one?

12 A. I do.

13 Q. Okay. And that is October 26th.

14 A. Correct.

15 Q. And that is 1989. Do you need to see the top part?

16 A. No, I can see it on the next sheet.

17 Q. Yes. So that is October 26th, 1989 from Mr. Abu

18 Marzook's number to Mr. El Mezain's home number. Right?

19 A. Correct.

20 Q. And that is one minute.

21 A. It is.

22 Q. Twenty-seven.

23 And you can see this information?

24 A. I can.

25 Q. And that is September 6th, 1989?

1 A. Correct.

2 Q. It is to Mr. El Mezain's number?

3 A. It is.

4 Q. One minute?

5 A. That is correct.

6 Q. Twenty-eight.

7 And can you see both on this page?

8 A. I can.

9 Q. One is July 18th?

10 A. Yes.

11 Q. One minute?

12 A. Correct.

13 Q. And another July 18th, one minute, both to Mr. El
14 Mezain's home number?

15 A. Correct.

16 Q. That makes 30 one-minute calls and 6 two-minute calls.
17 Right?

18 A. I will trust your addition there because I haven't been
19 tallying them.

20 Q. Out of the 56 calls that you listed on your chart.

21 A. Correct.

22 Q. Now, you testified on direct a bit about the Muslim
23 Brotherhood. Correct?

24 A. Correct.

25 Q. And in an interview that you did of Mr. El Mezain, he

1 told you he was a member of the Muslim Brotherhood. Correct?

2 A. He did.

3 Q. And by the way, the last of those calls -- Withdrawn.

4 Now, Mr. El Mezain was chairman of the board originally
5 for Holy Land Foundation. Correct?

6 A. That is correct.

7 Q. And during that time he was not paid a salary. Right?
8 He was paid expenses.

9 A. I have seen conflicting information on that.

10 Q. Do you have any checks other than for expenses?

11 A. I was going to say I have seen no bank records showing
12 payments to him.

13 Q. Right. And he was reimbursed for his expenses as
14 chairman. Right?

15 A. If you are referring to that 1999 phone call we listened
16 to on direct --

17 Q. I am referring to HLF --

18 THE COURT: Counsel, you are cutting her off.

19 THE WITNESS: You were asking if he was reimbursed
20 for expenses. We saw that phone call where Shukri Abu Baker
21 and Omar Ahmad discussed the \$20,000 or so that they were
22 going to pay him for his fundraising. So he wasn't
23 reimbursed.

24 Q. (BY MR. DRATEL) That wasn't my question. My question
25 was not about that. I was talking about during the course of

1 his -- from '89 to '99--not what is happening in '99--he was
2 reimbursed for his expenses. Right? They paid for his
3 American Express?

4 A. He had an HLF American Express.

5 Q. Right. He did a lot of traveling. Correct?

6 A. He did.

7 Q. In fact, he traveled to speak on behalf of the Holy Land
8 Foundation at various places. Right?

9 A. He did.

10 Q. And he also spoke for other organizations as well.

11 A. Yes, he did.

12 Q. And that included mosques. He raised money for mosques
13 around the country.

14 A. I know he raised money for the mosque that he was the
15 emam at. I don't no know if he raised any money for other
16 mosques.

17 Q. And for the educational foundation, for the Islamic
18 Educational Foundation in Paterson, he raised money for that,
19 too.

20 A. Yes, he did.

21 Q. You also put in what is called El Mezain Wiretap No. 1.
22 Right?

23 A. That is correct.

24 Q. And that is a collection of faxes?

25 A. It is.

1 Q. And those aren't all the faxes that Mr. El Mezain
2 received during the period that the wiretap was going. Right?

3 A. That is correct.

4 Q. Just the ones that you chose to introduce. Right?

5 A. The ones that were relevant to the subject matters we
6 were going to be discussing.

7 Q. For your testimony.

8 A. Correct.

9 MR. DRATEL: Your Honor, may we approach for one
10 second?

11 THE COURT: Yes.

12 (The following was had outside the hearing of the
13 jury.)

14 MR. DRATEL: We had that outstanding issue with the
15 two page letter from Mr. Abu Baker, and I would like to get
16 into it during this part.

17 THE COURT: Refresh my memory.

18 MR. DRATEL: The solicitation letter that was faxed
19 to Mr. El Mezain about Ramadan. It was in our motion, and I
20 am moving it in under those cases for Mr. El Mezain's state of
21 mind based on what others told him.

22 THE COURT: Do you have it?

23 MR. DRATEL: Yes. Sure.

24 THE COURT: Okay. And your objection is hearsay?

25 MR. JONAS: And if I need to address it unless, Your

1 Honor is going to deny his request.

2 THE COURT: Who is this letter to?

3 MR. DRATEL: It was faxed to Mr. El Mezain. It is
4 part of the original Government exhibit. They redacted it
5 before they put it in. They took these two pages out. But I
6 don't think -- It is not an authenticity issue. It was
7 intercepted on the wiretap.

8 In the cases that we cited in the motion, with respect to
9 that state of mind, it can come from what others tell you and
10 that forms your state of mind. I think this goes directly to
11 that in terms of Mr. El Mezain in the context of he is the
12 fundraiser for Holy Land.

13 MR. JONAS: Your Honor, first of all, El Mezain is
14 not the declarant so he is not declaring the state of mind,
15 one.

16 Two, there is no evidence that this affected his state of
17 mind or this was his state of mind. All this agent can say is
18 that this was received by El Mezain in this fax. That is it.

19 Three, the cases that talk about entering state of mind
20 evidence where someone else makes a statement to the declarant
21 all have evidence where the Defendant shows he reacted to what
22 the declarant said to show his state of mind. For example, I
23 believe some of the cases Mr. Dratel cited talk about
24 duress--"I delivered the drugs because I thought my life was
25 in danger," and the person who threatened me, that statement

1 comes in to show my reaction to that statement. We have none
2 of that here. All this is is a fax received by El Mezain,
3 nothing more.

4 Now, if Mr. El Mezain wants to get on the stand to say,
5 "This was my state of mind when I received it," maybe then we
6 can argue further about it. Right now this is classic
7 hearsay.

8 MR. DRATEL: Your Honor, they put in all the other
9 faxes, as well as thousands of pages of documents, all of
10 which have no connection to any Defendant reacting to them,
11 but yet all the stuff, the faxes to Mr. El Mezain received,
12 there is no evidence that he reacted to any of that, yet they
13 have come in.

14 And the cases don't require some manifestation. The
15 cases go to state of mind, because this is what the person
16 receives. And there is no requirement in those cases that --
17 We cited I think a half a dozen cases.

18 THE COURT: This is hearsay. I am going to sustain
19 the objection. I don't think it goes to your client's state
20 of mind, and I don't think you have an exception to the
21 hearsay rule. I will sustain the objection.

22 (The following was had in the presence and hearing
23 of the jury.)

24 Q. (BY MR. DRATEL) Okay. So the El Mezain faxes, which are
25 in evidence. Right?

1 A. Correct.

2 Q. And most of what you put in, I think, if not all, were
3 called reports. Right? From the IAP?

4 A. A majority of them were.

5 Q. Yeah. Now, I just want to go over some of the entries
6 with you. Okay?

7 A. Okay.

8 Q. And you can see the date there. That says Sunday and
9 Monday, January 8th, 1995.

10 A. Yes.

11 Q. And by the way, that is more than two and a half years
12 before October 8th, 1997. Right?

13 A. Correct.

14 Q. The now, page 2, can you see that?

15 A. I can.

16 Q. The highlighted section?

17 A. I can.

18 Q. Could you read that, please?

19 A. It says, "The British Observer newspaper expressed a
20 conviction that the return of 'The Arabists' secretive
21 Zionists units to resume their activity in the Palestinian
22 occupied territories is linked to the decline in the
23 popularity of the prime minister government of the Zionist,
24 Yitzhak Rabin. The newspaper noted that 'Soldiers from the
25 Samson and Dabdaban units killed seven Palestinians in one

1 week by carrying out public executions against them without a
2 trial.'"

3 Q. And that is a report citing the British Observer
4 newspaper. Right?

5 A. That is what the IAP report is referencing.

6 Q. Right.

7 This one from January 12th. Do you see that? January
8 12th, 1995?

9 A. I do.

10 Q. And could you read that entry, please?

11 A. It says, "Jerusalem Post newspaper revealed in its last
12 issue that the Zionist 'Likud' party made a secret offer to
13 the Labor Party led by the government coalition in the Zionist
14 existence pledging Likud's support for the withdrawal of the
15 Zionist military from the occupied Golan Heights for the
16 purpose of reaching a peace treaty with Syria in exchange for
17 canceling the Zionist entity's redeployment operation of the
18 occupation army in the occupied West Bank."

19 Q. Now, that sites the Jerusalem Post. Correct?

20 A. Correct.

21 Q. That is an Israeli newspaper?

22 A. The Jerusalem Post is an Israeli newspaper, yes.

23 Q. And that is the source that is sited in that particular
24 section. Right?

25 A. That is who they reference. I haven't seen the

1 underlying article.

2 Q. You didn't try to look for the underlying articles?

3 A. No.

4 Q. Not for you?

5 A. It is not relevant to this case.

6 THE COURT: Counsel, let's not argue.

7 Q. (BY MR. DRATEL) Do you see this one, December 7th 1995?

8 A. I do.

9 Q. Now it says January in parentheses.

10 A. It does.

11 Q. Is that because it appears to have been faxed in January
12 of '95?

13 A. If we can turn to the Arabic, I would like to see if the
14 parentheses are there.

15 Q. If you look at the highlighted part above where the fax
16 legend is.

17 A. Yes, that says January 8, 1995.

18 Q. Right. And, in fact, on the Arabic version, which is the
19 original, it is in English. And I will highlight that for
20 you. It is January of '95. Right?

21 A. That is what it says.

22 Q. Sometimes people still put December and sometimes put the
23 wrong year. Right? When the year changes? It is not
24 uncommon.

25 A. I am not sure what you are asking me to answer.

1 Q. Anyway, can you read the highlighted section from that
2 report, please?

3 A. It says, "The extremist Kach Zionist movement recently
4 organized a language competition and distributed it in Zionist
5 schools to commemorate 'Baruch Goldstein' who carried out the
6 massacre of the Ibrahimi Mosque last February. The movement
7 announced the competition under the title, 'What could
8 Dr. Baruch Goldstein have done. May God avenge his memory in
9 his twentieth anniversary?' The text of the competition read,
10 'The books of Meir Kahane, the pious and virtuous, may God
11 have mercy on his soul and avenge his killing, will be
12 distributed to winners. The winner's prize is a key holder
13 that has the picture of the saint Baruch Goldstein and all the
14 books of Rabbi Kahane. The contest must not be less than one
15 hundred and twenty words and contestants must be between 14
16 and 18 years of age.'"

17 Q. Thank you. Here is one for Sunday November 20th, 1994.
18 Correct?

19 A. Correct.

20 Q. And if you could read the highlighted portion, please?

21 A. It says, "Professor Edward Sa'id, professor at Columbia
22 University in the United States of America, said that what
23 happened in the Gaza Sector the day before yesterday (is a
24 catastrophic situation). He expressed his belief that these
25 events were premeditated from the start since the declaration

1 of principles in Washington was announced. He pointed out
2 that the agreement which was reached between the Organization
3 and the Zionist existence 'Has in fact preserved the
4 occupation albeit in new methods.' Sa'id said that
5 Palestinians 'realize with the passing of time that what they
6 got at the end is really nothing.' Sa'id expressed his view
7 that 'The majority of the residents of Gaza see Arafat as an
8 executer for the policy of the occupation authorities and that
9 what they got is a tattered government,' stressing that the
10 exit from the current crisis is 'ending control by the
11 occupation authorities over the Bank and Gaza and the
12 elimination of the Zionist settlements from these
13 territories.' He said that, 'This will not happen unless in
14 light of circumstances which were prevalent during the
15 Intifada.'"

16 Q. And is Edward Said an extremist? Was he? He is deceased
17 now.

18 A. Well, I actually tried to call him once.

19 Q. I am asking you the question was he an extremist?

20 A. I would say he was not unbiased.

21 Q. Okay. So that is -- What is the answer to him being an
22 extremist? Biased means extremist.

23 MR. JONAS: Objection. She answered the question.

24 THE COURT: Go ahead. You may ask that question.

25 Q. (BY MR. DRATEL) Is biased extremist?

1 A. I would not say that biased is necessarily extremist, and
2 I don't know all of his views.

3 Q. Okay. And by the way, you said -- Yesterday -- you just
4 talked about something that reminded me. Yesterday you said
5 you spoke to Jamil Hamami?

6 A. That is correct.

7 Q. Where was that conversation?

8 A. In Jerusalem.

9 Q. When was it?

10 A. Years ago.

11 Q. How many years ago?

12 A. I can't recall.

13 Q. Can't you give us --

14 A. It was probably -- I spoke to him twice.

15 Q. What was the first time?

16 A. Probably 2002.

17 Q. And the second time?

18 A. Maybe 2003, but I may be wrong on those years.

19 Q. So both were in 2002 and 2003?

20 A. Like I said, I may be wrong on the years, but it was
21 several years ago.

22 Q. Both conversations?

23 A. Yes.

24 Q. Okay. Thank you.

25 Okay. Sunday October 16th, 1994, another of the faxes.

1 Right? The report?

2 A. Correct.

3 Q. By the way, this was a fax sent out to many people.

4 Correct? This report? At least 80?

5 A. I think 80 people were on the distribution list at this
6 time.

7 Q. And on page 2 of that exhibit, do you see the highlighted
8 portion?

9 A. I do.

10 Q. It says, "Israeli security announced that siege is
11 expected to be partially lifted from Gaza Strip." Right? And
12 then it says, "Ha'aretz newspaper" -- and that is also a major
13 Israeli daily newspaper. Correct?

14 A. "Ha'aretz newspaper is an Israeli daily newspaper.

15 Q. And, again, it says Ha'aretz newspaper --

16 A. It does.

17 Q. -- as the source. Right? Okay. This is another one
18 from January 22nd this is that special report you read from.
19 Right?

20 A. I can't recall if I actually read from this one. Yes, it
21 is.

22 Q. Look at that last paragraph on that page, the highlighted
23 portion.

24 A. I see it.

25 Q. "News agencies' reporters mentioned." Right?

1 A. It does.

2 Q. And then later it says "Reporters added"?

3 A. Yes, it does.

4 Q. You also testified on direct about the document found in
5 the San Diego office of the Holy Land Foundation in the
6 search. Right?

7 A. Yes.

8 Q. And that was in that folder called Fatwa?

9 A. Correct.

10 Q. And there were other documents in that folder other than
11 the one that you read from. Correct?

12 A. Yes. There were a number of copies of the same document,
13 along with some other Fatwas, I believe.

14 Q. There were other documents in there. Correct?

15 A. Correct.

16 Q. Including a short written letter from Mr. El Mezain.
17 Right?

18 A. I believe the short letter was actually attached to this
19 exhibit. If it was the one --

20 Q. Are you sure?

21 A. I would like to look at the exhibit to confirm, but --

22 Q. Sure. This is a copy of the entire folder.

23 A. Okay. So that is not the actual exhibit?

24 Q. No.

25 A. Okay. Are you referring to the letter to Rasmi Al Mallah

1 from El Mezain?

2 Q. I think it is the one you put in evidence. Right?

3 A. That was in the original exhibit.

4 Q. Along with all these other documents?

5 A. Correct.

6 Q. Right. Can I have it back, please?

7 A. Sure.

8 Q. And Mr. El Mezain's letter is --

9 MR. DRATEL: I may I approach, Your Honor?

10 THE COURT: Yes.

11 Q. (BY MR. DRATEL) In original it has a bates stamp.

12 Right? 1457?

13 A. It does.

14 Q. And the document that you put in yesterday --

15 MR. JONAS: Your Honor, for the record --

16 MR. DRATEL: Not yesterday. I am sorry.

17 MR. JONAS: That is not -- Can we get an exhibit
18 number?

19 MR. DRATEL: It is HLF Search No. 29.

20 Q. (BY MR. DRATEL) So that was 1467. Right?

21 A. I believe that is what we said.

22 Q. Okay. And the document that you put in with it the other
23 day was in English. It was already in English. It wasn't a
24 translation. Right?

25 A. Correct.

1 Q. Okay. Now, as you mentioned, there are a couple of
2 different copies of that same thing in this document. Right?

3 A. That is correct.

4 Q. In the folder?

5 A. That is correct.

6 Q. And these are numbered in consecutive order. Right?

7 A. Correct.

8 Q. Okay. I want to show you one. That is the document.
9 Right?

10 A. Correct.

11 Q. And it is 1443.

12 A. Correct.

13 Q. Right?

14 A. Uh-huh.

15 Q. There is another copy, 1448, does that look like?

16 A. Correct.

17 Q. 1453?

18 A. Correct.

19 Q. 1458?

20 A. Correct.

21 Q. And there are no other copies in there. I may have a
22 little bit more of this document, just to make sure. There
23 were no other copies in there. Right?

24 A. In that stack that you had there weren't, no.

25 Q. Right. And then the rest of the exhibit, no additional

1 copies. Correct?

2 A. I didn't see any.

3 Q. Now, there is another document -- By the way, Mr. El
4 Mezain's original letter is in Arabic. Right?

5 A. That is correct.

6 Q. And there is a translation that goes with that that you
7 put in as well.

8 A. Correct.

9 Q. Right? Now, among the other documents that were in
10 there --

11 MR. DRATEL: May I have a moment, Your Honor?

12 THE COURT: Yes.

13 MR. DRATEL: I am going to show you what we will
14 mark at Defendants' Holy Land Search No. 29, please, Your
15 Honor. Actually -- Your Honor, just to save time, I will put
16 in the translation and we will just hook up with the original
17 Arabic later rather than try to find it.

