

Summarized Sworn Detainee Statement – 26 October 2004

Personal Representative advises the Tribunal that he would like to review each of the points on the Unclassified Summary. Personal Representative will read each statement and read the Detainee's response to each point. The Detainee will elaborate after each response.

- **3(a)(1) - The Detainee traveled to from Saudi Arabia to Afghanistan via Syria prior to 11 September 2001.**

Detainee: That is correct.

- **3(a)(2) - The Detainee was identified as having trained in mountain tactics at the al Qaida training facility in Al Farouq.**

Detainee: Not true. This is not true. I did not go to Afghanistan for the purpose to fight. I went to do charity work. How can the statement say that "he was identified"? Maybe in the translation it was "admitted." How can you say "identified"? If you have previous interrogation session recordings, you can verify whether or not I said something like that. I swore to tell the truth and that is the truth. I did not go there for training.

Personal Representative: I would like to add something from notes I took regarding 3(a)(2) at previous meetings with the Detainee. The Detainee stated that someone mistakenly implicated him as being at al Farouq. As stated and reflected on the Witness Relevancy request, the Detainee stated that someone was mistaken about him being there, was maybe lying about him being there, or was maybe tortured and made the accusation against him. The Detainee was adamant about meeting the individual that may have made these statements against him.

Detainee: A small correction. I asked for him to come to the Tribunal and be a witness, whether or not he would see me here.

Personal Representative: That is correct. The Detainee asked that the individual that made the accusation be present at this Tribunal. The Detainee wanted this person to see his face, so he could let everyone know that it was not the Detainee that was at Al Farouq, because the Detainee was not there.

Detainee: Just to tell the truth whether he saw me or not.

Personal Representative: The Detainee told me that an interrogator showed a picture of him to another detainee. The interrogator told the Detainee that another detainee identified him from the picture as being at Al Farouq.

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Detainee: I am a detainee here myself. I don't know if this is true or not. I don't know if he said that or not. I don't know if he is detained here or if this is a lie from the interrogator.

Personal Representative: I looked into the Detainee's request to call this possible witness. The request was made to the President and it was determined that the person was not reasonably available.

Detainee: Not reasonably available? Is this person here?

Personal Representative: I made the request to the President, and the President tells me if the requested individuals are available or not.

Detainee: I am asking that if this person is available, to please bring him here.

Tribunal President: We don't know if he is available or not. We don't know his name. Unless, you can provide the name to us, then we cannot determine whether he is here or not or reasonably available.

Detainee: I don't know the name. This is from the interrogators. If you don't know his name and you don't know if he is available, this should be taken into consideration that the second point is not true.

Tribunal President: Your statement will be taken into consideration that this is not true. All of the information presented to us will be considered.

- **3(a)(3) – The Detainee has given conflicting statements on the nature of his involvement with the Al Birr Foundation, his stated reason for travel to Afghanistan.**
- **3(a)(4) – The Detainee has given conflicting statements on the basic details of his family life in Saudi Arabia.**

Personal Representative on behalf of the Detainee: The response applies to both item (3) and (4). During my interview with him, the Detainee asked to see the evidence to show where conflicting statements were made. The Detainee told me that the reason he went to Afghanistan and his involvement with the Al Birr Foundation was to do good deeds and fill an emptiness in his life.

Detainee: Do you mean my spare time?

Personal Representative on behalf of the Detainee: The detainee said a lot of things were going on in his life, with his job and family. The Detainee wanted to go and do something good.

Detainee: I think that is what I said.

Personal Representative on behalf of the Detainee: The Detainee said that he told interrogators every personal detail about his life, his family and four children. The Detainee has talked over and over with interrogators. Some of the conflicting statements could be small details. It is possible that translations were not done properly. The Detainee has from the beginning tried to be honest and has told interrogators everything. Is there any thing you would like to add?

Detainee: No.

- **3(a)(5) - The Detainee was apprehended by Pakistani forces while attempting to cross the border from Afghanistan, without documentation.**

Personal Representative: Would you like to explain the circumstances of getting into Pakistan?

Detainee: Please go ahead.

Personal Representative on behalf of Detainee: As it reads on item (5), "Pakistani forces," the Detainee stated it was actually the Pakistani police.

Detainee: Yes, that is true.

Personal Representative on behalf of Detainee: As reflected in the Detainee's statement, which will be read when we complete the actual points, item (5) states that the Detainee was "apprehended." The Detainee said he was going to turn himself into the Pakistani police.

Detainee: That is what I said. As soon as I got to the police, they said I do not have the official paperwork.

Personal Representative on behalf of the Detainee: As a point of clarification, it reads on the Unclassified Summary of Evidence, "apprehended by Pakistani forces while attempting to cross the border."

