Summary of Administrative Review Board Proceedings for ISN 1012

The Administrative Review Board was called to order.

The detainee entered the proceedings.

Presiding Officer: Mr. Tukhi, welcome to this Administrative Review Board.

Detainee: (through translator) Thank you very much. In order to show my respect, I decided to attend this ARB. Since you gave me this opportunity, I would like to use that to defend myself.

Presiding Officer: Thank you.

The Presiding Officer announced the convening authority and purpose of the Administrative Review Board proceedings.

The Designated Military Officer (DMO) was sworn.

The Board Reporter, Translator, Assisting Military Officer (AMO), and Board Members were sworn.

The Presiding Officer asked the detainee if he wishes to make a statement under oath and offered the Muslim oath.

Detainee: (through translator) I don't want to take the oath but I promise that everything I say will be the truth and nothing but the truth and I'm not going to lie here.

The Presiding Officer read the hearing instructions to the detainee and confirmed that he understood.

The Assisting Military Officer presented the Notification of the Decision of the Administrative Review Board Form, Exhibit EC-A, to the Administrative Review Board.

The Assisting Military Officer presented the Enemy Combatant Election Form, Exhibit EC-B, to the Administrative Review Board.

The Assisting Military Officer read the AMO Comments from the Enemy Combatant Election Form, Exhibit EC-B.

Assisting Military Officer: The detainee's ARB interview was conducted on 18 July 2006. After reviewing the ARB's purpose and procedures, the Farsi translated Unclassified Summary of Evidence was read to the detainee. When asked if he wanted to attend the ARB, present a written or oral statement, or have the AMO speak on his

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behalf, the detainee stated he would attend the ARB and wished to respond to each statement of the Unclassified Summary of Evidence after it is presented. The detainee was attentive and polite throughout the interview. A copy of the English and Farsi translated Unclassified Summary of Evidence was provided to the detainee upon his request.

The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, and DMO-2 to DMO-3 to the Administrative Review Board.

The Presiding Officer noted from the Enemy Combatant Election Form that the detainee wanted to respond to each item of information from the Unclassified Summary as it was presented.

Designated Military Officer: (3.a.1) The detainee remained in Herat, Afghanistan for approximately three years after the Taliban took over before finally fleeing to Meshad, Iran. The detainee and his wife lived illegally in Iran for the first two years, after which the Iranian government allowed illegal Afghan refugees to become legitimate by officially registering.

Detainee: (through translator) I want to apologize, first of all, because I am a little bit sick. I'm suffering with the flu so my voice is not as clear.

Presiding Officer: If you need any assistance, let us know.

Detainee: (through translator) I'm fine. Thank you.

Detainee: (through translator) I would like to say that, when the Taliban took over Afghanistan, there were millions and millions of Afghans living in that country and I was one of them. I was born in the province of Herat and I lived there. I continued to live there. I don't think it should be a crime for the United States to put me in prison or take this fact against me as an allegation while I lived there when the Taliban took over. First of all, it wasn't three years, but it doesn't matter if I lived there three years or less than that. When the Taliban took over our city and I saw their rules and regulations, I was against them. It was too cruel and I couldn't take that. The government of Iran welcomed the Afghans who would not live under the Taliban's rule; that's why I fled the country. I did not live illegally in Iran. They knew where I lived. I had an address; I had a business over there; they knew. Just after two years, the government of Iran decided to register all Afghans that used to live there. I just went and registered myself. Before that, I was a refugee; I wasn't illegal. I was just living in Afghanistan or Iran. That shouldn't have anything to do with the United States. I didn't do any harm to the United States government while I lived in Afghanistan or in Iran. So you shouldn't take that as an allegation against me.

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Designated Military Officer: (3.a.2) During the detainee's time at the University of Herat, the detainee was in a student political organization called Basij, a group created to fight against the Taliban. One faction of the Basij group had weapons to fight the Taliban, but the detainee was not involved with this faction.

Detainee: (through translator) When the Taliban took over Afghanistan but before they took over Herat, our governor was Esmail Khan; he was still in power. He actually asked the people to gather and fight to defend our city against the Taliban; that was the organization named Basij.