18 THE COURT: All right.

19 Q. (BY MR. DRATEL) This is from that same exhibit?

20 A. From the same folder.

21 Q. Yes. From the same folder. Okay.

22 MR. DRATEL: Thank you, Your Honor. I move Holy
23 Land Search -- Defendants' Holy Land Search No. 29 into
24 evidence, Your Honor.

25 THE COURT: Mr. Jonas?

1 MR. JONAS: No objection.

2 THE COURT: Admitted.

3 Q. (BY MR. DRATEL) Now, this is an English translation,
4 what I will put on here, and it says on top -- Do you see
5 where it says "Al Mojtama'a Edicts"?

6 A. Yes.

7 Q. And it is in fact from the same person who wrote the
8 other one. Right? The Dean of Sharia College, University of
9 Kuwait. Do you want to see that?

10 A. Can I see his name, please?

11 Q. Sure. Right?

12 A. The last name is the same. The first name on the
13 translation is spelled very differently, so I am not sure if
14 it is the same individual or not. The last name is the same.

15 Q. What about his position?

16 A. It says the same position.

17 Q. And in fact, Arabic to English transliteration can be
18 different depending on who is doing the translating. Correct?

19 A. Yes. Phonetically it can be different. This one is
20 really different, but it can be the writing on it was
21 difficult to read.

22 Q. Really it is the first two or three letters. Right? One
23 says Akeel and the other is 'Ujeil. Right?

24 A. Yes.

25 Q. So if you could read that first paragraph, please.

1 A. Can you scoot it over to the left a little bit so I can
2 see the whole paragraph?

3 There the title is "Paying zakat to the parties working
4 to instill God's Sharia.

5 "Question: Is it permissible to pay zakat to an Islamic
6 party, group or organizations which exist in countries that do
7 not uphold God's Sharia, keeping in mind that the goal of
8 these parties, groups or organizations, is to uphold the rule
9 of Islamic Sharia and to call for Islam, through democratic
10 ways, and that in order to reach their goals they have a lot
11 of expenses for advertising, lectures, booklets for elections
12 purposes, all of which require large sums of money. So, is it
13 permissible to pay zakat to them for that purpose?"

14 Q. Thank you. Now, I will give you a break and I will read
15 this last paragraph here that I have highlighted from the same
16 document.

17 "It is permissible to pay zakat to these Islamic parties,
18 groups and organizations which seek to resume the Islamic
19 life, remove infidel systems and replace them with the God's
20 Sharia in their place. It is sufficient to believe that they
21 are able to make an impact towards that even partially while
22 its impact grow over time. Zakat then would be paid for every
23 action which becomes a means to achieve the mentioned goal
24 because means receive opinion as the means and what preludes a
25 duty is a duty. Therefore, whatever duty needs to be

1 accomplished with is a duty provided that means are legal.
2 Therefore, if those overseeing these parties, groups and
3 organizations are people of trust, if their work is organized
4 and they followed the legal means without squandering, then
5 giving zakat to them is approved, whether their means are
6 educational, cultural, informative, electoral or political
7 advertising. Their support should be ensured especially if
8 the governments don't support and strengthen them, or if the
9 enemy of Islam is supporting others and hindering their
10 progress."

11 I want to move on to another document that you put in
12 evidence during your direct testimony. This is called InfoCom
13 Search No. 3. Okay? Do you know which document I am talking
14 about?

15 A. I don't have the exhibit numbers memorized, so I would
16 need to look at it.

17 Q. It is Project 236. Do you remember that?

18 A. I do.

19 Q. It is a Holy Land project done through the Islamic Relief
20 Agency.

21 A. Correct.

22 Q. And that was located -- the Islamic Relief Agency was
23 located in Um El-Fahem, Israel. That is where it was located.

24 A. Correct.

25 Q. Now, this is related to a \$100,000 project, that \$100,000

1 that Holy Land gave to the Islamic Relief Agency.

2 A. Correct.

3 Q. In August of 1982. Right?

4 A. '92.

5 Q. I am sorry. '92. Yes. And by the way, that is 15 years
6 before October 8th, 1997. Five years. I am sorry. I am
7 stuck in the '80s. Five years before 1997, before October.

8 A. Yes.

9 Q. Now, this is page 1 of that exhibit. Right?

10 A. Correct.

11 Q. It says "project summary report"?

12 A. It does.

13 Q. It says, "Humanitarian." You see "Project type"?

14 "Project Subject: Needy families." "Beneficiary party: 100
15 needy families in Gaza and WB."

16 A. Correct.

17 Q. And that means West Bank. Right?

18 A. It does.

19 Q. Now, page 3 of the exhibit is a request for the transfer
20 of funds. Right?

21 A. Correct.

22 Q. And if you see the bank name that it is going to at the
23 bottom, the last thing that is highlighted, it says Bank
24 Hapoalem?

25 A. It does.

1 Q. That is in Israel?

2 A. Correct.

3 Q. That is an Israeli bank?

4 A. It is.

5 Q. I will show you what is marked page 219. And this
6 exhibit is hundreds of pages. Right?

7 A. It is.

8 Q. And just to -- This is Occupied Land Fund. Right?

9 A. Correct.

10 Q. It says "Needy families sponsorship project."

11 A. It does.

12 Q. And this particular form is representative of the forms
13 for each beneficiary. Correct? That is found in this
14 exhibit?

15 A. It is in the same format.

16 Q. Yes. And this is an English translation of what is in
17 fact originally an Arabic document. Right?

18 A. That is correct.

19 Q. And it has the name of the household, the name of the
20 head of the household. Right?

21 A. Correct.

22 Q. And the address?

23 A. Yes.

24 Q. This one is Gaza-Khan Yunis camp. Right?

25 A. Yes.

1 Q. That is a refugee camp?

2 A. I believe it is.

3 Q. You don't know?

4 A. It says Khan Yunis camp. I have not been there. I
5 believe it is a refugee camp, but I can't say for certain. I
6 have not seen it.

7 Q. Well, do you know?

8 A. I believe it is.

9 Q. And it says "Date of birth, occupation, number of family
10 members," a question, "Does the family receive aid from other
11 parties?" Right? This is what the form has?

12 A. Yes.

13 Q. And then it says "Opinion of the social worker." Do you
14 see that?

15 A. I do.

16 Q. And then it says "name of supervising party," and that is
17 the Islamic Relief Organization. Right?

18 A. Correct.

19 Q. And it says "Suggested monthly assistance." Right?

20 A. Right.

21 Q. \$150.

22 A. Correct.

23 Q. Right? And then there is a date?

24 A. Yes.

25 Q. Which is November of '91. Right?

1 A. Correct.

2 Q. Now, right after that page is also a Red Cross form.
3 Right?

4 A. This form follows it.

5 Q. Right? And in fact, it is for the same person. Right?
6 If we want to go back, Mr. Abu Nimer?

7 A. Yes.

8 Q. Khan Yunis camp Gaza. Right?

9 A. Correct.

10 Q. And again, there is a part of the form that is in Arabic.
11 Right?

12 A. Correct.

13 Q. But I don't know if I showed it, it has the Red Cross
14 logo. Right?

15 A. Correct.

16 Q. There is a part there that -- Do you see where it says --
17 And I will highlight that. "Was arrested by the authorities
18 for reasons" and typed in "security"?

19 A. Yes.

20 Q. And the part that says "Was arrested by the authorities
21 for reasons related to" is part of the Red Cross form. Right?

22 A. Correct.

23 Q. And the authorities at that point is the state of Israel.
24 Right?

25 A. In this case, yes.

1 Q. Well, there was no Palestinian Authority in 1992, was
2 there?

3 A. That is correct.

4 Q. And the only authorities that existed in terms of
5 governmental authorities that existed in the West Bank or Gaza
6 in 1991 or '92 was the state of Israel. Right?

7 A. The authorities that are referenced in these reports --

8 Q. Was there any other government?

9 THE COURT: Counsel, you are still cutting her off.
10 And you asked that about three times and she has answered it.
11 You need to quit cutting her off.

12 Q. (BY MR. DRATEL) And the date of arrest is April 2nd,
13 1991. Correct?

14 A. Correct.

15 Q. And essentially all of the forms here for the families
16 are accompanied by one of those Red Cross forms. Right?

17 A. A majority of them.

18 Q. Yes. By the way, when it says -- Let me go back to that
19 form. When it says reason arrested "security," that means
20 administrative detention. Right?

21 A. I don't know what that means, other than they were
22 arrested for security reasons, which would be threats to
23 security to the state of Israel, which is the authority that
24 arrested them.

25 Q. Did you not testify differently previously?

1 A. I don't know exactly what you asked me previously, but I
2 know we have talked about these securities and I think you
3 asked me --

4 MR. DRATEL: Objection, Your Honor.

5 THE COURT: Do you want to ask the question?

6 MR. DRATEL: Yes, Your Honor. I am just looking for
7 a document.

8 Q. (BY MR. DRATEL) Did you not previously testify and were
9 asked this question and -- ASKED these questions and gave
10 these answers: "In fact, every person who is an arrested
11 person in both of these exhibits were arrested for security?"

12 Answer: "That's correct."

13 Question: "And what that means is that they were
14 administratively detained. Right?"

15 Answer: "Yes."

16 Were you not asked those questions and gave those answers
17 in prior testimony under oath?

18 A. If that is what you have in front of you --

19 Q. Let me show it to you, and why don't you tell us whether
20 it is true or not that you gave those answers to those
21 questions.

22 A. Mr. Dratel, I am not denying that that is what our
23 dialogue was.

24 Q. I am not saying it is our dialogue. I am asking you
25 whether you gave these questions -- whether you were asked

1 these questions and gave these answers in prior testimony.

2 A. Yes.

3 Q. And the answer is yes?

4 A. Yes.

5 Q. It is not, "I don't know. I don't see it." It is,
6 "Yes"?

7 A. That is correct.

8 Q. Okay. I just want to review a couple of these forms.

9 This is for -- again to start with the Red Cross form. Right?

10 A. Right.

11 Q. Person is arrested for security. April 8th, 1991.

12 Right?

13 A. Correct.

14 Q. Resides Khan Yunis Gaza. Right? I am sorry. It says
15 Abu Nasr. Correct?

16 A. It does.

17 Q. Now, this is a translation of the Occupied Land Fund form
18 that goes with that. Right? You see it says Abu Nasr?

19 A. It does.

20 Q. And it says he is 60 years, the head of the household.

21 Right?

22 A. Correct.

23 Q. Unemployed. Right?

24 A. Correct.

25 Q. Now, these are people actually who are out, not in. The

1 first name is different. Correct? Of the person who is
2 detained and the person who is seeking the relief?

3 A. The name of the head of the household is different than
4 the person who has been detained.

5 Q. Right. It says this person is 60 years old. Unemployed.
6 Number of family members is nine. Right?

7 A. Correct.

8 Q. Family does not receive aid from another source. Right?

9 A. That is correct.

10 Q. And it says the opinion of the social worker, and I will
11 have to zoom out a little bit to get the entire sentence in,
12 and it says, "Family income stopped due to the arrest of the
13 two providing sons, noting that the family is large and the
14 children are in school. The father is elderly and ill."
15 Right?

16 A. Correct.

17 Q. And it suggests \$300 per month. Right?

18 A. That is correct.

19 Q. And that is dated November 5th, 1991. Right?

20 A. That is correct.

21 Q. Here is another one for the Abu Hatab family. Right?

22 A. That is correct.

23 Q. Someone arrested for security.

24 A. Correct.

25 Q. March 17th, 1991.

1 A. That is correct.

2 Q. Outside the United States they tend to put the day first
3 then the month then the year?

4 A. Yes.

5 Q. So it says 17/3/91.

6 A. That would be March 17th.

7 Q. 1991?

8 A. Correct.

9 Q. And this is related to that. This is the English
10 translation related to that. Can you see it says in the
11 opinion of social worker, "Family income stopped due to the
12 arrest of the provider since March 17th, '91. He was
13 sentenced to eight months."

14 A. I see that.

15 Q. It says suggested \$150 a month?

16 A. Yes, it does.

17 Q. November 5th, '91.

18 A. Correct.

19 THE COURT: Counsel, how many of these do you plan
20 on showing?

21 MR. DRATEL: Just two or three more, Your Honor.

22 THE COURT: Two.

23 Q. (BY MR. DRATEL) Do you see this one?

24 A. I do.

25 Q. In the opinion of the social worker, can you read that,

1 please?

2 A. It says, "This young man was hit with shrapnel from a
3 bomb which prevented him from working and paralyzed him. He
4 used to live with his brother, but the latter was arrested,
5 noting that he is married and the situation is very bad."

6 Q. Thank you.

7 If you could read that one, please.

8 A. Opinion of the social worker?

9 Q. Yes.

10 A. "Family is going through some difficult time due to the
11 demolition of their home and the ejection of three families
12 from their residence. Please help to build a house in
13 addition to living expenses."

14 Q. And this is representative of the documents here in terms
15 of the reports and the Red Cross forms and the Occupied Land
16 Fund forms. Correct?

17 A. That is correct.

18 Q. And then there was a final report about two years later.
19 Right? In November of '94?

20 A. Correct.

21 Q. And this is a report in Arabic sent back to the Holy Land
22 Foundation. Right?

23 A. Correct.

24 Q. And it says the money was distributed to 500 families.
25 Right?

1 A. That is what the final report says.

2 Q. Right. And InfoCom No. 4 is a similar document for
3 essentially a similar project. Right?

4 A. Correct.

5 Q. With similar forms--Red Cross forms, forms for the
6 Occupied Land Fund laying out the same kind of information?

7 A. Can I ask if that is Project 238? Is that the other one
8 we introduced?

9 Q. Yes.

10 A. Yes.

11 Q. By the way, one of the faxes from Mr. El Mezain, one of
12 those reports, it said Gaza Press. Right? You have mentioned
13 that in your direct.

14 A. That is correct.

15 Q. Is that a newspaper or a press agency?

16 A. I am not sure.

17 Q. You didn't check?

18 A. No.

19 Q. Now, I just want to talk about some of the exhibits that
20 you put in as categories. Okay?

21 A. Okay.

22 Q. And one were some related to the Philadelphia meeting.
23 Right? These are those related to the Philadelphia meeting?

24 A. Philly Meeting Summary, was that the demonstrative chart?

25 Q. Uh-huh.

1 A. Yes.

2 Q. I am sorry. All that is from 1993. Correct?

3 A. Correct.

4 Q. Four years before October 1997.

5 A. Correct.

6 Q. And then you had material with respect to Mr. Ashqar.

7 Correct?

8 A. That is correct.

9 Q. Search and wiretap.

10 A. Yes.

11 Q. All before the end of 1993. Right?

12 A. The wiretaps may have gone into early '94.

13 Q. But ended by early '94?

14 A. Correct.

15 Q. Three and a half years before October 8th, 1997?

16 A. Correct.

17 Q. Now, with respect to the search of Mr. Elbarasse's house

18 and the documents you put in from there, none of those

19 documents goes beyond July 30, 1994. Right?

20 A. The dates of the documents do not.

21 Q. And many of them are even earlier. Some go back to 1982,

22 according to the way you date them. Right?

23 A. Correct.

24 Q. And many of them are from '89, '90, '91.

25 A. Correct.

1 Q. So none of those documents goes beyond July 30th, 1994,
2 which is over three years from October 8th, 1997.

3 A. They were dated before then.

4 Q. Here is a list of exhibits. If you can't see it I will
5 zoom in. It is hard to -- Tell me whether you can read it or
6 not, because it is a distance from that screen. Can you read
7 that?

8 A. I can.

9 Q. Those are all related to Mr. Abu Marzook. Right? Some
10 of them are charts for payments to K&A at the bottom there, to
11 UASR, IAP, Marzook and the Defendants?

12 A. The payments to K&A Trading, was that the chart about the
13 HLF payments to K&A? Because if that is, that one doesn't
14 relate to Marzook.

15 Q. Okay. But there is a K&A that does relate. But even if
16 it doesn't relate to Marzook, all of these documents -- none
17 of them go beyond -- Except for the Marzook phonebook, none of
18 them really go beyond 1993. Right?

19 A. Can I just -- Bear with me for a second.

20 Q. Sure.

21 A. The dates on the bank accounts, I believe those stop in
22 '93, '94, but I would want to look at those to confirm. The
23 Marzook phonebook was seized in 1995, so obviously it was
24 dated as of 1995. The tax records were from tax returns from
25 '92, so they were dated '93. The Marzook Defendants phone

1 call summary we have already discussed. Those all predate
2 1997. And the payments did as well.

3 Q. Now, the bank accounts wasn't one. Marzook No. 2, isn't
4 that from 1985?

5 A. I would have to look at it. I don't have the exhibit
6 numbers memorized.

7 Q. We won't take the time right now. Do you remember
8 whether Marzook Bank Account No. 3 is from 1992?

9 A. I know we had some bank records from 1992, but again, I
10 would like to look at the actual record before I give a date
11 on it.