Detainee: That is not true. I was already in Pakistan. It was the Pakistani police.

Personal Representative: That is what the Detainee wanted to present to the Tribunal, that the item should be clarified. The Detainee went to the Pakistani police and when he got there, they cuffed and arrested him. The Detainee also stated that a member of the Pakistani police placed his hand on the Detainee's shoulder and said that he would bring a good price.

Detainee: That is what happened.

Personal Representative: Are there are any other points you would like to add?

Detainee: No, the points are done.

Personal Representative: The Detainee would like to read his statement, which will clarify many of the points in the evidence.

Detainee: Can we return to the points for a moment? I asked for the conflicting statements in items (3) and (4) to be presented to me. You said it might have been minor details and that is the reason why they said it was conflicting statements.

Personal Representative: It could have been anything in the Detainee's record, whether it was minor or major statements.

Tribunal President: I need clarification. Saed, were you the one that said there could be minor conflicts or discrepancies?

Detainee: No. After reviewing the file, the Personal Representative said maybe there were just minor statements or minor details.

Tribunal President: That is what I needed to understand. It was not actually your statement that was being read. It was [the Personal Representative's] comments.

Personal Representative: I don't remember the exact thing. We could probably hear the recording later.

Detainee: My answers?

Tribunal President: No, what was read by the Personal Representative.

Detainee: No, these are my responses. But these are just words, thinking, trying to come up with an explanation between him and me. We met many times, maybe five times, and it was between the two of us.

Tribunal President: Does that conclude your statement?

Detainee: It is true that some of them have small details. For example, the interrogators would ask me about the nature of my work. Different situations and work would go through my mind, such as working in the traffic department. This would come to me at the time, so I would tell the interrogator. Maybe after a month or two, another interrogator would ask me about my work. Another picture would come to my mind; maybe not the same, but it would still be the truth. For example, another job of mine was to open and close doors for people in cars. This was another picture that came to mind at one time, but it is still the truth. So maybe the conflicting statements were something like that. I never hid anything from them, even personal family issues like the reason for my wife and I getting divorced. I never hid anything from them. I told them everything, the tiniest details, the

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reason why I got divorced, I told them everything. This is the truth, by God. I did not lie. I told them the truth about everything.

Tribunal President: Is there anything else you would like to present to us, or does that conclude your statement?

The Personal Representative has no questions for the detainee, but notes for the record that he has met with the detainee four or five times, and that what the detainee told the Personal Representative during those meetings is the same as what the detainee has told the Tribunal. The Recorder indicates he has no questions for the detainee. Before the Tribunal asks the detainee any questions, the detainee is given the opportunity to read his written statement to the Tribunal. The detainee reads his statement, as follows:

Detainee: When I retired from my job, I had obtained approximately 100,000 Riyals. That was money I earned for the period of time I worked with the police. Afterwards, I wanted to work as a merchant buying and selling used cars. I wanted to do this because of the difficulty of military jobs.

Translator: Military can mean army or police. In this case he means police.

The Translator asks if she should fix the translation mistakes as the statement is read. The Tribunal President advises that the Translator should translate exactly what the Detainee says. The Personal Representative states that after the statement is read, he will submit an update to the translated version as Exhibit D-b. The Personal Representative had reviewed the 18 May statement (Exhibit R-3) with the Detainee. When the translations were done, the Detainee identified and requested updates.

The Detainee states if there is a mistake in the translation, it can be pointed out while reading. The Tribunal President clarifies with the Detainee that what he is reading is being recorded; therefore we will have exactly what he is saying right now. That is why the translator is to translate what the Detainee is reading now.

Detainee: I had free time in my life, so I wanted to participate in charity work. The idea of traveling came to me after I met a person by the name of Hassan. He proposed to me the idea of helping him distribute help to the poor and the needy. So I welcomed the idea. I asked Sheik Abdul Aziz Al Sheik, and Sheik Alechidan, about this idea. They encouraged me to do this charity work. Then I obtained a passport from the city of Mecca. I traveled from the city of Jedda to Damascus in Syria, and from Syria to Iran. I met Hassan, who had gone before me. I met him there. We stayed there for a month or two months, I don't remember exactly. We would buy things like clothes, oil and dates. We would buy these things and then distribute them inside Afghanistan. After that, we entered Herat, and we stayed there for two months. Then we entered the towns and villages inside Afghanistan. We would pass buy some of the cities and buy goods, then distribute them in the villages until we got to the border of Pakistan. Then we agreed to buy goods from Pakistan and distribute them in Afghanistan. This happened until the assault on America occurred. I heard this on the radio in Afghanistan. After that, I heard