Detainee: (through translator) This man is a minister in Karzai's government. I was fighting and I was actually working against the Taliban. It shouldn't be a crime to fight or defend your city against the Taliban. If that's a crime, why is the United States fighting right now with the Taliban in Afghanistan? I just don't understand this. In my previous board, this item was mentioned with those factors that favored my release or transfer. I was fighting against the Taliban. I had some activities against the Taliban. In this board, you're saying it is a factor that favors my continued detention.

Designated Military Officer: (3.a.3) The detainee ran a fabric store in an Afghan market area of Meshad, Iran. After two years, the Iranian police forced him and several other Afghan refugees to close their stores. The detainee was unemployed for about two months when he bought an automobile to use as a taxi so he could earn a living.

Detainee: (through translator) I think any human being or any man, who wants to earn money with dignity in a good way, should find something to do. What would you suggest? Would you prefer that I go and steal and live that way or just buy a car or get a car and do a decent job? Any good human being, any good man, should do something like this to find a legal and decent job to make a living. What do you think? Is it a crime to work, or to buy a car, or a taxi?

Presiding Officer: I don't have an opinion on it.

Designated Military Officer: (3.a.4) While the detainee was living in Meshad, Iran and still operating the fabric store, a friend asked the detainee to help two individuals get to Afghanistan, to which the detainee agreed.

Detainee: (through translator) Yes. My friend did call me and he said that he knew a couple of people who needed my help. He didn't ask me to transfer them or transport them to Afghanistan or anything like that. He asked me to go meet those two men and ask them what kind of help they needed. When I went to meet those two men and asked them what they needed, they told me that they haven't eaten for three days and they are Sunni's. In Iran, the majority of the people are Shiites, they didn't want to eat their food. They asked me to find them a Sunni restaurant where they can eat; that's the only thing they asked me. I do admit that I helped them with that; I took them to a Sunni restaurant

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and found some food for them. Those two men were Arab. I couldn't speak Arabic so the manager of the hotel translated for us. After they ate their food, they told me that they wanted to go to Afghanistan. When I asked if they had all their legal documents like passports or other stuff, they told me, "Yes", that they do have all the required documents, passports, Visas, and they have no problem.

Presiding Officer: Did you see their passports and Visas?

Detainee: (through translator) Yes. Actually, I took them to Tiabet, a city located on the border of Afghanistan and Iraq. While they were handing their passports to the officers over there, I saw their passports.

Presiding Officer: What nationality were they?

Detainee: (through translator) Their passports were green. It had green colors so I didn't know which country and which nationality.

Presiding Officer: But they spoke Arabic?

Detainee: (through translator) Actually, I didn't care where they came from or who they were. What I was actually doing, when I rented a cab to transfer them to the border, the cab would ask for 10,000 Tomans, Iranian money, I would charge these men 20,000. So my intention was to make a little extra money. I didn't care who they were and what they were doing. I didn't feel any danger or any crime in that because I didn't know those two men. A friend asked me to help them and I did; I made extra money. It wasn't written on their forehead that they are dangerous or bad people so I couldn't tell. The person who actually called me was a decent man. As far as I know, he wasn't a person who would cooperate with the Taliban. He wasn't the Taliban's ally or any other bad group's ally.

Presiding Officer: This was your friend?

Detainee: (through translator) Yes.

Presiding Officer: What's his name?

Detainee: (through translator) Phuvadaad. I told the interviewer about this.

Designated Military Officer: (3.a.5) The detainee rented an automobile and drove the two men to the Iranian-Afghan border town of Tiabet, Iran.

Detainee: (through translator) Yes.

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Designated Military Officer: (3.a.6) One of the men was the National Director of the Non-Governmental Organization al Wafa and, from the fall of 2000 to the fall of 2001, smuggled Arabs and Russians through Iran into Afghanistan to fight.

Detainee: (through translator) This has nothing to do with me what these men were doing. I didn't have that kind of ties or relations with them and you can't take that against me.

Designated Military Officer: (3.a.7) The Non-Governmental Organization al Wafa was believed to have had connections to Usama bin Laden and Afghan Mujahedin.