12 Q. Okay. Illa Falistine, the last date on that is when?

13 A. I believe we had some from 1989, 1990. '91 may have been
14 the latest.

15 Q. Okay. At least six years before October 1997. Right?

16 A. Correct.

17 Q. Mushtaha Search. Right? All before 1997?

18 A. They were all dated before then, yes.

19 Q. And in fact, I think the latest one is 1990. Right?

20 A. 1990 or 1991.

21 Q. Do you want to check your cheat sheet?

22 A. Yes.

23 Q. Do you have the Marzook on these also?

24 A. No. They are just the videotapes, because they are hard
25 to date because you have to look at the context.

1 Q. We are looking at No. 1, 2, 6, 7, 8, 9 and 15.

2 A. No. 15 was the one we knew was from the first Intifada,
3 but it may be up to '92.

4 Q. '92 would be the absolute last day, and you don't even
5 know that it is '92.

6 A. Correct.

7 Q. It could be '88.

8 A. Correct.

9 Q. Again, at least five years, maybe more, before 1997.

10 A. Correct.

11 Q. The InfoCom Search, in fact none of those documents goes
12 beyond October 8th, 1997. Right?

13 A. I would want to look at those. I know that a lot of
14 those were from earlier, the letters and things that we
15 introduced, but --

16 Q. Do you want to take a quick look through them?

17 A. I would like to look through them before we confirm that
18 none of them are post '97.

19 Q. Sure.

20 A. Do you have copies of them? I can just flip through
21 really quick.

22 Q. I don't have the full set copy.

23 A. What would help is an exhibit list so I can identify what
24 it is. I just don't have the exhibit numbers memorized.

25 Q. Well, I just have it by -- Well --

1 A. As long as I can see a descriptor, I will know what it
2 is. I just can't remember what the number is.

3 Q. This is a list. These are my notes on it, so I don't
4 know. I don't have an exhibit list from the Government that
5 has a description, so -- I mean, if you want to --

6 THE COURT: Why don't we come back to that later?
7 We are going to take a break in a minute. Maybe we can work
8 that out over the break.

9 Q. (BY MR. DRATEL) Okay. And your demonstratives, the ones
10 having to do with the --

11 MR. DRATEL: Can we take the break now?

12 THE COURT: Let's move on.

13 MR. DRATEL: I am basically finishing, so --

14 THE COURT: Okay. How much more time do you think?

15 MR. DRATEL: Just really a couple of minutes.

16 THE COURT: Let's go ahead and finish it up.

17 MR. DRATEL: Okay.

18 Q. (BY MR. DRATEL) Here we go. And if you just hang on a
19 second, I will read the numbers of the ones that were put in.

20 A. Okay.

21 Q. InfoCom Search No. 1.

22 A. Okay.

23 Q. Before 1997?

24 A. It is a letter dated June 6, 1997.

25 Q. So it is before October 8th, 1997.

- 1 A. Correct.
- 2 Q. InfoCom Search No. 3.
- 3 A. That is from August of '92.
- 4 Q. InfoCom Search No. 4.
- 5 A. October of '94.
- 6 Q. InfoCom Search No. 5.
- 7 A. August of '95.
- 8 Q. InfoCom Search No. 7.
- 9 A. May of 1990.
- 10 Q. InfoCom Search No. 8.
- 11 A. That was undated.
- 12 Q. InfoCom Search No. 9.
- 13 A. I believe that was from the early '90s.
- 14 Q. InfoCom Search No. 10.
- 15 A. 1991.
- 16 Q. InfoCom Search No. 12.
- 17 A. I don't think we introduced InfoCom search -- At least
- 18 the InfoCom Search No. 12 that is identified here. It may
- 19 have changed --
- 20 Q. InfoCom Search No. 13.
- 21 A. I can't tell from the description here.
- 22 Q. Let's go down to InfoCom No. 21.
- 23 A. You may have to help me with this device, because I don't
- 24 know how to make it scroll.
- 25 Q. Okay. Hold on. So you can't tell from the financial

1 schedules where they go to? Right? Okay.

2 A. Right.

3 Q. How about InfoCom Search No. 51?

4 A. 1991.

5 Q. InfoCom Search No. 72.

6 A. 1994.

7 Q. InfoCom Search No. 73.

8 A. That was sometime after Marzook was arrested, so --

9 Q. It is a week after he was arrested.

10 A. So it would be '95.

11 Q. But it would be before October 8th, 1997.

12 A. Correct.

13 Q. InfoCom No. 77.

14 A. I can't tell. This is relating to the financial
15 schedules, so on these they may be later.

16 Q. And InfoCom Search No. 83.

17 A. It is not on here.

18 Q. It is not on there?

19 A. I can't get it to scroll down past No. 79.

20 Q. Let me try.

21 A. It stopped at No. 79.

22 Q. Now, InfoCom Search No. 83.

23 A. Okay. 1991.

24 Q. So all those we have identified today, we have identified
25 all before October 8th, 1997.

1 A. Those we identified, yes.

2 Q. All right. With respect to the Holy Land search
3 documents, do you know that half of them that were put in
4 evidence by you are before October 8, 1997?

5 A. I haven't counted them.

6 Q. You didn't count them.

7 MR. DRATEL: Nothing further, Your Honor. Thank
8 you.

9 THE COURT: Let's take the morning break. Be back
10 at five till 11:00.

11 (Whereupon, the jury left the courtroom.)

12 THE COURT: We will be in recess. Be back at five
13 till.

14 (Brief Recess.)

15 THE COURT: Mr. Jonas?

16 MR. JONAS: Thank you, sir.

17 REDIRECT EXAMINATION

18 By Mr. Jonas:

19 Q. Good morning, Agent Burns.

20 A. Good morning.

21 Q. I am going to ask you questions in response to some of
22 the questions that the Defense attorneys asked you, but they
23 may not follow the order that they did. So if you don't quite
24 recall or understand one of my questions because I am not
25 going in their particular order, let me know and I will

1 rephrase the question.

2 A. Okay.

3 Q. But I do want to start off with the question by Ms.
4 Moreno, which I believe it was Friday she questioned you.

5 A. Okay.

6 Q. She asked you a question about receiving foreign records,
7 records from other countries during the course of the
8 investigation. Do you recall that question?

9 A. I do.

10 Q. She asked you about the majority of the foreign records
11 coming from Israel. Why is that?

12 A. Because that is the area of the world where most of these
13 activities are taking place. That is where Hamas operates.

14 Q. Do you recall she asked you a question about withholding
15 documents?

16 A. Yes.

17 Q. What was your understanding of what she meant by
18 withholding documents?

19 A. That we had not given those documents to the Defense.

20 Q. Okay. Did you withhold any documents?

21 A. Not to my knowledge.

22 Q. Of the thousands of documents -- Well, I shouldn't
23 quantify it. Approximately how many documents would you say
24 you received during the course of this investigation from all
25 sources?

1 A. Millions.

2 Q. Of the millions of documents, why haven't all of them
3 been exhibited in this case?

4 A. Because we would be here until 2011.

5 Q. Are all of them even relevant?

6 A. No.

7 Q. Several of the Defense attorneys asked you questions
8 about the volume of calls that were intercepted on the
9 telephones of the various Defendants.

10 A. Yes.

11 Q. Okay. First I want to be clear. Were all these
12 intercepted phone calls done pursuant to court order?

13 A. They were.

14 Q. That was the FISA we talked about?

15 A. Correct.

16 Q. Were they all done pursuant to intelligence
17 investigations or criminal investigations?

18 A. Intelligence investigations.

19 Q. During the course of these type of intelligence wiretaps,
20 are the wiretaps run continually 24 hours, seven days a week,
21 52 weeks a year?

22 A. They run 24/7, but the FISAs go down and they have to
23 reinstitute them, so there may be gaps.

24 Q. Can you explain why the FISAs go down?

25 A. Sorry. If you have an ongoing wiretap under the FISA

1 court, it will be during a period of time. I am not sure
2 during this time how long that was. But in order to continue
3 to have that wiretap coverage, the FBI, the Department of
4 Justice would have to go back to the court and request
5 authorization to renew that FISA. Often that process takes a
6 while so that there may be a lag between when the wiretap
7 stops and when it picks back up again.

8 Q. With regard to the wiretap where Shukri Baker, the
9 Defendant Shukri Abu Baker was the subject, where was that
10 phone that was being tapped?

11 A. It is my understanding that was at the HLF office.

12 Q. Do you know if his home phone was ever wiretapped?

13 A. I don't think that it was.

14 Q. How many lines at the HLF were being wiretapped?

15 A. I am not sure about the number of lines. And let me say
16 this. I would want to check on the phone number, the home
17 phone for Shukri Abu Baker. I wasn't there when this was
18 being operated. It is my understanding this all took place at
19 the HLF. I am not sure about the home phone.

20 Q. Did the HLF have more than one phone line?

21 A. They did.

22 Q. Was the HLF, from your understanding, a busy
23 organization?

24 A. Yes.

25 Q. Were a majority of the phone calls that were intercepted

1 by the FBI at the HLF not relevant?

2 MS. HOLLANDER: I object to leading. This is
3 redirect.

4 THE COURT: Do you want to rephrase?

5 MR. JONAS: I will rephrase. I apologize.

6 Q. (BY MR. JONAS) How many, approximately--I am not asking
7 for a specific number--of the phone calls by if FBI were not
8 relevant to this investigation at all?

9 A. I know that originally I think upwards of 80 percent were
10 originally deemed non-pertinent, using that term of art. But
11 even more than that were not considered relevant to the case
12 that we are discussing today.

13 Q. Of the ones that were deemed relevant for the case, have
14 all of those even been admitted into evidence?

15 A. Oh, no.

16 Q. Why not?

17 A. There are too many, and they are not all -- Even though
18 they may be relevant to some issue, they are not relevant to,
19 you know, matters that are pertinent to the indictment.

20 Q. Have the Defense attorneys been provided with all of
21 these calls?

22 A. They have.

23 MS. MORENO: Excuse me, Your Honor, may we approach?

24 THE COURT: Yes.

25 (The following was had outside the hearing of the

1 jury.)

2 MR. CLINE: Your Honor, I am not the questioner, but
3 may I make the point?

4 THE COURT: Sure.

5 MR. CLINE: Agent Burns a couple of times on cross I
6 believe it was volunteered that these calls have been made
7 available to us, and Mr. Jonas just elicited the same fact,
8 and that is true. Our concern, though, is that the jury may
9 have the impression that we have the ability to introduce them
10 into evidence and we don't because of --

11 THE COURT: You might not. It depends.

12 MR. CLINE: Right. But in general the statements of
13 our clients when we have attempted to offer those the
14 Government has objected and --

15 THE COURT: To a large extent it has been sustained.

16 MR. CLINE: It has been sustained because it is
17 hearsay.

18 So we would ask for an instruction so they are not misled
19 here, or perhaps Mr. Jonas could do it by further questions,
20 that under the rules of evidence the Defendants do not have
21 the ability in many instances to introduce their own
22 statements into evidence, so that the jury is not left with
23 the idea that we have, you know, we have surveyed this body of
24 calls and we decided that they are not helpful to us, because
25 we think many are helpful but we can't get them in. And that

1 is not a complaint, that is just a fact.

2 MS. CADEDDU: Can I add to that just one thing? Our
3 clients were denied access to their statements under Rule 16.
4 These calls are almost all in Arabic, and we all don't speak
5 Arabic, and we were not permitted to have our clients listen
6 to them.

7 THE COURT: Okay.

8 MS. MORENO: The calls are still classified as well.

9 THE COURT: That is what she was pointing out.

10 MR. JONAS: First of all, my point was in response
11 to a question by Ms. Moreno that Agent Burns understood to
12 mean withholding from defense counsel. Whether your question
13 meant that or not, it was her understanding of that.

14 Second of all, Defense counsel know that every time,
15 within reason, they came to us to declassify a particular
16 call, we did it. That was a reasonable request, because at
17 times the requests were not reasonable.

18 Third of all, there are instances when they can, as Your
19 Honor knows, and will acknowledge that they try to admit a
20 call that may get into evidence. I am not trying to imply
21 that they can do it every time.

22 I think this is an issue of law for the Court. I don't
23 think this requires an instruction to the jury. This is a
24 question of law.

25 MR. CLINE: Your Honor, let me just say that my

1 point is really separate from the classification issue. We
2 have our problems with that, but that is not what we are
3 talking about here. Here we are talking about the calls that
4 we have been able to read that have been declassified that are
5 available to us and that we would like to put into evidence,
6 but we can't because of the rules of evidence, as Your Honor
7 has interpreted them. That is what it is. But the questions
8 leave the impression that if we wanted to we can put in these
9 calls, and of course we can't. And whether --

10 THE COURT: The problem I have with an instruction
11 is you might be able to; you might not. Some of them have
12 come in.

13 MR. CLINE: And that will be fine, Your Honor. If
14 Mr. Jonas were to ask a question, or if Your Honor were to
15 tell the jury that the Defendants have a limited ability or
16 cannot in all cases, or something like that, introduce calls,
17 that would be fine. I mean, because you are right. In some
18 cases we have been able to put them in, but in other instances
19 we haven't. And I am afraid that the jury has the impression
20 now that the fact that these calls aren't in evidence means
21 that we have determined that they are not helpful to us, and
22 that is just not the case.

23 MR. JONAS: Your Honor, there is also another factor
24 that the Defendants aren't required to do put in any calls.
25 They are not required to do anything other than be to here.

1 Even an instruction like that may imply to the contrary.

2 THE COURT: Yeah. I am not sure what I should give,
3 what would be appropriate, frankly.

4 MS. MORENO: May I just also remind the Court that a
5 few times in Agent Burns' cross examination to a couple of the
6 Defense lawyers, she would say, and I wrote it down a number
7 of times, "Well, you have all the evidence. You have all the
8 documents. You have all the calls." And that clearly leaves
9 the jury with the impression --

10 THE COURT: But at least in some of those -- I
11 noticed that, too. She was saying that because I think there
12 was an implication about this wasn't all introduced. That
13 could be taken because it wasn't offered in evidence, or you
14 didn't clarify. That is kind of what started all this. Some
15 of your questions that you asked imply some of that. And
16 sometimes that is why she said that. I wouldn't say that
17 every time, because I haven't kept up with it, but sometimes
18 that is what has brought that kind of a response.

19 MR. CLINE: May I suggest this? Why don't we --
20 Over lunch we will come up with an instruction that we will
21 ask the Court to give. I am not suggesting we are going to
22 agree on it. I suspect we will not. But at least you will
23 have the language precisely what we are asking.

24 THE COURT: Yes.

25 MR. DRATEL: In the interim, we may want to cross on

1 it to clarify this issue if that occurs before lunch.

2 THE COURT: No. Because I don't want to go there
3 and start making an issue before the jury until I get it
4 resolved, so no cross on that.

5 MR. DRATEL: What if we are done by the time lunch
6 comes?

7 THE COURT: We will just have to come back and do
8 it. She is coming back.

9 MR. CLINE: We will provide that to you over lunch.

10 THE COURT: All right.

11 (The following was had in the presence and hearing
12 of the jury.)

13 THE COURT: Mr. Jonas?

14 MR. JONAS: Thank you, sir.

15 Q. (BY MR. JONAS) Okay. With regards to staying with the
16 FISAs for just a moment, and I don't think we clarified,
17 though. Muin Shabib was the subject of a FISA. Is that
18 correct?

19 A. That is correct.

20 Q. Have we played any of his calls during the course of this
21 trial?

22 A. Yes, we have.

23 Q. How have those been labeled?

24 A. Shabib Wiretap.

25 Q. Where was he located during the time of his wiretap?

1 A. I believe it was northern Virginia.

2 Q. Would that be right outside Washington, D.C.?

3 A. Correct.

4 Q. And Ashqar, was he the subject of a wiretap?

5 A. He was.

6 Q. Have we played several of his calls as well?

7 A. We have.

8 Q. He was also the subject of a search?

9 A. Yes, he was.

10 Q. Where was Ashqar located at the time of the wiretap and
11 the search?

12 A. Mississippi.

13 Q. Did any of the Defendants indicate that they knew that
14 they were being listened to by the FBI?

15 A. Yes, they did.

16 MR. DRATEL: Objection. Your Honor; beyond the
17 scope of cross. There was no cross on this.

18 THE COURT: Overruled. Go ahead.

19 Q. (BY MR. JONAS) Agent Burns, do you have before you Baker
20 Wiretap No. 5? I hope you do. If you don't, I can hand you
21 the transcript.

22 A. I have five binders, so it may take me a minute to dig
23 through it.

24 MR. JONAS: Can we bring up Baker Wiretap No. 5,
25 page 4, please?

1 Your Honor, may I approach?

2 THE COURT: Yes.

3 MR. JONAS: If you can just enlarge the top half,
4 please.

5 Q. (BY MR. JONAS) Agent Burns, who is talking in this call?

6 A. This was Omar Ahmad and the Defendant Shukri Abu Baker.

7 Q. Do you recall the general subject matter that they were
8 talking about?

9 A. Yes, I do.

10 Q. Which was what?

11 A. How much to pay Mohamed El Mezain for his fundraising
12 trips.

13 Q. In particular, during this phone call what did they say
14 about their knowledge that they are being listened to?

15 A. Well, they hear something on the phone, some static, and
16 Omar says, "What is wrong with your phone?" And they go on
17 down to talk about how it is being monitored.

18 MR. JONAS: If we can go down lower.

19 Q. (BY MR. JONAS) Can you read where it says Omar says,
20 "Yes, my brother."

21 A. He says, "Yes, my brother."

22 Shukri Abu Baker says, "The line was gone."

23 Omar Ahmad says, "It is because of those monitoring your
24 phone."

25 Shukri Abu Baker says, "It looks like they tapped into

1 the number."

2 "No, the equipment is old," Omar says.

3 And then Shukri Abu Baker laughs.

4 Omar says, "Tell them to change it."

5 Shukri says, "I will tell them to save the tax money."

6 Omar says, "They will save it for us, for new equipment.

7 Tell them we can't hear."

8 Q. Were there other calls where they also indicated they
9 were being listened to?

10 A. Yes.

11 Q. Is there going to be testimony shortly regarding --

12 MR. DRATEL: Objection, Your Honor.

13 MR. JONAS: I will withdraw that question, Your
14 Honor.

15 Q. (BY MR. JONAS) Agent Burns, do you recall Mr. Westfall
16 questioned you on Friday as well?

17 A. I do.

18 Q. Do you recall a question he asked you about the Defendant
19 Abdulrahman Odeh working at different conventions on behalf of
20 the HLF?