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that American was going to strike back, and it would start a war with Afghanistan. We left Afghanistan and stayed in Pakistan. We started the distribution in Pakistan. We passed by several towns and villages until we arrived in Peshawar. That was over a period of a month. I don't remember exactly the time. We would buy goods in Peshawar, and then distribute them to villages near the Afghani/Pakistani border. When we realized that this was starting to take a lot of money and little money and goods were left, we split at that time so that I could go to distribute in one village and he could go to another and do the same. So that we could get done quickly and we could go back to Saudi Arabia. I entered one of the villages and went to a small mosque. I placed all my personal belongings in that mosque. I spent the night there and woke up in the morning. I started distributing the relief goods to the villagers. When I returned, I found that all of my belongings had been stolen from the mosque. I wanted to return to Peshawar, so I got in a car and got on the main road and then got into another car. When I reached a checkpoint with the Pakistani Police, they got me out of the car, handcuffed me, and took me to jail. There they turned me over to the American government. And that is the story.

The Personal Representative notes that the Recorder's translated version of the Detainee's written statement was previously submitted as Exhibit R-3. The Detainee states that there were mistakes in the translations in that copy. The Personal Representative tells the Detainee that changes were made to the translated copy that was read to the Detainee. The Personal Representative asks to review with the Tribunal President. The Tribunal President asks the Detainee if the corrections were spoken when he read his statement to the Tribunal. The Detainee states he did include the corrections in his comments. The Tribunal President asks if both copies will be submitted: the correct and incorrect translated version. The Personal Representative advises the Tribunal that the English copy was translated to the Detainee, during which translation the Detainee made corrections and the Personal Representative documented on the English copy. The Personal Representative would like to submit it as Exhibit D-b.

The Detainee states that if one word is mistranslated, it can change the meaning of the whole sentence or the whole story. This happened with the Detainee and the Personal Representative previously. The Detainee tells of an incident when he told the Personal Representative that he went to a place near Peshawar. However, the translator said the Detainee was going to the shower, instead of Peshawar. So the story ended with the Personal Representative stating that the Detainee was naked when he was inside his house. The whole story changed just because of one word. The Personal Representative asks the Tribunal to take such things into consideration because the Personal Representative reviews the previous sessions with the detainee and he did document that the Detainee was apprehended by Pakistani police while getting ready for a shower. He was not dressed when the police arrived which would explain why he had no papers on him. During the follow-up interview, the notes of the previous session were reviewed, and that is how we found out it was Peshawar he was going to. The changes are reflected in the session notes. The Detainee states the mistake would not have been found if it were not for the Personal Representative's intelligence and attention to detail. The Tribunal President advises the Detainee that it is very important that he understands his corrected statement as he read it is on record. The Detainee thanks the Tribunal.

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Questions by the Tribunal Members

Q: When you began to travel, did you get your passport stamped with visas for the different countries?

A: Of course. When I went from Saudi Arabia to Syria, I have the exit visa.

Q: Did you find your passport or did you see it again after the mosque?

A: No, I never found it.

Q: While you were traveling around doing charity work, that was all for Al Birr?

A: Keep in mind that I was never officially doing work for the Al Birr charity organization. I was just offering help. I knew this organization was helping and so I was helping.

Q: Did Hassan officially work for Al Birr?

A: Before I answer this question, I would like to present a note about Hassan. I told the interrogators and the Personal Representative previously about this. There is a person I know. His name is Hassan Al Nashri in Mecca. This is not the same Hassan that was with me. There may be a likeness in names, but that is one person and this is another.

Q: Hassan that was with you worked for Al Birr?

A: That is what I thought, but I'm not positive.

Q: Did you ever see Al Birr doing anything other than charity work?

A: From what I know, the organization did charity work. I never saw the building or the organization. I heard it was a good organization.

Q: When you were passing out goods, were you ever near al Farouq?

A: I don't know where al Farouq is in the first place.

Q: When you were in the Saudi military as a policeman, did you receive weapons training?

A: I trained, but I don't remember what exactly the weapon was.

Q: When you purchased the goods to distribute to the poor, how much would you purchase?

A: Just a small supply. Then we would go to another place to buy more. We were afraid we would buy too much and then it would go bad.

Q: What were you buying?

A: Food, dates and oil, rice sometimes.

Q: How would you distribute it?

A: In the village.