Detainee: (through translator) I didn't know what al Wafa meant or what it is. It has nothing to do with me.

Presiding Officer: What is your opinion of Usama bin Laden?

Detainee: (through translator) To be honest with you, I didn't know Usama bin Laden before, but since last year and the stuff that happened in Guantanamo Bay, I think he's a war-like man. He's a man against humanity. He is a man, who came and destroyed my country, especially my city. He's not a good person and I hate people when they cause trouble for others; bin Laden is one of those people.

Designated Military Officer: (3.a.8) From the fall of 2000 through the fall of 2001, the National Director of al Wafa contracted the detainee to transport Arabs and Russians from the town of Mashad, Iran, to the town of Zabol, Iran, located on the Afghanistan border.

Detainee: (through translator) The only thing that I know about this is that I didn't have a contract with that man. All I know is that he was asking me to prepare Sunni food because they couldn't eat Iranian or Shiite food; that's basically what I was doing. There were 14 or 16 men that I prepared food for. When they were traveling from Meshad, Iran to Zabol, Iran, they were traveling by air. They were flying while I took the bus. I did not transport them; they flew, and I took the bus. I just went to the city of Zabol to prepare appropriate food for them to eat. You used the word "Russians". They weren't Russians. They were kids between the ages of 10 to 12 years old and they were from the former Soviet Union country. They were Muslims from there.

Presiding Officer: This person, who is the National Director of al Wafa, was he one of the Arabs you assisted earlier?

Detainee: (through translator) I didn't know anything about al Wafa. I didn't know if they had any ties with al Wafa.

Presiding Officer: I'm asking about this person, not the organization.

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Detainee: (through translator) That man is here in Guantanamo Bay. When the interviewer showed me his photo, I recognized him. He is here. Who he is, I don't know. Which organization he belongs to, I don't know. I told you what kind of help I provided to him earlier.

Presiding Officer: Was he one of the people that you assisted earlier?

Detainee: (through translator) Yes. The two men that went to Tiabet, one of them was him.

Presiding Officer: How did this person communicate with you when he needed your help?

Detainee: (through translator) He had an Afghan translator. He would call me and then, through the translator, he would tell me that, "I have a friend here who needs Sunni food. Please prepare that food for us."

Presiding Officer: Did he call you on a cell phone?

Detainee: (through translator) Yes.

Presiding Officer: So he knew your number?

Detainee: (through translator) No, I didn't know his number.

Designated Military Officer: (3.a.9) The detainee stated that he transported a total of 16 Arabs and 14 Russians during the year he worked for the National Director of al Wafa. The detainee dropped the individuals off in Zabol, Iran, where they met an Afghan, who smuggled them across the border into Afghanistan.

Detainee: (through translator) I already answered this question, I didn't do anything illegal to transport them or anything like that. Back to those kids, those kids came from countries that were under communist regime and they got their freedom. They would come to Iran to go to religious schools and study the Koran. It shouldn't be a crime to do that. I don't think the United States is against people learning their religion. That's all with that; they were kids 12 to 14 years of age.

Detainee: (through translator) That's a mistake; I did not go with those kids to Zabul; it was Mashad. It says here it's from the fall of 2002, 2001; that shows a whole year. The total number of times that I contacted these men was not more than 20 times. It's not a whole year. It's not even 20 days.

Presiding Officer: Noted.

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Designated Military Officer: (3.a.10) The detainee knew the individuals he smuggled were al Wafa members.

Detainee: (through translator) First of all, I did not smuggle anybody from anywhere to anywhere. The second thing, I didn't know what al Wafa is and I still don't know what al Wafa is.

Designated Military Officer: (3.a.11) The detainee was forging documents to facilitate the escape of al Qaida members during the Taliban era.

Detainee: (through translator) I don't know how to do that and I have never done this.

Designated Military Officer: (3.a.12) The detainee stated that he was arrested in Meshad, Iran by Iranian authorities because he was stopped at an Iranian security checkpoint one day after his Afghan refugee card had expired.