21 A. Yes.

22 Q. Different festivals?

23 A. Yes.

24 Q. Do you recall Mr. Westfall questioned you about working
25 at the MAYA, ICNA, and IAP festivals?

1 A. I do.

2 Q. What do those three groups have in common?

3 A. They are all part of the Muslim Brotherhood seed
4 organizations, according to that document that we addressed
5 early in my testimony.

6 Q. Would that be Elbarasse Search No. 2?

7 A. Correct.

8 Q. Would you like to see that to confirm?

9 A. I think I recall it, but I can look in my binders, or if
10 you have a copy just to confirm.

11 Q. I may have the wrong exhibit number. Do you recall
12 seeing a list of Muslim Brotherhood in the United States?

13 A. It was attached to the memorandum and where the
14 organizations were in English attached to the Arabic document.

15 Q. Did you review that at the break?

16 A. Yes.

17 Q. And did that confirm what you were testifying to?

18 A. Yes.

19 Q. Do you recall Mr. Westfall asked you about a call that we
20 played when I questioned you earlier, El Mezain Wiretap No. 2
21 between the Defendant Odeh and the Defendant El Mezain talking
22 about the Oklahoma City bombing?

23 A. Yes.

24 Q. Do you recall Mr. Westfall read to you an additional
25 portion of that call that we didn't play during your first

1 testimony?

2 A. Yes.

3 Q. Do you recall that Mr. Westfall, during that part that he
4 read you, and I am paraphrasing here, read a portion where the
5 Defendant Odeh said something about "We must support America.
6 We talked about that in a prior meeting"?

7 A. Yes.

8 Q. And I am paraphrasing. Correct?

9 A. Correct.

10 Q. Do you recall the gist, that that was the additional
11 portion he read to you?

12 A. I do.

13 Q. Where, if anywhere, have we seen a similar discussion in
14 a prior meeting about aiding America?

15 A. At the Philadelphia meeting.

16 Q. What was said in the Philadelphia meeting about that?

17 A. And I will paraphrase because they talked about it in
18 several places, that they needed to do things in America to
19 help themselves so they could continue to operate here.

20 Q. For what purpose?

21 MR. DRATEL: Objection, Your Honor.

22 Q. (BY MR. JONAS) Based upon the Philadelphia meeting and
23 the transcripts you read, and the ones we reviewed during your
24 direct testimony, was there a purpose indicated as to why they
25 needed to continue to operate in America?

1 MS. HOLLANDER: Objection, Your Honor. She is
2 stating an opinion. She is a fact witness.

3 THE COURT: Overrule that objection. She may
4 testify to that.

5 THE WITNESS: Because they wanted to continue to do
6 their fundraising here for the ultimate support of the
7 movement.

8 Q. (BY MR. JONAS) Did they say anything about the purpose
9 of aiding America, if there is an incident in America about --

10 MR. DRATEL: Objection to leading, Your Honor.

11 THE COURT: Do you want to rephrase?

12 Q. (BY MR. JONAS) What, if anything, did they say about
13 providing funding to organizations other than Islamist
14 organizations or Muslim organizations?

15 A. That they would provide the small portion to them and
16 that they would provide a larger portion to the Islamists. I
17 think we read that several times.

18 Q. Okay. Mr. Westfall asked you about a book called "The
19 Jihadist School Book," HLF Search No. 14.

20 A. Yes.

21 Q. Do you recall that?

22 Where was that book found?

23 A. What was the exhibit number again?

24 Q. HLF Search No. 14.

25 A. I believe that was "The Jihadist School Book"?

1 Q. Yes, ma'am.

2 A. Just to be clear on the exhibit numbers.

3 That was found in Mr. Odeh's office.

4 Q. Mr. Westfall asked you what year that book was published.

5 Do you recall that question?

6 A. I do.

7 Q. Do you recall when it was published?

8 A. I don't think there was a publication date on that book.

9 I think we dated it, based on the Palestinian Relief Fund
10 being in the back, which would be late '87, early '88.

11 Q. What year was it found in the New Jersey HLF office?

12 A. It was seized in December of 2001.

13 Q. Do you recall he asked you, Mr. Westfall asked you about
14 HLF Search No. 109, which I have here?

15 MR. JONAS: If I may approach, Your Honor?

16 THE COURT: Yes.

17 THE WITNESS: Thank you.

18 Q. (BY MR. JONAS) What is this item?

19 A. This is a book entitled "The Palestinian Intifada in the
20 Hebrew Press. A study about the Islamic Resistance Movement
21 Hamas."

22 Q. Do you recall Mr. Westfall asked you a question about one
23 of the pages that was translated in this book regarding Jamil
24 Hamami?

25 A. I do.

1 MR. JONAS: If we can put up HLF Search No. 109,
2 page 141, please.

3 Q. (BY MR. JONAS) Do you see I guess it is the third
4 question and answer? Could you just read that?

5 A. The third question?

6 Q. Right. "What is the relationship between"?

7 A. It says, "What is the relationship between the West Bank
8 and the Gaza Sector in regards to Hamas?"

9 Answer: "A man called Jamil Hamami used to call us from
10 the West Bank. He also used to convey information from our
11 side."

12 Q. Do you recall Mr. Westfall asked you about that and the
13 tense of the answer, the past tense of the answer "used to
14 call"?

15 A. Yes.

16 Q. Is there anything else in this book discussing Jamil
17 Hamami and his relationship to Hamas?

18 A. I believe there is.

19 MR. JONAS: If we can turn to the next page, page
20 142.

21 Q. (BY MR. JONAS) And can you read that paragraph, please?

22 A. It says, "Ma'aref newspaper writes, 'The Sheik allowed
23 members of the organization to work and to take advantage of
24 every opportunity and all available means to work against the
25 army. Following operations, the Sheik would receive written

1 reports detailing the operation and its results.' The
2 newspaper adds, 'Also Sheik Ahmed Yassin did not neglect
3 outside contact, as in January 1988 A.D. he met with Jamil
4 Hamami, head of the Muslim Brotherhood in the Bank, and
5 suggested to him establishing a branch for Hamas over there.'
6 The Sheik and his aides" --

7 Q. That is sufficient. You addressed the Jamil Hamami part.

8 Do you recall Mr. Westfall asked you about other items
9 found at the New Jersey office of the Holy Land Foundation,
10 including a flier with Sheikh Yassin on it and the picture of
11 Khalid Mishal Nasrallah? Do you recall that?

12 A. I do.

13 Q. And those are in evidence. Correct?

14 A. They are.

15 Q. You testified about that before. Were those documents --
16 Were those items found in boxes in the office?

17 A. No.

18 Q. Do you know who put them in any boxes?

19 A. They were seized by the U.S. government and placed into
20 boxes by them.

21 Q. Okay. Do you recall Ms. Cadeddu questioned you about
22 the Defendant Mufid Abdulqader?

23 A. I do.

24 Q. Do you recall she asked you about videos, and every time
25 she showed you a video when the band was on the screen she

1 would stop and ask you to count the number of band members?

2 A. Yes.

3 Q. Besides being in the band, what else did the Defendant
4 Mufid Abdulqader do for the Holy Land Foundation?

5 A. He raised money for the Holy Land Foundation by speaking
6 at various events.

7 Q. What time period was he raising money for them?

8 A. Not counting what he was doing with the band, he actually
9 was a fundraiser in the mid to late '90s up until the time
10 they closed down in 2001.

11 Q. Okay. Did we hear some phone calls where he talked about
12 his fundraising?

13 A. We did.

14 Q. Do you recall the time period of those phone calls?

15 A. 1999-2000.

16 Q. Was this before or after Hamas was designated?

17 A. After.

18 Q. Do you recall Ms. Cadeddu asked you about InfoCom Search
19 No. 56, which is a videotape, clip C, and she asked you about
20 the term youth? If you recall, that was one of those skits
21 with someone pretending to be an old man.

22 A. Yes.

23 Q. Have you seen the term youth used in other documents or
24 phone calls or videos in this case?

25 A. Yes.

1 Q. Where have you seen it used?

2 A. The Defendants used the term -- I believe they used it at
3 the Philadelphia meeting. They used it quite frequently,
4 again, to describe themselves as being the youth of the
5 movement.

6 Q. Do you recall Ms. Cadeddu showed you a clip where you
7 identified a flag?

8 A. Yes.

9 Q. Do you recall what flag it was that you identified?

10 A. The Palestinian flag.

11 MR. JONAS: If we can show HLF Search No. 114, Clip
12 A, please.

13 MS. CADEDDU: Can we have a date, please?

14 Q. (BY MR. JONAS) Agent Burns, what is the date of the
15 video that Ms. Cadeddu played for you when she questioned you?

16 A. What was the number again?

17 Q. HLF Search No. 114.

18 A. 1996.

19 (Whereupon, HLF Search No. 114, Clip A was played,
20 while questions were propounded.)

21 Q. (BY MR. JONAS) Agent Burns, I know the flag is waving
22 back and forth pretty quickly, but were you able to see it?

23 A. I have seen this flag with the writing on it before.

24 Q. Is this flag the actual Palestinian flag?

25 A. It is with some addition to it.

1 Q. What is the addition?

2 A. The writing in the middle is a saying that is often used
3 by Hamas and other Islamists. That is what they like to put
4 on the Palestinian flag.

5 Q. Okay. With regard to the videos that we have seen and
6 Ms. Cadeddu questioned you about regarding the Defendant Mufid
7 Abdulqader, the ones where there are skits and songs all about
8 Hamas, were the majority of those videos pre-October 1993?

9 A. The videos that we discussed?

10 Q. Yes.

11 A. Yes.

12 Q. Did they discuss anything during the Philadelphia
13 conference about their rhetoric towards America?

14 A. They did.

15 Q. What did they say?

16 A. They said they needed to tone it down.

17 MR. JONAS: If we can pull up Philly Meeting No.
18 7-E, page 2, please. If you can enlarge the middle section.

19 Q. (BY MR. JONAS) Can you just read where it says, "And
20 could you try to convince," if you see that.

21 A. I am sorry. Beginning where?

22 Q. Read the first sentence that you see and go on, the first
23 whole sentence.

24 A. "This is a question we must ask ourselves," is that where
25 you are talking about?

1 Q. Sure.

2 A. Okay. "Who is going to read your ads and your
3 statements? The only thing people will see is that there is a
4 new organization--and it is not known what it is--which writes
5 articles about the issue of the new Palestinian state. And
6 you could try to convince people from behind tone it down a
7 little. Thus, you want to address the enemy while you are
8 speaking to your friend."

9 Q. That is good.

10 Was there any other discussion about toning down the
11 rhetoric? Maybe not in those words.

12 A. Yes.

13 MR. JONAS: If we can turn to Philly Meeting No.
14 15-E, page 2.

15 Q. (BY MR. JONAS) Do you know who is speaking, by the way?
16 I can show you --

17 MR. JONAS: If we can go to page 1 real quick.

18 Q. (BY MR. JONAS) Who is speaking?

19 A. This is Omar Ahmad.

20 MR. JONAS: Go back to page 2, please. Enlarge the
21 center.

22 Q. (BY MR. JONAS) If you can read the last four or five
23 lines of the top attribution starting with "This is a
24 suggestion."

25 A. "This is a suggestion. The second suggestion is that if

1 we want to -- Brother Shukri suggested the idea of having
2 talks with the Americans about supporting the self-rule in
3 Gaza and Jericho. I believe that our problem is that we
4 stopped working underground. We will recognize the source of
5 any message which comes out of us. I mean, if a message is
6 publicized we will know -- The media person among us will
7 recognize that you send two messages, one to the Americans and
8 one to the Muslims."

9 Q. After Philadelphia did you see the rhetoric in the videos
10 get toned down?

11 A. Yes.

12 Q. Do you recall Ms. Cadeddu went through with you some
13 reimbursement expenses, a reimbursement expense check given by
14 the HLF to the Defendant Mufid Abdulqader to San Diego and
15 Florida, and she went through the math with you?

16 A. Yes.

17 Q. Through purposes -- Withdrawn. Do you recall also Mr.
18 Dratel this morning asked you about whether the Defendant
19 Mohamed El Mezain received a salary from the Holy Land
20 Foundation?

21 A. I do.

22 Q. Did he?

23 A. I don't know.

24 Q. Did he get paid at all for his work?

25 A. He did.

1 Q. For the purposes of your investigation, did it matter
2 whether the Defendant Mufid Abdulqader, Mohamed El Mezain, or
3 any of the Defendants got paid a salary?

4 A. No.

5 Q. All right. Why not?

6 A. Because their role in this Palestine Committee and in
7 sending the money over to --

8 MR. DRATEL: I will object, Your Honor, to the form
9 of the question.

10 THE COURT: And the objection?

11 MR. DRATEL: The form of the question, and it is --
12 It really calls for an opinion, and potentially legal issues
13 as well.

14 THE COURT: She may give a 701 opinion based on --

15 MR. DRATEL: Not as to a legal issue in terms
16 of -- I don't know where she is going with it.

17 THE COURT: Overrule the objection. You may answer.

18 THE WITNESS: Consistent with what we have seen in
19 the Hamas charter, the Islamic Resistance Movement was just
20 that, a movement. The motivation to support that movement did
21 not derive from finances or being paid.

22 Q. (BY MR. JONAS) Do you recall -- I want to move forward
23 to Ms. Hollander's questioning of you yesterday and some also
24 on Friday. She had questioned you for a few minutes on
25 Friday. Do you recall I believe it was yesterday she went

1 through some of the financial charts, one that involved
2 payments between I believe Marzook and the Defendants, between
3 the Holy Land Foundation and some of the Islamic societies
4 that there has been testimony about that had been run by
5 Sheikh Yassin, as well as to Khairi al-Agha? Do you recall
6 that?

7 A. I do.

8 Q. Do you recall that she wrote on the charts the dates of
9 the designations, which are after the last transactions in
10 those particular charts?

11 A. Yes.

12 Q. Okay. If those transactions between the Holy Land
13 Foundation, Marzook, the Islamic societies, and Khairi al-Agha
14 were prior to Hamas being designated, why is it important in
15 this case that we have shown it to the jury?

16 A. Because of the nature of this --

17 MS. HOLLANDER: Your Honor, I object. I think she
18 is way beyond any 701 opinion, and we are really getting into
19 a legal question.

20 THE COURT: Overruled. Go ahead.

21 THE WITNESS: I found it necessary in my
22 investigation to look at the beginning of the Holy Land
23 Foundation and the beginning of Hamas and to examine all
24 connections between the Holy Land Foundation and Hamas, the
25 Islamic Center of Gaza, those entities.

1 Whether or not those connections pre-existed the
2 designation does not change the fact that they had those
3 connections. The individuals as we saw in Philadelphia noted
4 that they were going to be seen as terrorists and needed to
5 conceal their activities from the American public. After that
6 time finding --

7 MR. DRATEL: Your Honor, I object. This is
8 non-responsive and this is really just a narrative.

9 THE COURT: Overruled. Go ahead.

10 THE WITNESS: After that time, it became difficult
11 to find instances where they overtly in American eyes praised
12 Hamas. So you have to go back to before they were actually
13 concealing their activities to find their true intent.

14 Q. (BY MR. JONAS) Ms. Hollander went through with you the
15 checks between Marzook and the Defendants. If you recall, she
16 identified some checks to the Defendant Shukri Abu Baker that
17 you have identified the signatures not being Marzook's
18 signature. Do you recall that?

19 A. I do.

20 Q. Okay. What if any -- Do you recall, by the way, there
21 was a call that was played between the Defendant Shukri Abu
22 Baker and a reporter named Gayle Reeves?

23 A. Yes.

24 Q. That is Baker Wiretap No. 2.

25 MR. JONAS: If we can put Baker Wiretap No. 2, page

1 6 on the screen, please.

2 Your Honor, if I may approach?

3 THE COURT: Yes.

4 Q. (BY MR. JONAS) Agent Burns, do you have that before you?

5 A. I do.

6 Q. What is -- Who is on the call?

7 A. Shukri Abu Baker and the reporter Gayle Reeves.

8 Q. What is the date of the call?

9 A. April 1st, 1996.

10 Q. What is it that Shukri Baker is saying to Gayle Reeves
11 regarding his relationship or the HLF's relationship to Mousa
12 Abu Marzook?

13 A. Do you want me to read it?

14 Q. Yes.

15 A. Okay. He says, "I don't know ah if I should but, ah, ah,
16 ah, he might need to ask Mr. Abu Marzook himself."

17 "Well he..."

18 "I'm sure he will remember."

19 "He, he said he was speaking for Mr. Marzook."

20 "Yeah."

21 "Ah, so, I, but I don't know. I was very, I was very..."

22 "Yeah."

23 Q. Let me interrupt you for a moment. You read this call
24 before?

25 A. Yes, we have.

1 Q. Who is -- When Shukri Baker is saying he was speaking for
2 Mr. Marzook, who is he talking about?

3 A. He was talking about Mr. Abu Marzook's attorney.

4 Q. And he says that in the prior --

5 A. On the previous page.

6 Q. Go ahead.

7 A. And the reporter says, "I think we asked you this the
8 other night, and if we did I apologize. But what was your
9 explanation or, it could be very simple, why Mr. Marzook would
10 have like your home phone and the Holy Land L.A. number in his
11 address book when he was arrested at JFK?"

12 "When he was arrested?"

13 "Yes."

14 "He has my home phone?"

15 "Yes."

16 "I don't...I don't as long, you know, along with another
17 thousand names maybe."

18 "Yes, that's right."

19 MR. JONAS: Next page, please.

20 THE WITNESS: "So this tells you, I mean, I mean,
21 the man is charismatic, is a philanthropist. Maybe he picks
22 up my..."

23 "The man is what? I didn't understand what you said."

24 "He, he, he's a philanthropist."

25 "Right."

1 "And he's a charismatic person. Otherwise, he is not in
2 the position he's in right now."

3 "Sure."

4 "Maybe he picked up my number from the convention. We
5 talked together about this donation. And of course he would
6 have the number for the Holy Land Foundation because he was
7 either about to give a donation or he has already given. I
8 don't know when he got these numbers, but I bet you it's
9 before, it's before he made the donation."

10 Q. That is enough.

11 Does the Defendant Shukri Baker say anything to Gayle
12 Reeves about the phone calls that Marzook made to him?

13 A. No, he doesn't.

14 Q. Does he say anything about the money he received from the
15 joint bank account with Elbarasse?

16 A. No, he doesn't.

17 Q. Does he say anything about the money that he paid to the
18 Marzook's wife Nadia Elashi?

19 A. No, he doesn't.

20 Q. Do you recall Ms. Hollander showed you some of the Illa
21 Falistine exhibits?

22 A. Yes.

23 Q. Just quickly remind us what Illa Falistine is.

24 A. It was an IAP magazine from the late '80s, early '90s.

25 Q. Do you recall she also showed you documentation from the

1 HLF showing they placed ads in other magazines?

2 A. Yes.

3 Q. I want to show you Illa Falistine I believe it is 2,
4 page 9. Agent Burns, I am going to hold it up. This is the
5 cover. Do you recall you have testified about this exhibit
6 before?

7 A. Yes.

8 Q. And who is on the cover?

9 A. Abdullah Azzam.

10 Q. Page 9, is this the beginning of an article?

11 A. It is part of an article, yes.

12 Q. Did you read this article during your direct?

13 A. Yes.

14 Q. I am not going to make you read the whole thing again.
15 If you can just read in the middle of the page where it says
16 "first."

17 A. Okay. It says, "First, we call on you to perform jihad
18 with your money for the sake of God by donating the maximum
19 amount you can to support the Intifada of your people in
20 Palestine. You may send your donations in the name of
21 Occupied Land Fund."

22 Q. Okay. Is that an ad?

23 A. It does not look like a typical ad that you would see in
24 a regular magazine.

25 Q. Well, do you recall she showed you an ad and she had you

1 read the poem which was not on the translation that we
2 admitted into evidence in a different Illa Falistine issue?

3 A. Yes.

4 Q. Does that look like those type of ads?

5 A. No.

6 Q. Does this look like an ad?

7 A. It looks like a request to send money for jihad. And if
8 you look up above, this is about the Islamic Resistance
9 Movement, Hamas.

10 Q. Is this an article?

11 A. It is.

12 MR. JONAS: If you can turn to page 12.

13 Q. (BY MR. JONAS) Agent Burns, is this also an article, or
14 continuation of an article?

15 A. It is.

16 Q. Did you testify about this article, this particular
17 article on the screen now, in your first testimony?

18 A. Yes.

19 Q. Do you see where it says "Occupied Land Fund"?

20 A. I do.

21 Q. Is that contained within the article, or is that a
22 separate ad?

23 A. On this one?

24 Q. Yes.

25 A. It is within the article.

1 Q. Okay. So is that an ad?

2 A. It does not appear to be a typical ad that you would see
3 in a normal newspaper.

4 MR. DRATEL: I object, Your Honor, in terms of her
5 expertise and exposure to that.

6 MR. JONAS: I will rephrase the question.

7 Q. (BY MR. JONAS) Is this an ad similar to the ad that
8 Ms. Hollander showed you?

9 A. No, it is not.

10 MR. JONAS: Illa Falistine 3, page 4. If we can go
11 to Illa Falistine 4. Page 4. I am sorry.

12 Q. (BY MR. JONAS) Agent Burns, do you see what is on the
13 screen now?

14 A. I do.

15 Q. Can you read what is now in the center of the screen?

16 A. Yes. This is an article, and at the end it was signed
17 the Islamic Resistance Movement, Hamas.

18 Q. You also testified about this in your direct testimony?

19 A. I did.

20 Q. What is below it?

21 A. A request to donate to the Occupied Land Fund, "send your
22 tax deductible donations."

23 Q. Does this look like the type of ad Ms. Hollander went
24 through with you?

25 A. It is not the same.

1 Q. Do you recall that Ms. Hollander questioned you about
2 InfoCom Search No. 51 and Ashqar Search No. 2?

3 A. Yes.

4 Q. Can you remind us what those documents are?

5 A. The InfoCom exhibit that you are referring to I believe
6 was the report that Shukri Abu Baker made regarding his trip
7 to the Palestinian territories in 1991.

8 Q. And what is Ashqar Search No. 2?

9 A. That was the report found at Ashqar's home regarding
10 Hamas and activities that had gone on on a separate trip that
11 was taken in 1991.

12 Q. Agent Burns, you talked about --

13 MR. JONAS: Your Honor, if I may approach?

14 THE COURT: Yes.

15 Q. (BY MR. JONAS) Agent Burns, you talked about in your
16 direct testimony and then on cross examination by Ms.
17 Hollander these two documents in conjunction with each other.
18 Is that correct?

19 A. That is correct.

20 Q. Okay. What is it about these two documents that led you
21 to put them together?

22 A. It was the fact that, as we stated earlier, Shukri Abu
23 Baker met with Hamas leader Mahmoud Zahar regarding the
24 Studies and Research Center, and that there was reporting on
25 the same issue of Mahmoud Zahar's, the Hamas leader's Studies

1 and Research Center in the other report. That was about
2 Hamas.

3 Q. Do you know if both reports were talking about the same
4 trip?

5 A. I don't. The time periods -- When looking at the time
6 periods, it appears that the Ashqar report, the Hamas report,
7 predated Shukri Abu Baker's trip. So there may have been more
8 than one meeting, but they are still talking about the same
9 opening of the same organization the Studies and Research
10 Center with the Hamas leader Mahmoud Zahar.

11 Q. Why is it you are calling the Ashqar report the Hamas
12 report?

13 A. Because it was a report about Hamas in the territories.

14 Q. Is it evident from the content?

15 A. It is.

16 Q. Does it use the word Hamas?

17 A. It does.

18 Q. Looking at InfoCom Search No. 51, that is the report by
19 Shukri Baker. Correct?

20 A. It is.

21 Q. Yesterday Ms. Hollander had you read the whole thing. Do
22 you recall that?

23 A. Yes.

24 Q. I am not going to ask you to do that.

25 A. Thank you.

1 Q. My question for you is this: Did you recognize any of
2 the names that you read?

3 A. I did.

4 Q. Who did you recognize?

5 A. Well, in addition to the individual that we have already
6 spoken about, there are a number of individuals in here that I
7 will be discussing at length later. Would you like me to go
8 through and identify those people?

9 MR. DRATEL: Your Honor, we object to that now, Your
10 Honor.

11 MS. HOLLANDER: It is improper redirect, Your Honor.
12 She says she is going to be talking about them later. It is
13 improper redirect.

14 MR. JONAS: I am just asking about the names she
15 read yesterday and the ones she will be talking about later.
16 I think that is perfectly fine and in line with Ms.
17 Hollander's questioning.

18 THE COURT: Overruled. You may ask that.

19 Q. (BY MR. JONAS) Agent Burns, which names do you
20 recognize?

21 A. Well, there is a sheik Ibrahim Abu Salim. Going down
22 through -- do you want me to give you page numbers or run
23 through them quickly?

24 Q. Run through them, but can you tell if they are affiliated
25 with any organization per the report?

1 A. Yes. Per the report, Ibrahim Abu Salim is identified as
2 being in Jerusalem with the Bir Nibalah zakat committee.

3 Scrolling down through -- bear with me for just one moment.

4 Q. Sure.

5 A. In the Hebron area, it identifies Mr. 'Abd-al-Khaliq
6 al-Natashah from the Islamic Charitable Society of Hebron as
7 well as Kamal al-Tanimi. Those individuals are very familiar
8 to me, as well as Mr. Talal Sidr from the Young Men's MUSLIM
9 Association.

10 Q. Were these organizations that the HLF sent money to, per
11 the financial schedules that we talked about at the end of
12 your testimony before?

13 A. Yes. In Um al-Fahm, Shukri Abu Baker reports on the
14 relief committee, which is the Islamic Relief Committee, and
15 Shaykh Munir, who is Munir al-Hajja. Again, that is relating
16 to one of the entities that we have the financial schedules
17 for and one of the individuals that relates to that entity.

18 Under Nablus, Shukri Abu Baker reported meeting with
19 Dr. 'Abd-al-Rahim Hanbali of the Nablus zakat committee. His
20 name is very familiar to me.

21 And then on the back page, or page 14, he references
22 "brother Fawaz who will continue his position with the HLF
23 after all the problems regarding his work method are
24 resolved," and that is Fawaz Hamad.

25 And then there is the individual with the medical

1 committee'Abd-al-Karim Abu Samaha. And I may have missed one.

2 Q. Okay. Agent Burns, do you recall Ms. Hollander showing
3 you pictures of wheelchairs that were -- pictures taken from
4 the Holy Land Foundation?

5 A. I do.

6 Q. Do you recall what she asked you about regarding the
7 purchase of those wheelchairs?

8 A. I don't recall specifically what she asked me.

9 Q. Do you recall if she asked you if the HLF purchased those
10 wheelchairs?

11 A. I recall she asked me about the HLF and wheelchairs. I
12 don't recall exactly if she said purchased or not.

13 MR. JONAS: Your Honor, may I approach?

14 THE COURT: Yes.

15 Q. (BY MR. JONAS) Let me show you what has been marked as
16 HLF Search No. 175.

17 A. Thank you.

18 Q. Where did that document come from?

19 A. The HLF Dallas office.

20 Q. Is it on -- What letterhead is it on?

21 A. The HLF letterhead.

22 Q. Does it pertain to wheelchairs?

23 A. It does.

24 MR. JONAS: Your Honor, at this time I offer into
25 evidence HLF Search No. 175.

1 MS. HOLLANDER: No objection.

2 THE COURT: Admitted.

3 Q. (BY MR. JONAS) That is not scanned in, Agent Burns, so I
4 am not going to put it on the screen, but is there a portion
5 in there of that letter that identifies whether or not the HLF
6 itself purchased the wheelchairs that were referenced in the
7 pictures that you talked about yesterday?

8 A. Yes.

9 Q. What does it say?

10 A. It says, "The Holy Land Foundation for Relief and
11 Development is requesting your assistance in facilitation of a
12 shipment from America.

13 "We have been bestowed a tremendous gift for the
14 Palestinian people who are handicapped and in need of
15 wheelchairs in order to live their lives more fully and with
16 the dignity aspired by all of us. A gentleman in America has
17 donated to the foundation, with the ultimate destination of
18 the Palestinian people in Gaza, 494 new wheelchairs along with
19 50 amputee conversion kits and 200 elevating foot rests."

20 Q. That is fine. So does that letter indicate whether the
21 HLF purchased those wheelchairs themselves?

22 A. It indicates that they were donated by an individual.

23 Q. Okay. Do you recall Ms. Hollander asked you a series of
24 questions regarding the Philadelphia meeting?

25 A. I do.

1 Q. And you recall she asked you about the hotel, the
2 Marriott Hotel where this meeting took place and whether the
3 participants, including the Defendants that were there,
4 checked in under their own name?

5 A. Yes.

6 Q. Did they check in under their own name?

7 A. They did.

8 Q. Do you recall she asked you about whether the hotel is
9 open to the public?

10 A. Yes.

11 Q. Have we already discussed the phone call or anything
12 where the Defendant Shukri Baker expressed concern about the
13 meeting being public?

14 A. Yes.

15 MR. JONAS: If we can put on the screen Ashqar
16 Wiretap No. 1 page 7, please.

17 Q. (BY MR. JONAS) Do you recall what this particular call
18 was about?

19 A. I believe this was a planning phone call for the
20 Philadelphia meeting.

21 Q. And who were the participants?

22 A. Shukri Abu Baker, Omar Ahmad, and Abdel Haleem Ashqar.

23 MR. JONAS: And enlarge the top, please.

24 Q. (BY MR. JONAS) What does Shukri Baker say?

25 A. He says, "A large number, my brother, will be suspicious

1 and will attract attention, and I don't think that -- I mean,
2 it will be -- If we increase it more than what's necessary."

3 Q. Agent Burns, did you come across any evidence that would
4 indicate why the head of a charity organization would be
5 suspicious about a meeting?

6 A. No.

7 Q. Agent Burns, during the course of the Philadelphia
8 meeting, did the Defendant Shukri Baker talk about providing a
9 cover for the meeting?

10 A. He did.

11 MR. JONAS: If we can put Philadelphia Meeting No.
12 3-E page 3, please. Enlarge the top, please.

13 Q. (BY MR. JONAS) What does the Defendant Shukri Baker say
14 about providing cover for this meeting?

15 A. It is when he is talking about the Samah code word, and
16 he says, "Please don't mention the name Samah in an explicit
17 manner. We agree on saying it sister Samah. We will talk
18 about her honor and this session is...the session here is a
19 joint workshop between the Holy Land Foundation and the IAP.
20 This is the official form. I mean, please, in case some
21 inquired."

22 Q. Do you recall Ms. Hollander had you read a portion of the
23 Philadelphia meeting where the Defendant Shukri Baker talked
24 about operating legally in America? I am paraphrasing, of
25 course.

1 A. Yes.

2 Q. Was that -- If you can just remind us generally what she
3 had you read?

4 A. It was a section where the Defendant Shukri Abu Baker was
5 telling the other participants in the meeting that they needed
6 to be sure and operate legally in America.

7 Q. Okay. Were there other portions of the Philadelphia
8 meeting where the Defendant Shukri Baker talked about the
9 presentation of the Holy Land Foundation or the participants
10 of the Palestine Committee to America?

11 A. Yes.

12 MR. JONAS: If we can put Philadelphia Meeting No.
13 5-E, page 4 on the screen, please, the bottom half.

14 Q. (BY MR. JONAS) Do you see where it says UI,
15 unintelligible, about a third from the bottom?

16 A. I do.

17 Q. Can you read from that point, and can you confirm who is
18 doing the speaking?

19 A. This is Shukri Abu Baker.

20 Q. Okay.

21 A. It says, "It will be made up of some of our people, our
22 beloved ones."

23 Q. I am sorry, Agent Burns. Can you read a line above that?
24 I apologize.

25 A. Yes. It says, "We will form an organization for you to

1 show the Americans that you are -- It will be made up of some
2 of our people, our beloved ones. And let's not hoist a large
3 Islamic flag, and let's not be barbaric-talking. We will
4 remain a front so that if the thing happens, we will benefit
5 from the new happenings instead of having all of our
6 organizations classified and exposed. I was telling brother
7 Aboul Hassan about Al Aqsa organization. Why, 'Al Aqsa
8 educational?' When you go to Oxford they will tell you:
9 'Sir, What is Aqsa?' Make it 'The Palestinian General
10 Education Academy.' Make yourself a big name like that and
11 give it a media twinkle and there is no need for Al Aqsa, Al
12 Quds, Al Sakhra and all that stuff. Huh? This is for
13 example. And let's stay ahead of the events, our brothers.
14 We will find out later on that Fatah has 50 organizations here
15 in America and offices named 'Fatah offices' affiliated with
16 Fatah here in America like they like to affiliate them,
17 charity, educational and schools and everything while we are
18 sitting unable to work because all of us have become burned,
19 all of our organizations are purely Islamic organizations and
20 we don't know how we are going to be dealt with. So, our
21 brother had a suggestion to form an organization--the format
22 he suggested was somewhat controversial, I didn't discuss it
23 with him, but I believe its concept is sound--that we should
24 start right now, my brothers, begin thinking about
25 establishing alternative organizations which can benefit from

1 a new atmosphere, ones whose Islamic hue is not very
2 conspicuous."

3 Q. In the Elbarasse documents did you see a new organization
4 being formed or that was formed after Philadelphia that came
5 under the umbrella of the Palestine Committee?

6 A. Yes.

7 Q. What was that organization?

8 A. CAIR, C-A-I-R.

9 Q. Because there has been another Care mentioned?

10 A. That is correct.

11 MR. JONAS: If we can turn to Philly Meeting No.
12 9-E, page 3, please.

13 Q. (BY MR. JONAS) Do you see the center there with the
14 Defendant Shukri Baker speaking?

15 A. I do.

16 Q. Okay. Does this portion of what he says also address
17 America?

18 A. It does.

19 Q. And can you read that?

20 A. "There are three options which were presented as far as
21 the organizations are concerned. One, the first option is
22 serving the movement on the inside; two, building the strength
23 of the community" --

24 Q. I am sorry. The movement on the inside, what does the
25 term movement mean as we have seen in this case?

1 A. The Islamic Resistance Movement, Hamas.

2 Q. Please keep going.

3 A. "Three, marrying the two while keeping the departments
4 separate and specialized. America represents five axes for
5 work; to be a safe place for the Movement, utilizing the
6 capabilities of the community for work on the inside, not only
7 on the American front, using the front as a pressure element
8 on the inside front, securing the human services we mentioned
9 before; five, leading the Palestinian political current in
10 America. Our Islamic action organizations should be the ones
11 which lead the action, and they are the ones which cast
12 credibility on themselves and make themselves the credible
13 authority in regards to the Islamic point of view of the cause
14 of Palestine. These are almost all the issues which were
15 mentioned. There might be some issues which were mentioned by
16 the brothers in a different format, but this is the core of
17 the first session. Now, would you like to say a point and
18 then vote on it, Abou Mohamed, or should we proceed? Or is
19 there another point of view and we should open the door for
20 discussing them. Most of the issues mentioned have near
21 unanimity. I will give you an example. What is needed is to
22 work to bring the goals of the agreement to failure on the
23 basis that beginning to form the infrastructure for the
24 Authority is rejected as a principle and that the agreement
25 takes the conflict out of its true core."