Detainee: (through translator) I was a cab driver. Between the bus stations, there was a place called Haram. It's like 20 minutes distance. I was doing my work and I had to go to extend my refugee card, but that was a time when the United States declared Iran as "Axis of Evil". That was the time when I went to extend my refugee card and they just arrested me. Actually, the first day I went there when my card expired, it was too crowded so I wanted to go the next day. That night, I didn't get the chance and I was stopped. It was at the end of the day and I was going home when I was stopped. They asked for my license and then they asked for my refugee card.

Designated Military Officer: (3.a.13) The detainee was transferred from Iranian to Afghan custody in April 2002.

Detainee: (through translator) Actually, in Iran, I didn't commit any crimes; they would have kept me in their prison, but it wasn't like that. The Iranians, whenever they see Afghans, they just hand them to the Afghan government. So I wasn't handed over like prisoner. That's my bad chance; I wasn't lucky.

Designated Military Officer: (4.a) The detainee stated that he is not al Qaida or Taliban and, in fact, he fled his country to escape the Taliban.

Detainee: (through translator) Yes. That's correct.

Designated Military Officer: (4.b) The detainee denied ever helping Arabs or Russians obtain false or fraudulent documents to cross the Afghanistan border.

Detainee: (through translator) Yes. I have never done that. I have never transferred anybody to Afghanistan and I have never forged any documents.

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Designated Military Officer: (4.c) The detainee regretted becoming involved with the National Director of al Wafa.

Detainee: (through translator) Of course. Again, I don't know that man and I didn't know that he was the Director of al Wafa. I didn't know what al Wafa was. Dealing with a man like this, even for a little bit, because of him, I am here today. Of course, I regret why I dealt with him; why I even knew him.

Designated Military Officer: (4.d) The detainee admitted that the smuggling was a mistake he committed only because of greed.

Detainee: (through translator) I told them in the past and I'm telling you now that the smuggling or doing any illegal thing is not a good thing, but I have never done that. The only goal that I had in life was to make some money for living; that was the only thing. Whatever they did has nothing to do with me.

Presiding Officer: So you deny admitting that you smuggled people?

Detainee: (through translator) Yes. I have never, ever done that.

The Designated Military Officer confirmed that he had no further unclassified information and requested a closed session to present classified information relevant to the disposition of the Detainee.

The Presiding Officer acknowledged the request.

The Presiding Officer opened the Administrative Review Board to the Detainee to present information with the assistance of the Assisting Military Officer.

The Assisting Military Officer presented Exhibit EC-C on behalf of the detainee to the Administrative Review Board.

The Detainee made the following statement:

Detainee: (through translator) I would like to say that, with the help of God, I would like to be released and leave this prison. I'm a man with a wife and a kid. I want to return to my family and to my country. I would like to say that I have never been against the United States, or civilization, or humanity in the past and I'm not against the United States now. In case of my release, I will never be against President Karzai's government or the United States government. My goal is to get released, of course, go to my country and finish my education. As you probably know, I was a student of Economy Faculty and I only have one semester left to finish. I would like to finish my education and serve my people, serve my government and work for the current government of Afghanistan. I'm asking you, please, when you make your decision, whatever it is that's in my file and

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whatever I have done, it's because I was trying to make a living and put some food on the table for my wife and my kid; that was in the past. The only intention and goal that I had in life was to make some money; that's all it was. With the help of God and, if you release and I leave, I will live an honest life; I will work for my people and my government. Even if somebody approaches me with money or do anything that I'm not sure of, I will refuse. I'm not going to do anything against the government or the United States. One more thing that I wanted to mention about my personality is that, I have been here for four years; within those four years I have never caused any problems for MPs or for other prisoners. I always obey the law of the prison. I'm not a troublemaker. I have never caused any big problems for MPs or for the officers here. I'm begging you and asking you to think about me, four years is a lot of punishment. Four years is a lot of punishment for somebody who was trying to make a living, even if I dealt with people that I didn't know. I didn't mean to help them just to make a living. Four years is enough. I'm asking you to think about my wife and my kid. My son is eight years old and he needs his father in life. When you make your decision in my case, please think about them, too. Even if you think I made a mistake, I think four years is enough; four years punishment is enough.

Presiding Officer: Mr. Tukhi, does that conclude your statement?

Detainee: (through translator) Yes. Thank you.

The Assisting Military Officer had no further questions for the Detainee.

The Designated Military Officer had no further questions for the Detainee.

Administrative Review Board Member's questions:

Board Member: I would like to say, "Thank you," for coming today. I think that coming in and making your statement and answering our questions helps me make a better decision as a board member. I do have a couple of questions that I would like to ask you. The first one is how long did you live in Iran? In your statement earlier, you disputed the time that was in the Unclassified Summary. I would like to know how long you did live in Iran.

Detainee: (through translator) Approximately five years.

Board Member: How old were you when you and your family moved to Iran?

Detainee: (through translator) I'm 36 years old. My wife was very young; she was like 15 years old at that time. I'm 36 years old so I was maybe about 26, 27, or 28. We Afghans are not very accurate about dates.

Board Member: You always like to say that you are younger than you really are?

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Detainee: (through translator) Yes (laughing).

Board Member: Before you moved to Iran, what work did you do in Afghanistan besides attending the university?

Detainee: (through translator) Our family actually never worked for the government; we had our own personal business. Me, myself, I had a pharmacy store, as evident in that letter. We do have a stamp of our Tajik pharmacy store. I was selling medication besides being a student.

Board Member: How many children do you have? You mentioned that you have at least one child. Do you only have one child?

Detainee: (through translator) Just one son and his name is Danielle.

Board Member: Where are your wife and son living now?

Detainee: (through translator) I'm getting letters from Afghanistan from them. So they live with my father.

Board Member: They moved back to Afghanistan after the officials in Iran arrested you?

Detainee: (through translator) Yes.

Board Member: This will be my last question. The board can recommend that you be released, or that you be transferred to your home country, or that you remain here in Guantanamo. I want to make sure that we're correct on this, but from what you're telling me, Afghanistan is your home country; is that correct?

Detainee: (through translator) Yes.

Board Member: Those are all the questions I have. Thank you, again, for coming today.

Detainee: (through translator) I think the documents that we just gave you are the best evidence. I don't think any detainee in this prison has. You see, all respectful people, all the businesses, all the tribal leaders, they all guarantee my personality that I'm a harmless person and that, if you release me, I will go and live a peaceful life. So that's the best document that I can present to you.

Presiding Officer: You mentioned you knew someone who was a minister in the Karzai government.

Detainee: (through translator) Personally, I don't know him. His name is Esmail Khan. Just to clarify things, I told you that, back then, he was the governor of Iran. When the Taliban came and took over, he had to run away, too. Right now, he is the minister in Karzai's government. He is a pro-American guy.

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Presiding Officer: Why do you think the Afghan government transferred you to United States custody?

Detainee: (through translator) Well, in the beginning, it's very normal anywhere when there are changes in the government; they are disorganized. It's like, when flooding comes, it takes everything; the small tree, the big tree, the good, the bad, it takes everything with it. In the beginning, the Afghan government was destabilized and disorganized. It was a mistake. I think it was a mistake.

Presiding Officer: That was a good analogy.

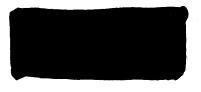
The Presiding Officer read the post-Administrative Review Board instructions to the Detainee and adjourned the open session of the Administrative Review Board.

The Presiding Officer opened the classified portion of the session.

The Presiding Officer adjourned the classified portion of the session and the Administrative Review Board was closed for deliberation and voting.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



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CORRESPONDENCE SUBMITTED ON BEHALF OF ENEMY COMBATANT

ISN 1012

Exhibit# Date Classification Guantanamo#

EC-C 07/17/06 UNCLASSIFIED 2005-A01547

Enclosure (4) EC-C Page 1 0f 6

UNCLASSIFIED

2764A

UNCLASSIFIED

1

Aminullah Tukhi ISN: 1012 ABZ: 015844

Dear Director of Herat University (greetings.....)

Mr. Aminulah, son of Habibulah, graduated in 1368 (Afghan calendar) from Jamee high school of Herat and succeeded the final examination (concourse) in 1369. He then started studying at the faculty of economy in Heart province.