1 Q. Agent Burns, did you come across anything in all the
2 material you reviewed to indicate why the head of a charity
3 would want to bring the goals of the Oslo Accords to failure?

4 A. No.

5 Q. Agent Burns, did Shukri Baker in the Philadelphia meeting
6 talk about being deceptive?

7 A. He did.

8 MR. JONAS: If we can turn to Philly Meeting No.
9 7-E, page 5.

10 Q. (BY MR. JONAS) What does he say?

11 A. He says, "I swear by your God that war is deception. War
12 is deception. We are fighting our enemy with a kind heart and
13 we never thought of deceiving it. War is deception. Deceive,
14 camouflage, pretend that you're leaving while you're walking
15 that way. Or do we have to be -- Deceive your enemy."

16 Omar Ahmad says, "This is like the one who plays
17 basketball. He makes a player believe that he is doing this
18 while he is doing something else. I agree with you. Like
19 they say, politics is a completion of war."

20 Shukri Abu Baker says, "Yes, politics, like war, is a
21 deception."

22 Q. Did this term war is deception come up again in the
23 Philadelphia meeting?

24 A. It did.

25 MR. JONAS: If we can go to Philadelphia Meeting No.

1 12-E, page 6, please, the bottom.

2 Q. (BY MR. JONAS) The last attribution, the UM, which means
3 what?

4 A. Unidentified male.

5 Q. If you can read that to the top of the next page.

6 A. Beginning with "Of course"?

7 Q. Yes.

8 A. "Of course, regarding the point which was mentioned
9 yesterday that when we fight with the other Islamic
10 organizations it weakens our position and our political
11 address--about the Movement's position of the cause, and this
12 in order to make sure to continue to offer a clear Islamic
13 position to the Islamic community. A special focus on the
14 Islamic community while being careful not to show the
15 Association as an opposition party with direct connections
16 with the inside. It expresses its position. It expresses the
17 Movement's position, but it doesn't say 'I represent this
18 side' or anything like that.."

19 Shukri Abu Baker says, "It should lie, you mean."

20 "It shouldn't talk. It shouldn't lie. It shouldn't
21 talk."

22 "War is deception."

23 And Omar Ahmad says, "Learn from your masters in the
24 Fund."

25 Q. What is the Fund?

1 A. The HLF.

2 Q. Ms. Hollander asked you about the importance of the
3 chronology of these transcripts. Do you know if the
4 transcripts the way they have been admitted are in any
5 particular chronological order?

6 A. I originally thought they were in chronological order.
7 After looking at them, I don't know that they are.

8 Q. Does it matter?

9 A. It does not change the content. The order of them does
10 not change the content.

11 Q. When you say the content, what do you mean?

12 A. I mean what they are saying. What they are saying
13 doesn't change.

14 Q. In fact, do they repeat themselves throughout all the
15 transcripts?

16 MS. HOLLANDER: Objection; leading.

17 THE COURT: Sustained. Do you want to rephrase?

18 MR. JONAS: Yes, sir. Sorry.

19 Q. (BY MR. JONAS) I will withdraw that. I will move on.

20 Ms. Hollander asked you about the Oslo Accords and the
21 groups that supported it. I am sorry. The groups that were
22 against it.

23 A. Yes.

24 Q. Do you recall that line of questioning?

25 A. I do.

1 Q. In discussing -- During the course of the Philadelphia
2 meeting, did the participants discuss their reaction to the
3 Oslo Accords?

4 A. They did.

5 Q. Did they discuss what they thought that needed to be done
6 with regard to the Oslo Accords?

7 A. They did.

8 Q. What did they say?

9 A. They wanted to derail the peace accords, and they
10 referred to them as the peace agreement.

11 Q. In discussing derailing the peace accords, they say they
12 wanted to derail it.

13 MS. HOLLANDER: Objection, Your Honor. He is
14 leading.

15 THE COURT: He hasn't asked a question yet. Go
16 ahead.

17 Q. (BY MR. JONAS) What, if anything, did they say regarding
18 supporting any Israeli extremist groups who also wanted to
19 derail the peace accords?

20 A. They didn't say anything about supporting an Israeli
21 extremist group.

22 Q. Do you recall her asking about that?

23 A. I do.

24 Q. And do you recall her asking about perhaps Palestinian
25 Christian groups that may be against the Oslo Accords?

1 A. I do.

2 Q. What, if anything, did the participants in the
3 Philadelphia meeting say about supporting any Palestinian
4 Christian group that may have been against the Oslo Accords?

5 A. They didn't discuss supporting Palestinian Christian
6 groups who own opposed the Oslo Accords. They referenced in
7 the meeting certain other groups that were opposed to the
8 accords, I think the communists, and said they didn't want to
9 align themselves with them.

10 Q. You heard I believe Mr. Dratel asked you about Edward
11 Said and whether he was an extremist?

12 A. Yes.

13 Q. Do you know if he was against the Oslo Accords as well?

14 A. I don't know.

15 Q. Okay. What, if anything, did they say about supporting
16 Edward Said during the Philadelphia meeting?

17 A. Nothing.

18 Q. Agent Burns, is there any particular group that they
19 discussed in the Philadelphia meeting with regard to their
20 support and being against the Oslo Accords?

21 A. No, they only discussed supporting the Movement, the
22 Islamic Resistance Movement.

23 Q. I said group.

24 A. Sorry.

25 Q. Was there any group that they discussed supporting --

1 A. I thought you said was there any other group.

2 Q. Was there any group at all?

3 A. Yes.

4 Q. That they discussed supporting with regard to derailing
5 the Oslo Accords?

6 A. Yes.

7 Q. What group was that?

8 A. The Islamic Resistance Movement, Hamas.

9 MR. JONAS: If we can pull Philadelphia Meeting No.
10 2-E, page 2 on the screen, please. Enlarge the middle part,
11 please.

12 Q. (BY MR. JONAS) Do you see, Agent Burns, about six lines
13 or so from the top on the right hand side where it starts "The
14 programs"?

15 A. I do.

16 Q. Can you read that and the next few lines that follow?

17 A. "The programs of the organizations overall should be in
18 complete harmony with the general directions of the Movement.
19 I say that once again because this is very important. By
20 harmony I mean that they ought to serve it in a direct or
21 indirect manner. But the format is the flexible part."

22 Q. Okay. That is good enough.

23 Agent Burns, I want to turn to Mr. Dratel's questioning
24 of you for a moment. Do you recall yesterday afternoon in
25 discussing the Elbarasse search material he asked you about

1 whether or not you found any fax cover sheets or FedEx
2 envelopes indicating that those Elbarasse documents were sent
3 to any of the Defendants? Do you recall that?

4 A. I do.

5 Q. Okay. Have you come across any evidence at all that you
6 have testified about indicating that the Defendants or some of
7 the Defendants knew they were part of the Palestine Committee?

8 A. Yes.

9 Q. What was that?

10 A. The telephone conversations that we had about the
11 conflict between Al-Aqsa --

12 MR. DRATEL: Can we identify the Defendants, Your
13 Honor?

14 Q. (BY MR. JONAS) Which defendants in particular were part
15 of the Philadelphia meeting? I mean Palestine Committee.
16 Agent Burns, which Defendants in particular were part of the
17 Palestine Committee, based on the Elbarasse documents that are
18 in evidence?

19 A. Based on the documents that are in evidence, Shukri Abu
20 Baker, the Defendant Mohamed El Mezain, Ghassan Elashi, and
21 then we had Mr. Abdulqader as part of the band which was part
22 of the Palestine Committee.

23 Q. And what evidence have we seen where the Defendants or
24 particular Defendants participated in activities of the
25 Palestine Committee?

1 A. Well, we have seen the videotapes of these festivals that
2 were reported on in these Palestine Committee reports
3 involving the Defendant Mufid Abdulqader, Defendant Mohamed El
4 Mezain, Shukri Abu Baker, Ghassan Elashi. We have the
5 Philadelphia meeting where a number of the Defendants attended
6 or were invited. We had the planning phone calls where the
7 Defendant Shukri Abu Baker actually participated in the phone
8 call and discussed who would be invited, including the
9 Defendant Mohamed El Mezain. Those are just some examples.

10 Q. Was there also -- You mentioned an incident between the
11 Holy Land Foundation and the Al-Aqsa Educational Fund.

12 A. Yes, there was. During that incident the Palestine
13 Committee got together and resolved or attempted to resolve
14 the conflict between the two organizations, and several of the
15 individuals participated in that conference call of the
16 Palestinian Committee to resolve the issue.

17 Q. And in everything you have seen about the Palestine
18 Committee, did any of the Defendants that were part of that
19 Palestine Committee ever deny being a member of the Committee?

20 MR. DRATEL: Objection, Your Honor, to the form of
21 the question.

22 THE COURT: Overruled. You may answer that.

23 THE WITNESS: I did not see anywhere in the
24 Elbarasse documents or the Philadelphia meeting or these
25 planning phone calls where any of the individuals ever denied

1 or declined to being members of the Palestine Committee.

2 Q. (BY MR. JONAS) Is what you did see, is that consistent
3 with being a member of the Palestine Committee?

4 MR. DRATEL: Objection, Your Honor.

5 THE COURT: Overruled. You may answer finish your
6 question.

7 Q. (BY MR. JONAS) What you did see, was that consistent
8 with membership in the Palestine Committee?

9 A. Yes.

10 Q. Mr. Dratel went through with you the wiretap calls from
11 the Defendant El Mezain's phone line and went through the
12 dates of the calls that have been admitted into evidence.

13 A. That is correct.

14 Q. Leading up to 1996 or 1997. I can't remember the exact
15 time period. Did the Defendant El Mezain quit the HLF in
16 1997?

17 A. No, he didn't.

18 Q. Did he continue to work for them after 1997?

19 A. He did.

20 Q. Did he work for them up to the time the HLF closed in
21 2001?

22 A. Yes.

23 Q. What was his role again?

24 A. He was chairman of the board for a time until 1999. He
25 was also, as we saw on the videotapes, a fundraiser for the

1 HLF. In 1999, although he stepped down as chairman of the
2 board, he became an officer of the HLF, and he ran the HLF San
3 Diego office, and he continued to do fundraising activities
4 for the HLF.

5 Q. From 1995 when Hamas was designated up until 2001, did
6 any of the Defendants stop working for the HLF, either as a
7 volunteer, as an employee, as an officer or director, in any
8 way, shape, or form?

9 A. No, they all worked there until the HLF closed down in
10 2001.

11 Q. Do you recall that Mr. Dratel asked you about payments,
12 money between Mousa Abu Marzook and the Defendant Mohamed El
13 Mezain?

14 A. I do.

15 Q. Okay. Did you review the Defendant El Mezain's sworn
16 deposition?

17 A. I did.

18 Q. Do you need a copy of it, or do you have in it front of
19 you?

20 A. I may have a copy. Let me check. I have it.

21 Q. Okay. Did the Defendant Mohamed El Mezain talk about his
22 relationship to Marzook during the deposition?

23 A. He did.

24 MR. JONAS: And if we can get page 4 on the screen,
25 please, the exhibit page 4.

1 Q. (BY MR. JONAS) Did he talk about Marzook -- Do you have
2 that in front of you?

3 A. I do.

4 Q. And for the deposition pages, it is pages 56 through 58.

5 A. Okay.

6 Q. I am not going to have you read it, but are you familiar
7 with this portion of his deposition?

8 A. I am.

9 Q. What did he say about his relationship with Marzook in
10 the deposition?

11 MR. DRATEL: Object to characterizing, Your Honor.
12 It speaks for itself.

13 THE COURT: Overruled.

14 THE WITNESS: He said that he was related by
15 marriage to Mousa Abu Marzook, and that he had lived in the
16 same city as Marzook in Fort Collins and attended the mosque
17 with him, and that on occasion once a year, once every two or
18 three years, Marzook would call him around the time of the
19 mosque's festival.

20 Q. (BY MR. JONAS) Did he say anything about Marzook giving
21 him money?

22 A. He did not.

23 Q. If you recall, Mr. Dratel this morning went through the
24 phone bills, Marzook's phone bills with regard to calls
25 between Marzook and the Defendant Mohamed El Mezain. Do you

1 recall that?

2 A. I do.

3 Q. And he identified maybe 30 or so calls that were one or
4 two minutes in duration. Do you recall that?

5 A. I do.

6 Q. How many calls in total were there between the Defendant
7 Marzook and El Mezain, per Marzook's phone records that the
8 FBI obtained?

9 A. There were a large number of them. If you could show me
10 the chart to refresh my memory on how many. There were 52
11 calls from Marzook to Mr. El Mezain and four calls from El
12 Mezain to Marzook.

13 Q. This was over about a two-year time period; little over
14 two years in total?

15 A. '89 to '93 or January of '93.

16 Q. Okay. Do you recall that in showing you some of these
17 calls there were several pages on the phone bills where calls
18 were made four or five times in a row?

19 A. I do.

20 Q. Did you come across anything -- Withdrawn.

21 During the time period of these calls between Marzook to
22 El Mezain, what was Marzook's role in Hamas?

23 A. He was the number one leader of Hamas worldwide.

24 Q. Did you come across any evidence that would explain why
25 the leader of Hamas would be trying to reach the Defendant

1 Mohamed El Mezain so urgently where he would call one after
2 another after another?

3 A. No.

4 Q. Did you come across any evidence where the phone calls
5 between the Defendant Mohamed El Mezain and Marzook were in
6 any way time-wise related to an HLF event or activity?

7 A. Yes.

8 Q. What?

9 A. There were some board meetings that happened in the early
10 '90s, and there were phone calls between Marzook and the
11 Defendants around the time of those board meetings.

12 In addition to that, there were phone calls around the
13 times Marzook was sending those \$100,000 payments that were
14 forwarded on to the Islamic Relief Committee. So some of the
15 phone calls at least we can tie to or they occurred at times
16 when the HLF was having significant events.

17 Q. You don't know what they were saying?

18 A. I have no way of knowing.

19 Q. Do you recall Mr. Dratel went through with you El Mezain
20 Wiretap No. 1, which was all those faxes?

21 A. Yes.

22 Q. Okay. Do you recall he asked you if those were all the
23 faxes received by the Defendant Mohamed El Mezain that was
24 intercepted by the FBI?

25 A. I do.

1 Q. Were they all the faxes?

2 A. No.

3 Q. Why were these particular faxes chosen to be exhibited?

4 A. Because they relate to the issues that we are discussing
5 in this case.

6 MR. JONAS: If we can pull up El Mezain Wiretap No.
7 1, page 105. Enlarge the top, please.

8 Q. (BY MR. JONAS) Just read the first line.

9 A. "Dr. Mahmud Al-Zahar, spokesman for the Hamas movement in
10 Gaza Strip said" --

11 Q. That is sufficient. That is all I need. Did we see a
12 videotape with the Defendant Mohamed El Mezain and Mahmoud
13 Al-Zahar?

14 A. We did.

15 MR. JONAS: Let's play Mushtaha Search No. 1,
16 clip A?

17 MR. DRATEL: Object, Your Honor. This is beyond the
18 scope.

19 THE COURT: Overruled.

20 (Whereupon, Mushtaha Search No. 1, Clip A was
21 played, while questions were propounded.)

22 Q. (BY MR. JONAS) What is the date of Mushtaha Search
23 No. 1, that videotape?

24 A. I believe that is the one from 1990 that we have been
25 discussing. Yes.

1 Q. So that was several years before this fax that we just
2 looked at?

3 A. It was.

4 Q. Okay. Who do you see in the audience, Agent Burns?

5 A. The Defendant Mohamed El Mezain is there with the beard
6 seated next to Mahmoud Al-Zahar, the individual in the striped
7 tie. And then on the other side is Jamil Hamami, the other
8 Hamas leader that we have been talking about.

9 Q. Okay. Thank you.

10 Agent Burns, do you recall Government's Exhibit HLF
11 Search No. 29? That was the Fatwas taken from the San Diego
12 office, I believe.

13 A. I don't have exhibit number memorized, but yes, I recall
14 the Fatwas.

15 Q. Mr. Dratel showed you a few additional pages from that
16 exhibit?

17 A. He did.

18 MR. JONAS: If we can put HLF Search No. 29. Go to
19 page 3, please. Enlarge the top, please.

20 Q. (BY MR. JONAS) Agent Burns, I am going to hand you what
21 has been marked as Defendants' HLF Search No. 29. Agent
22 Burns, the paragraph that is on the screen, that says
23 Government's HLF Search No. 29?

24 A. Yes.

25 Q. Okay. That is written by whom?

1 A. That is written by Akeel Al-Nashmi.

2 Q. Can you read the first paragraph, please?

3 A. "We believe that the meaning of 'In the Path of Allah'
4 includes supporting Islamic da'wa and making the Word of Allah
5 high (prevail). This is strongly supported because it is a
6 general term that includes Jihad with arms to fight the
7 enemies which is more important than other things. The same
8 term also includes everything that pleases Allah because of
9 the term's generality and there is nothing to support its
10 specificity to Jihad only, therefore it remains a general term
11 that includes all interests of Muslims especially anything
12 that makes them victorious."

13 Q. Okay. This says this was authored by the dean of the
14 University of Kuwait. Was it adopted by anyone else at the
15 bottom of the page?

16 A. It was.

17 Q. Okay. And you have talked about Yousef El Karadawi in
18 relation to this case. Correct?

19 A. Correct.

20 Q. What was his relationship?

21 A. He was a speaker for the HLF.

22 Q. The Defendants' HLF No. 29, those additional two pages,
23 do you recall reading something about it being okay to give to
24 the West if it is legal?