I hope you can confirm the above mentioned statement,

Sincerely,

Habibulah

Answer of the university director

We found in the records of our archives (number 2) that Mr Aminulah, son a Habibulah, lived in Bodekerhon (village) and according to official letter number 24, he was a student in this faculty and he finished the first semester and in the second semester he failed second chance exams and did not continue his studies. Then according to the official letter number 297 of 1/6/1376, this student did not belong to this university anymore.

Signed by Fariha Amin, assistant to teachers of the Faculty.

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2

To dear owners of companies, representatives of villages and owners of pharmacies,

Greetings

As you know, Mr Aminullah, known as Baryallay, son of Hadji Habibullah, Tukhi lived in Bomurghon (village). He was captured by international troops (ISAF) after the fall of the Taliban regime. I hope that you give your opinion about him and testify that in the future he will live in peace as his other fellow citizens under the flag of the Islamic republic of Afghanistan.

Answer:

The mentioned person (Aminullah) known as Baryailay, is resident of Abdullajohn's area (he is a representative his village).

We, representative of the area of Herat province confirm the personality of Aminuliah. We hope that he will be pardoned. We also confirm that in future he will live in honesty under the flag of the Islamic republic of Afghanistan.

Signed by

- Abdul khazak (representative of the chicken seller street area)
- Saleh Mohammad Tukhi, (representative of Obaydahjohn area)
- Ghulam Rabani Nazari (representative of Pay day area)
- · Company of Tukhi,

3 (second part of the same letter)

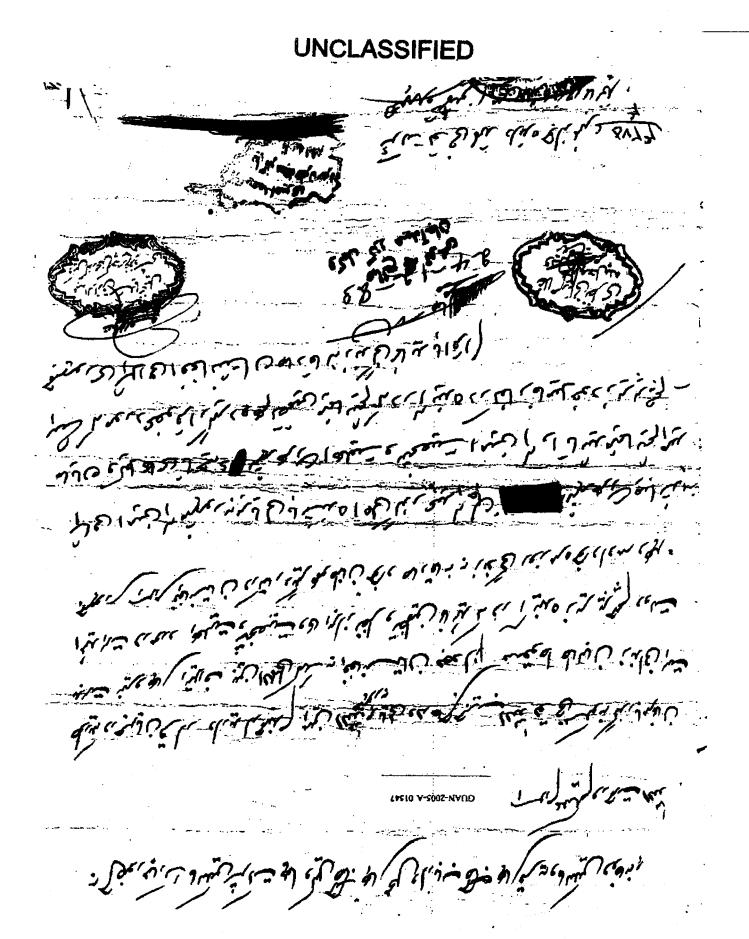
- The Company of the United Sons of Sadat guarantee
- Benazir Darmaltoun (pharmacy)
- company of Commercial and transportation, Heart, Asia al Sadat guarantee
- Akhtar Mohammad, representative of Atazadah
- · Directory of Jamee high school
- Directory of education, according to the result of year 1368, Mr. Aminullah Tukhi, son of Habibullah, with number 6407, graduation from class 11 on 3rd position. Signed by the school's director

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