25 A. Yes.

1 Q. Where was the person who wrote this located?

2 A. At the University of Kuwait.

3 Q. As far as you know, was it illegal or is it illegal to
4 give money to Hamas if you are in Kuwait?

5 A. As far as I know --

6 MR. DRATEL: Objection, Your Honor.

7 THE COURT: You might establish a predicate if she
8 has any basis.

9 Q. (BY MR. JONAS) Do you know if it was illegal to give
10 money to Hamas if you live in Kuwait?

11 A. I don't know.

12 Q. Okay. Do you recall Mr. Dratel went through with you
13 this morning Project 236, I believe? It is InfoCom Search
14 No. 3.

15 A. Yes.

16 Q. And he put on the screen those pages of the Red Cross
17 forms.

18 A. Yes.

19 Q. Okay. Do you recall when you testified about that
20 project as well during your direct testimony?

21 A. Yes.

22 Q. Can you remind us why -- what was the purpose of you
23 talking about it in your direct testimony?

24 A. We were discussing the fact that Mousa Abu Marzook had
25 given \$100,000 to the HLF after placing a phone call to the

1 Defendant --

2 MR. DRATEL: Object to a rehashing of direct. If it
3 is targeted to something on cross, then it is appropriate.

4 THE COURT: He tied it into an issue that came up on
5 cross. Go ahead.

6 THE WITNESS: That Mousa Abu Marzook had given
7 \$100,000 to the HLF, which the HLF then sent to the Islamic
8 Relief Committee for that project that he was referencing.

9 Q. (BY MR. JONAS) Okay. Do you recall testifying about how
10 much money approximately in total was earmarked for the
11 recipients of the project binder per the paperwork in the
12 file?

13 A. I do.

14 Q. How much was that?

15 A. Initially it was confusing, but if you looked at the
16 suggested amount for the families, the hundred needy families
17 they had the support for, would have been \$20,000 as opposed
18 to \$100,000.

19 Q. Was there anything in the file indicating where the
20 remaining \$80,000 went?

21 A. Only the final project report that came back two years
22 later and said that they had supported 500 families.

23 Q. Was there any supporting documentation to show that they
24 supported 500 families?

25 A. No.

1 Q. I want to go back for a moment to a question by Ms.
2 Moreno. Do you recall she went through some of the Elbarasse
3 search documents with you?

4 A. Yes.

5 Q. She questioned you about the dates of those documents and
6 she circled the date in red. Do you recall that?

7 A. I do.

8 Q. And I don't see her chart, but do you recall that she had
9 a timeline?

10 A. I do.

11 Q. It was a demonstrative chart?

12 A. Yes.

13 Q. And it was down next to the lectern?

14 A. Yes.

15 Q. And Ms. Moreno would draw on the side of the timeline the
16 time of the Elbarasse documents after you testified about it?

17 A. Yes.

18 Q. If these Elbarasse documents are before Hamas is
19 designated, why are they important to this case?

20 A. Because, again, they go to show the intent of these
21 individuals and what they were thinking at the time when the
22 HLF was created, why it was created, why it began operating,
23 and why it continued to operate, and at a later date why you
24 see them concealing some of their activities and toning down
25 their rhetoric.

1 Q. Do you recall Ms. Hollander asked you about Oklahoma City
2 bombing?

3 A. I do.

4 Q. And she played a video and you identified some people
5 wearing HLF shirts in the video?

6 A. Yes.

7 Q. And she showed you a letter from a man named Larry Jones
8 from Feed the Children to the HLF thanking them for their
9 support. Do you recall that?

10 A. I do.

11 Q. Agent Burns, did you see anything in all the material
12 that you reviewed that indicates that the HLF told Larry Jones
13 that they were part of the Palestine Committee?

14 MR. DRATEL: Objection, Your Honor.

15 THE COURT: Overruled.

16 THE WITNESS: No.

17 Q. (BY MR. JONAS) She asked you -- She showed you a
18 document from the mayor of San Diego that proclaimed an HLF
19 Day in San Diego.

20 MR. DRATEL: Can we get a continuing objection to
21 this issue? It is about people -- I mean, there is no basis
22 for these kinds of questions, Your Honor. I think they are
23 improper.

24 THE COURT: You will need to object. I am not sure
25 what -- You just need to object, counsel, as you need to. The

1 objection is overruled.

2 Q. (BY MR. JONAS) Do you recall about the mayor of San
3 Diego and a proclamation about being an HLF Day?

4 A. Yes.

5 Q. What evidence, if any, or what documents or any phone
6 calls or anything you reviewed indicated that the HLF told the
7 mayor of San Diego that they were part of the Palestine
8 Committee?

9 A. I found nothing.

10 MR. DRATEL: I object.

11 THE COURT: Overruled.

12 Q. (BY MR. JONAS) You were asked questions about the
13 Catholic charities to the HLF, do you recall that?

14 A. Yes.

15 Q. What evidence if any did you come across that indicated
16 the HLF told the Catholic charities that they were part of the
17 Palestine Committee?

18 MR. DRATEL: Objection, Your Honor.

19 MS. HOLLANDER: I object. This is not proper
20 redirect.

21 MR. DRATEL: This is not proper examination to begin
22 with, Your Honor.

23 THE COURT: I think it does respond to issues
24 brought up on cross, and he may ask. Overrule those
25 objections.

1 THE WITNESS: I found nothing.

2 Q. (BY MR. JONAS) Do you recall Ms. Hollander asked you
3 about aid the HLF gave to -- in Kosovo and in Turkey Do you
4 recall that?

5 A. I do.

6 Q. All right. Do you recall that at the end of the your
7 direct testimony we went through financial schedules of
8 payments between the HLF and certain zakat committees and
9 other charitable organizations?

10 A. Yes.

11 Q. We concluded with that on Thursday, I think it was.

12 A. Yes.

13 Q. Okay. Was the HLF paying these particular --

14 MR. DRATEL: Objection, Your Honor. This was not
15 part of the cross. This was supposed to be part of the next
16 round of examination.

17 MS. HOLLANDER: There was not one single word on
18 cross about this.

19 MR. JONAS: This goes directly to the whole nature
20 of the questioning by the Defense attorneys, and I am not
21 going to go yet into the subject matter the Defense attorneys
22 are concerned about. That is being saved for the second part
23 of Agent Burns' testimony.

24 THE COURT: Overruled. Go ahead.

25 Q. (BY MR. JONAS) Agent Burns, through those financial

1 schedules that we went through, was the HLF paying those zakat
2 committees and charitable organizations in the West Bank and
3 Gaza during the time period that the Elbarasse documents were
4 in existence?

5 A. Yes.

6 Q. Or created?

7 A. Yes.

8 Q. Okay. Was the HLF paying the same committees during the
9 time period of the Philadelphia meeting?

10 A. Yes.

11 MS. HOLLANDER: Objection. This is all leading, and
12 it is really beyond the scope.

13 THE COURT: Overruled.

14 Q. (BY MR. JONAS) Was the HLF paying the same committees
15 during the time period of the dispute between the HLF and the
16 Al-Aqsa Educational Fund that was settled by the Palestine
17 Committee and Marzook?

18 A. They were.

19 MR. DRATEL: Can we have a continuing objection to
20 this?

21 THE COURT: Yes, you can, and it is overruled.

22 Q. (BY MR. JONAS) Was the HLF paying the same zakat
23 committees in the West Bank and Gaza during the time period
24 Hamas was first designated as a specially designated terrorist
25 in 1997?

1 A. Yes.

2 Q. Was the HLF paying the same zakat committees in the West
3 Bank and Gaza during the time period Hamas was designated as a
4 foreign terrorist organization in 1997?

5 A. Yes.

6 Q. Did the HLF continue to pay the same zakat committees
7 when they were giving this aid in Kosovo and Turkey?

8 A. Yes.

9 Q. Was the HLF continuing to pay the same zakat committees
10 in the West Bank and Gaza when they were shut down in 2001?

11 A. Yes.

12 MR. JONAS: Your Honor, I pass the witness.

13 THE COURT: Okay. Let's go ahead and break for
14 lunch. Be back at 1:45.

15 Please recall the instructions we have been over.

16 (Whereupon, the jury left the courtroom.)

17 THE COURT: All right. We are in recess until 1:45.

18 MR. DRATEL: That line of questioning about did so
19 and so tell so and so, two completely unrelated people, has
20 been found improper in *United States v. Jones* from the Second
21 Circuit. I will try to find the citation. Obviously I don't
22 have it. I was not anticipating those questions. But that
23 particular type of question is just improper.

24 THE COURT: Okay. All right. The objection has
25 been overruled.

1 (Lunch recess.)

2 THE COURT: I received, Mr. Mysliwicz, your proposed
3 instruction from all Defense counsel. I am not prepared to
4 give this instruction just yet. Let me give it some thought
5 and we will come back to that.

6 MR. JONAS: We object to it, Your Honor.

7 THE COURT: I think I got that at the bench
8 conference.

9 MR. CLINE: Your Honor, if Your Honor ultimately
10 declines to give it, I just would like to read it into the
11 record, or somehow get it into the record because we just
12 emailed it to Your Honor.

13 THE COURT: We will make sure that gets into the
14 record.

15 MR. DRATEL: I just want to express again, I guess
16 it is an objection, to waiting on the instruction. I think it
17 should be given at the time the evidence comes in so it
18 doesn't accumulate in a way that obviously would be contrary
19 to instructions later. It is too much to overcome.

20 THE COURT: All right.

21 Ready?

22 MS. MORENO: Ready.

23 THE COURT: Go ahead and bring the jury in.

24 (Whereupon, the jury entered the courtroom.)

25 THE COURT: Ms. Moreno?

1 MS. MORENO: Thank you, Your Honor.

2 REXCROSS EXAMINATION

3 By Ms. Moreno:

4 Q. Good afternoon, Agent Burns.

5 A. Good afternoon.

6 Q. I just have a few questions based on your redirect from
7 Mr. Jonas.

8 Lets's talk a little bit about -- This is Government
9 Exhibit No. 175, which I believe is the only Government
10 exhibit that was introduced during your redirect. Do you
11 remember this letter?

12 A. I do.

13 Q. Okay. And this is a letter that you testified about on
14 redirect. Do you remember that?

15 A. I do.

16 Q. Okay. I am not sure that you can read it, Agent Burns.
17 Should I zoom in a little more?

18 A. I can see it.

19 Q. Okay. Now, this is on Holy Land Foundation
20 correspondence letterhead. Correct?

21 A. Correct.

22 Q. And it is dated December 2nd of 2000.

23 A. Correct.

24 Q. All right. Now, it is addressed to a Dr. Riad Azanoun.
25 Correct?

1 A. Correct.

2 Q. And it indicates that his title is the Ministry of health
3 of the Palestinian National Authority. Correct?

4 A. Correct.

5 Q. And the Palestinian National Authority is an entity I
6 believe you have discussed in this trial with Mr. Dratel and
7 others. Is that right?

8 A. Correct.

9 Q. And the PNA was the secular -- is a secular organization.
10 Correct?

11 A. I believe that this was the Palestinian Authority, the
12 party that was in control of the Palestinian territories,
13 which is secular.

14 Q. And agree it is secular?

15 A. Yes.

16 Q. And in fact we are talking about a component of the PNA
17 is Fatah. Correct?

18 A. Correct.

19 Q. And Fatah, I think you have discussed before, is the
20 rival of Hamas?

21 A. That is correct.

22 Q. So this is a letter from the Holy Land Foundation to the
23 Ministry of health of the rival organization of Hamas. Agree?

24 A. Yes.

25 Q. Okay. And in this letter it talks about some

1 wheelchairs. Correct?

2 A. It does.

3 Q. Now, charities can receive donations and contributions in
4 a number of ways, including cash. Would you agree?

5 A. Yes.

6 Q. And charities can also receive in kind donations. Would
7 you agree with that?

8 A. Yes.

9 Q. And in fact, in your vast investigation of this case, you
10 have come across Holy Land Foundation in kind contributions in
11 addition to the cash that they received over the years.

12 Correct?

13 A. Correct.

14 Q. And in fact, some of those in kind contributions included
15 food. Correct?

16 A. I don't recall food specifically, but there were various
17 and different kinds of gifts in kind.

18 Q. Do you recall backpacks?

19 A. Yes.

20 Q. Do you recall clothing?

21 A. Yes.

22 Q. Do you recall medicine?

23 A. Are we talking about gifts?

24 Q. In kind contributions.

25 A. From the HLF or to the HLF?

1 Q. To the HLF. Well, let's start to the Holy Land
2 Foundation.

3 A. Okay. And I am sorry. Which item were you asking about?

4 Q. I was on to medicine.

5 A. Okay. Yes, there was medicine.

6 Q. Okay. And wheelchairs. Correct?

7 A. Correct.

8 Q. And then the Holy Land Foundation would take those items
9 and facilitate their distribution in a fashion as evidenced in
10 this letter. Correct?

11 A. Correct.

12 Q. All right. Now, and this is something that charities do
13 all the time. Would you agree?

14 A. I am sure they do.

15 Q. Okay. Now, in this letter, this is the letter that
16 discusses a wheelchair contribution. Correct?

17 A. Correct.

18 Q. And in fact, the letter says a gentleman here, and you
19 might have read this, a gentleman here in America has donated
20 to the Foundation with the ultimate destination of the
21 Palestinian people in Gaza 494 new wheelchairs along with 50
22 amputee conversion kits and 200 elevating foot rests.

23 Correct?

24 A. Correct.

25 Q. What is, if you know, an amputee conversion kit?

1 A. I don't know.

2 Q. Okay. And so it wasn't just wheelchairs, but it appears
3 to have been these amputee conversion kits and these elevating
4 foot rests that were donated by a gentleman in America.

5 Correct?

6 A. That is what it says.

7 Q. To the Holy Land Foundation. And the Holy Land
8 Foundation is writing the Palestinian National Authority in
9 order to get a humanitarian waiver of Custom duties. Do you
10 see that?

11 A. Yes.

12 Q. Okay. And in fact, who is Akram Mishal?

13 A. He was one of the officers of the Holy Land Foundation.

14 Q. And he signs his title as the Director of Projects and
15 Grants. Do you see that?

16 A. I do.

17 Q. And in fact, in your investigation you saw evidence that
18 indeed he did manage the projects and grants. Correct?

19 A. That is correct.

20 Q. Okay. And how does he end -- Why don't you read to the
21 jury what the Holy Land Foundation expressed to the
22 Palestinian National Authority where it begins with "It is."

23 A. Okay. It says, "It is our humble honor to be a part of
24 the rehabilitation of Palestine. Allow me to thank you in
25 advance for your generous assistance."

1 MS. MORENO: Thank you, Your Honor. Pass the
2 witness.

3 THE COURT: Mr. Westfall?

4 MR. WESTFALL: Your Honor, we have no further
5 questions for Agent Burns.

6 THE COURT: Ms. Cadeddu? We will just go in the
7 same order. Any questions?

8 MS. CADEDDU: Yes, Your Honor.

9 RECROSS EXAMINATION

10 By Ms. Cadeddu:

11 Q. Agent Burns, I think you testified on redirect that it
12 didn't matter to you whether Mufid Abdulqader was paid for
13 fundraising or not. Is that correct? Did you testify to
14 that?

15 A. I did.

16 Q. Did you make that statement?

17 A. I did.

18 Q. And this document here, which is Demonstrative No. 19, is
19 an exhibit that you created. Is that right?

20 A. I and some other people, yes.

21 Q. And if you take a look at this exhibit HLF Search No.
22 147, the description is "IAP convention, \$2,721 attributed to
23 Mufid Abdulqader." Do you see that?

24 A. I do.

25 Q. That is a government exhibit. Right?

1 A. It is.

2 Q. And you put that exhibit into evidence?

3 A. We did.

4 Q. And then this one, "Eid bonus payment" HLF Search No.
5 144, that is a Government exhibit?

6 A. It is.

7 Q. And you put that into evidence?

8 A. Yes.

9 Q. HLF Search No. 145 right below it, "receipt for payment
10 to Mufid Abdulqader from HLF for \$3,489," that is also a
11 government exhibit. Correct?

12 A. It is.

13 Q. And you put that into evidence?

14 A. Yes, we did.

15 Q. Now, I think that Mr. Jonas asked you on redirect to take
16 a look at a clip, HLF Search No. 144 clip A. Do you remember
17 that?

18 A. We looked at a couple of clips. I can't remember exactly
19 which one it is, but I know that we looked at some.

20 Q. And I think that was the one with the flag, and you
21 stated that the writing that was on the flag was a saying used
22 by Hamas and other Islamists. Do you remember saying that?

23 A. I do.

24 Q. And that saying in fact is "No God but Allah," and there
25 is no God but Allah, and Muhammad is the profit of Allah."

1 That is what it says on the flag. Right?

2 A. That is correct.

3 Q. That principle that there is a God but Allah and there is
4 no prophet but Muhammad is the first pillar of Islam, isn't
5 it?

6 A. I think so.

7 Q. I think you also testified on redirect that Mr.
8 Abdulqader sang in a band and volunteered for the Holy Land
9 Fund. Do you remember that?

10 A. I said he sang in the band and that he raised funds for
11 the HLF.

12 Q. And those were the two -- the two sets of activities that
13 you were asked about on redirect. Do you remember that?

14 A. I do.

15 Q. But, in fact, we have talked about a couple of other
16 people who also sang in the band. Right?

17 A. Yes.

18 Q. Sabri Sabri is one of those?

19 A. Yes.

20 Q. And Sabri Sabri was also a Holy Land foundation
21 volunteer. Correct?

22 A. I believe that he was.

23 Q. Kifah Mustapha, he was a band member who sang in the
24 band.

25 A. Yes.

1 Q. And Kifah Mustapha was actually an employee at Holy Land.
2 Right?

3 A. He was.

4 Q. In fact, if we take a look here at Government Exhibit HLF
5 Search No. 2 -- It is kind of hard to see?

6 A. It is there in the middle of the screen.

7 Q. Right here. Right?

8 A. Correct.

9 Q. Kifah Mustapha. And Munzer Taleb is another band member
10 you identified on the screen, and agreed had been singing with
11 the band since the beginning.

12 A. That is correct.

13 Q. And he was also a Holy Land volunteer. Isn't that right?

14 A. I believe he did some volunteer work for them.

15 Q. In fact, if we take a look at Government's Exhibit No.
16 HLF Search 16, page 2, this is the local speaker list, we see
17 here Munzer Taleb listed right under Mufid Abdulqader.

18 A. Correct.

19 Q. And then I can't remember if we talked about this
20 gentleman or not, but Ali Ahmad is another band member?

21 A. That was one that I said I am not real familiar with him.

22 Q. Okay. But he is a Holy Land employee. Correct? If we
23 go back to Holy Land Search No. 2, do you see his name? Do
24 you see it right here, Ali Ahmad?

25 A. I see that name.

1 MS. CAEDDU: Pass the witness.

2 THE COURT: Ms. Hollander?

3 MS. HOLLANDER: Thank you, Your Honor.

4 REXCROSS EXAMINATION

5 By Ms. Hollander:

6 Q. Good afternoon, Agent Burns. I just have a few
7 questions.

8 You mentioned in your redirect that you weren't sure
9 whether Shukri's phone had FISA wiretapped.

10 A. Yes. I can't recall. I think I knew at one point, but
11 it has left me.

12 Q. Okay.

13 MS. HOLLANDER: Your Honor, may I approach and see
14 if I can refresh her recollection?

15 THE COURT: Yes.

16 Q. (BY MS. HOLLANDER) Has your recollection been refreshed
17 that you did have a FISA wiretap on his home phone?

18 A. Yes. Thank you.

19 Q. Okay. Thanks. A lot of numbers to remember.

20 A. Too many.

21 Q. Now, you also talked about the trip that Shukri took to
22 Palestine in 1991.

23 A. That is correct.

24 Q. And you had two documents, the InfoCom No. 51, which is
25 Shukri's report, and the document that was photographed at Mr.

1 Ashqar's house, Ashqar Wiretap No. 2. Correct?

2 A. Correct.

3 Q. Okay. Both those documents were originally in Arabic.
4 Correct?

5 A. They were.

6 Q. Okay. And you mentioned that -- You also mentioned in
7 your redirect and I think you mentioned this on direct also,
8 that Holy Land and the Defendants toned down their language
9 after 1995? Do you recall mentioning that?

10 A. I think it was after 1993, after Oslo.

11 Q. 1993 after Oslo. But in Shukri's report, that is InfoCom
12 No. 51, he doesn't mention Hamas anywhere, does he, in that
13 report?

14 A. He doesn't.

15 Q. Right. And yet that report was written in 1991.
16 Correct?

17 A. Correct.

18 Q. Okay. And Shukri's report says that he met with a Mr.
19 Abu Khalid. Correct?

20 A. Correct.

21 Q. And Ashqar's -- The report from Ashqar says that they met
22 with Al-Zahar. Correct?

23 A. Correct.

24 Q. Now, I have just a couple of questions from the
25 Philadelphia meeting, in talking about the work that Holy Land

1 did in Oklahoma City and various other places, and you
2 mentioned what they had said at the Philadelphia meeting.

3 A. Yes.

4 Q. Okay. On page 7 of Philadelphia Meeting No. 14, what
5 they said was, "In the past we gave the Islamists \$100,000 and
6 we gave the others \$5,000." Correct?

7 A. Correct.

8 Q. I just wasn't sure whether I heard you correctly when you
9 said it.

10 Now, you also talked from Philly Meeting -- this is
11 Government's Philly Meeting No. 5 at 14. Let me just put this
12 on the elmo. You mentioned this part, "We will form an
13 organization." Do you see that?

14 A. I do.

15 Q. But now, he is quoting someone else there, isn't he? He
16 says, "So, our brother is telling you, 'Instead of being taken
17 by surprise,'" and then he said -- so this is in quotes,
18 because it is not actually what Shukri said. It is what
19 Shukri is quoting someone else saying. Correct?

20 A. He is referring to what someone else at the meeting was
21 discussing.

22 Q. Right. He was quoting someone else.

23 A. Correct.

24 Q. And also on Government's Philly Meeting No. 9 at page 4,
25 you quoted -- You read this part where he said, "There are

1 three options that are presented."

2 A. Correct.

3 Q. Now, in fact, if you go back to the beginning of Philly
4 Meeting No. 9, Shukri says the purpose of this session.

5 Right?

6 A. He does.

7 Q. Right. And then on the next page. "Okay. The points
8 which were mentioned, our brothers, are as follows." And then
9 he starts to list them. Correct?

10 A. He does.

11 Q. So he is summarizing what points were made at the
12 previous session. Correct?

13 A. Correct.

14 Q. So you have to know -- If you wanted to follow this, it
15 would be important to know what was said at the previous
16 session. Correct?

17 A. It would be important to know what was in the session,
18 but I think he itemizes it or sums it up pretty well.

19 Q. He does sum it up. And so the next page he continues to
20 sum it up. Correct?

21 A. Correct.

22 Q. And the page you read, he was still summing up what other
23 people had said. Correct?

24 A. Correct.

25 Q. Now, you were also asked by Mr. Jonas, and then Ms.

1 Moreno mentioned the -- Before I get to that, let me ask you
2 this. You talked earlier about how much Holy Land gave to
3 others Islamists and to others. Right?

4 A. I was asked about that.

5 Q. You were asked about that. And, in fact, we talked a
6 little bit the other day about Turkey, and Holy Land actually
7 received appreciation from the Ministry from Foreign Affairs
8 in the Republic of Turkey, and you found those in the
9 documents. Isn't that correct?

10 A. I believe I recall seeing that.

11 Q. Let me just --

12 MS. HOLLANDER: May I approach, Your Honor?

13 THE COURT: Yes.

14 MS. HOLLANDER: Your Honor, at this time I would
15 like to move Defendants' Exhibit No. D-174, the document from
16 the Ministry of Foreign Affairs in Turkey that she just
17 identified.

18 THE COURT: Mr. Jonas?

19 MR. JONAS: Your Honor, no objection.

20 THE COURT: All right. That is admitted.

21 Q. (BY MS. HOLLANDER) And this is that document. Correct?

22 A. It is.

23 Q. Would you just read the body of the document please?

24 A. It says, "In profound appreciation of and with deep
25 gratitude for their contributions to the relief efforts in the

1 aftermath of the earthquake disaster in northwestern Turkey on
2 August 17th, 1999."

3 Q. And who is it signed by?

4 A. Minister Ismail Cem.

5 Q. Now, the Government just mentioned on redirect this
6 project of Holy Land involving wheelchairs. Correct?

7 A. Yes.

8 Q. I believe that we saw -- Let me ask you this. Holy Land
9 also had wheelchair projects in Bosnia, did it not?

10 A. It may have. I would need to see, if you have some
11 information there to refresh my memory. It has been a long
12 time --

13 MS. HOLLANDER: May I approach, Your Honor?

14 THE COURT: Yes.

15 Q. (BY MS. HOLLANDER) Now that your memory has been
16 refreshed, you do recall that you see seized some documents
17 regarding a relationship between the Holy Land Foundation and
18 the Wheelchair Foundation?

19 A. Yes.

20 Q. And it involves wheelchairs, two documents that I showed
21 you, and both of those came from Holy Land. Correct?

22 A. They did.

23 Q. Okay.

24 MS. HOLLANDER: Your Honor, I would like to move
25 Defendants' Exhibit No. 1336 and 1337 at this time.

1 MR. JONAS: Your Honor, I am going to object. This
2 goes beyond the scope of redirect. The letter I showed Agent
3 Burns that we moved into evidence went directly to the
4 pictures of the wheelchairs that Ms. Hollander questioned
5 Agent Burns on on cross. Ms. Hollander is now going into
6 other projects of the Holy Land Foundation that she could have
7 gone into on cross and she decided not to.

8 THE COURT: I think they did. I hadn't ruled on
9 those objections, frankly, and I think it is related to that
10 entire issue. I will overrule that objection, and Defense
11 Exhibits No. 1336 and 1337 are admitted.

12 Q. (BY MS. HOLLANDER) Let me ask you a question, Agent
13 Burns, about these -- This document -- You said there are
14 about 500 boxes of documents?

15 A. That is correct.

16 Q. All right. And this document that the Government
17 introduced during your redirect?

18 A. Yes.

19 Q. Can you read the number there, HLDL? What does that say?

20 A. HLDL130, and then it is No. 846.

21 Q. Now, that means it is in box 130, doesn't it?

22 A. That is correct.

23 Q. And let me show you Defendants' Exhibit No. 1336. That
24 was also in box 130, wasn't it?

25 A. It was.

1 Q. So that is in the same box with the document that the
2 Government introduced.

3 A. Correct.

4 Q. And this document involves a donation agreement between
5 the Holy Land Foundation and the Wheelchair Foundation.
6 Correct?

7 A. Correct.

8 Q. And it involves a donation of I think it says \$450 each
9 totaling \$112,000.

10 A. Correct.

11 Q. \$112,500. Correct?

12 A. Yes.

13 Q. And it says it is for Sarajevo, Bosnia?

14 A. It does.

15 Q. 24 April, 2001.

16 A. I am looking for the date.

17 Q. You may not be able to read it. It is right here.

18 A. Oh, okay. Yes.

19 Q. Okay? You haven't seen this document in quite a while,
20 have you?

21 A. It has been a while.

22 Q. And the second page simply says 250 wheelchairs,
23 essentially. Correct?

24 A. It does.

25 Q. Now, document D-1337 was also in HLDL130. Correct?

1 A. Correct.

2 Q. So this was in the same box with the document the
3 Government found. Correct?

4 A. That is correct.

5 Q. And this one says that it is thanking -- the Wheelchair
6 Foundation is thanking Holy Land for basically providing it
7 with \$36,000 so that it can buy more wheelchairs. Correct?

8 A. Correct.

9 Q. And this photograph is a photograph showing Holy Land and
10 the Wheelchair Foundation working together to provide
11 wheelchairs in Palestine. Correct?

12 A. I can't see -- Hold on one second. I can tell it is in
13 the Middle East, but I can't see where it references that it
14 is actually in Palestine. I can't --

15 Q. It is in Arabic, so I am assuming it is not in Bosnia, I
16 guess.

17 A. That is correct.

18 Q. It could be somewhere else in the Middle East, but it is
19 the Holy Land Foundation and the wheelchair --

20 A. That is correct.

21 Q. The World Wheelchair Foundation. Correct?

22 A. Correct.

23 Q. Thank you.

24 MS. HOLLANDER: I have no further questions.

25 THE COURT: Okay. Thank you.

1 Mr. Dratel?

2 MR. DRATEL: I do, Your Honor. Thank you.

3 REXCROSS EXAMINATION

4 By Mr. Dratel:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. You testified on redirect about the phone conversations,
8 about the phone records showing calls between Mr. El Mezain's
9 number and Mr. Marzook's number. Right?

10 A. Right.

11 Q. Do you remember that? You talked about Mr. El Mezain's
12 deposition. Right?

13 A. Correct.

14 Q. And that deposition was September 10th, 2003. Right?

15 A. Correct.

16 Q. So that is about ten and a half years after the last of
17 the phone contacts on your chart. Right? Which is April of
18 '93, those records? April of '93. Do you want to see it?

19 A. No, I think it was January of '93.

20 Q. So even more. Right?

21 A. Right.

22 Q. More than ten years. You talked about InfoCom Search
23 No. 3 and 4, project 236. Do you remember that, on redirect?

24 A. Yes.

25 Q. With Mr. Jonas? And you talked about the amount of money

1 and the number of families?

2 A. Yes.

3 Q. Right? And that that is what confused you?

4 A. That is correct.

5 Q. Okay. I show you part of InfoCom Search No. 3. And you
6 see that number that says 135?

7 A. I do.

8 Q. Okay. I show you another one, it says 148?

9 A. Correct.

10 Q. Right? And just one more I will show you. Do you see
11 this one, the number is 222?

12 A. I do.

13 Q. Okay. And for InfoCom Search No. 4, which is a similar
14 project at a similar time. Right?

15 A. Correct.

16 Q. Let me show you this one where it says number 532. Do
17 you see that?

18 A. That is what it says.

19 Q. Is that what it says. Right?

20 A. That is what it says.

21 Q. Yeah. And that one is 583?

22 A. That is what it says.

23 Q. Correct? Okay.

24 By the way, the final report on InfoCom No. 3 and 4 are
25 in Arabic originally?

1 A. Yes.

2 Q. Now, on redirect you read passages from the Philadelphia
3 meeting. Correct?

4 A. That is correct.

5 Q. And one you read was from was Philadelphia Meeting No. 5,
6 transcript 5, the Government's Exhibit No. 5, and from page
7 14. And I am just going to put it on the elmo again and I
8 will read it. It says "So, our brother had a suggestion to
9 form an organization--the format he suggested was somewhat
10 controversial, I didn't discuss it with him, but I believe its
11 concept is sound--that we should start right now, my brothers,
12 begin thinking about establishing alternative organizations
13 which can benefit from a new atmosphere, ones whose Islamic
14 hue is not very conspicuous." Do you remember that?

15 A. I do.

16 Q. And your answer was that the organization that was
17 started as a result of that was CAIR, C-A-I-R?

18 A. That was an organization that was created after the
19 Philadelphia meeting as a result of this.

20 Q. That was what the answer was by your question by Mr.
21 Jonas. Right? You said CAIR. And you distinguish it from
22 Care, C-A-R-E.

23 A. That is correct.

24 Q. And that stands for the Council on American-Islamic
25 Relations. Right?

1 A. That is correct.

2 Q. Just so we are clear, this is the one with the
3 inconspicuous Islamic hue?

4 A. Correct.

5 MR. DRATEL: Your Honor, may I approach a second?

6 THE COURT: Yes.

7 (The following was had outside the hearing of the
8 jury.)

9 MR. DRATEL: Your Honor, I know you kept these out
10 initially, but considering there are three reasons why I think
11 now they should come into evidence, actually four.

12 They put CAIR in on the cross as an organization that is
13 a part of the Palestine Committee and the Muslim Brotherhood.
14 Mr. El Mezain receives these faxes from that organization.

15 Second, they said it is a less conspicuous Islamic hue.
16 These faxes impeach that 100 percent.

17 Three, on redirect she was asked why they didn't put in
18 any other faxes. She said they used only the ones that are
19 relevant to the issues in this case. They put CAIR in this
20 case and made it relevant to this case. I did not mention
21 CAIR in my cross at all. It impeaches her impeaches, their
22 theory, and it also goes to this whole withheld issue, because
23 really we are in a bind here, I mean, in the sense that "we
24 only put in the faxes that are relevant." We have all the
25 faxes, and we would put in ones that are relevant. These are

1 relevant --

2 THE COURT: I don't think these are relevant. I
3 have never understood why they are relevant.

4 MR. DRATEL: Because they are saying CAIR is some
5 sort of a secret organization. This is an organization that
6 is out there in Washington, D.C. lobbying out there talking
7 about Islamic issues. It is not part of this secret Palestine
8 Committee thing. This impeaches that 100 percent.

9 Also she said that they only put in the faxes that were
10 relevant. They say CAIR is part of this conspiracy. It is a
11 co-conspirator. They are alleging CAIR is on the list. So
12 now for them to say it is not relevant, "we put in all the
13 relevant faxes to the issue of this case," CAIR is an issue in
14 this case, according to their testimony, but now I can't put
15 those faxes in. That makes the whole --

16 THE COURT: CAIR is still not in this case. It
17 doesn't have anything to do with the charges in this case.

18 MR. DRATEL: It does have --

19 THE COURT: You have now talked now for two or three
20 minutes. It is my turn.

21 It doesn't have anything to do with the issues in the
22 case that the jury is going to decide and what the jury is
23 going to be asked to do. This is a collateral issue. I don't
24 know why it came in, but it is not in the case. This case is
25 not about CAIR, and I don't think this is relevant.

1 Did you have any objections?

2 MR. JONAS: Yes.

3 THE COURT: I don't think it is relevant. I think
4 it is a collateral issue.

5 MR. DRATEL: I think it is all part of the
6 conspiracy that they are alleging of the Palestine Committee,
7 but I made my point. Thank you.

8 (The following was had in the presence and hearing
9 of the jury.)

10 Q. (BY MR. DRATEL) And CAIR has an office in Washington,
11 D.C. Right?

12 A. It does.

13 Q. And it lobbies governments and other organizations on
14 behalf of Islamic issues. Correct?

15 A. It does.

16 Q. Now, also during your testimony on redirect, Mr. El
17 Mezain was a fundraiser throughout the whole period we are
18 talking about, the whole relevant period for Holy Land
19 Foundation.

20 A. Correct.

21 Q. And traveling across the country doing that?

22 A. Yes, he did.

23 Q. And in 1999, you testified on redirect that his position
24 changed from chairman of the board to director of endowment.
25 Correct?

1 A. I believe I said director of endowment, but he moved to
2 San Diego and that is what he became.

3 Q. Right. And he also received a \$90,000 a year salary with
4 that director of endowment position. Correct?

5 A. Correct.

6 MR. DRATEL: I pass the witness.

7 THE COURT: Mr. Jonas, anything else?

8 MR. JONAS: No, sir.

9 THE COURT: Agent Burns, you may step down. Thank
10 you.

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