- Q: But how would you get it to the village?
A: Normally, with a car or pickup.
- Q: You had a pickup that the two of you used?
A: Yes, but we would not drive. We would rent a car and driver.
- Q: Is that what you were doing in Pakistan also?
A: In Pakistan, we would take some of the things to the villages on mules or donkeys.
- Q: How did you split up if you had the goods? How did you split up with Hassan and go one way, and you go the other?
A: We split the goods. He went one place and I went to another. He would buy goods in one place and I would buy in another until we were done.
- Q: How did you transport the goods once you were done?
A: As for me, I had to pick up with a driver.
- Q: And Hassan?
A: He also took a car and driver.
- Q: How long did you plan on staying in Afghanistan?
A: I did not have a clear idea. I did not know how long I was going to stay, just long enough to finish our work. But I did not intend on staying there for a long time.
- Q: How long were you in Pakistan before you surrendered?
A: I don't remember, some months.
- Q: Some months?
A: A few months.
- Q: Where did you stay when you were in Afghanistan?
A: I would stay in a mosque in each village.
- Q: When you were in Pakistan, where did you stay?
A: Same thing, our hotel was the mosque.
- Q: Did you have to pay to stay in the mosque?
A: No, the advantage was that it was free.
- Q: Who were you with when you surrendered?
A: Myself.
- Q: Why did you feel like you had to surrender?

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A: I did not have my passport, it was stolen. I knew the safest thing to do was go to the embassy.

Q: Was there bombing going on while you were in Afghanistan?

A: There was no bombing.

Q: Did the bombing start after you left Afghanistan, while you were in Pakistan?

A: I don't know when the bombing started. I do know that when I heard about the American invasion, I left.

Q: You left before the bombing started?

A: I don't know if it started or not. I know that I left when I heard it was going to start. I don't know when it started.

Q: I just wanted to understand that you were not fleeing the bombing. You just left because you thought there was going to be bombing.

A: Yes.

Q: I just want to clarify one thing about the witness request for your mother. You wanted to have your mother testify, but you wanted to call her directly. That request was denied. You were told the government had to make the call and then you decided not to call, is that correct?

A: Do you want to answer that question (Personal Representative)?

Personal Representative: At the initial interview, the Detainee requested his mother because she could testify for his reasons for going to Afghanistan. I told the Detainee that it is up to the Tribunal President to approve or disapprove all witness, but I would make the request for him. I made the request to the Tribunal President and it was approved. During the follow-up interview, I explained to the Detainee his request was approved. The Detainee was concerned that his mother was elderly, and instead of the government making the request to get the statement from his mother in Saudi Arabia, the Detainee wanted to be allowed to make a phone call to her. I told the Detainee that I did not know if it will be approved, but the request will be made. The request was denied that he make the phone call. Upon meeting with the detainee again and discussing whether or not to have the government get a witness statement, the Detainee decided to stop the process and not try to get a witness statement.

Detainee: True.

Tribunal President: Did you understand that your mother could have made a written statement and submitted it to the Tribunal?

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Detainee: When I went back to my room, I understood.

Tribunal President: What did you understand?

Detainee: I understood that my mother could write a statement.

Tribunal President: You just chose not to continue with the written request?

Detainee: I changed my request because I thought that the police in Saudi Arabia would take her, interrogate her, and take her to the police station. I told the Personal Representative that I know the Saudi government is strict. I was afraid the Saudi government would take my mother to the station, and asked her questions about me. That is why I changed my request.

Tribunal President: Saed, do you have anything else you would like to add?

Detainee to the Personal Representative: Before I talk, do you have anything?

Personal Representative: I do, again, going through my notes of the several sessions that we've had.

The Detainee requests to take some points so he does not forget them. The Tribunal President indicates the Personal Representative can take notes for the detainee, and that the Tribunal can take a brief recess to permit the detainee and Personal Representative to prepare the notes.

The Personal Representative asks to read the last point the Detainee wants him to address before the notes. There were two key points the Detainee and Personal Representative agreed to present to the Tribunal. One point was that the Detainee went to Afghanistan prior to September 11th, and the Saudi government recognized the Taliban government at that time. The Detainee also wanted to convey that he has been an extremely good camp detainee. He does not support extreme Muslims and on four or five occasions, the Detainee has found on the ground in the camp sharp metal, a nail and pen. The Detainee immediately picked them up and turned them over to military police.

The Tribunal President states that a brief recess will be taken to allow the Detainee to write down some notes.

Recess taken at 1450, 26 October 2004.

Tribunal resumes at 1504.

Tribunal President: Saed, I understand you would like to present some additional comments to us.

Detainee: Yes. If you permit?

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Tribunal President: Please go ahead.

Detainee: Interrogators have placed some things in my file that are not mine. The first was a picture of Pakistani currency, watch, calculator and other things like that. I told them the things were not mine. Also, there is a letter in my file. I saw it myself. By coincidence, there was a test to record my voice. They did not have anything for me to read in order to get a recording of my voice. The recording was 20 minutes. I told them to give me a book and I will read it for that amount of time. They did not have a book, so I told them to give me a letter from my file. They gave me a letter and when I looked at it, I discovered that it was not mine. I told them this does not have anything to do with me. They returned it and they gave me a different letter. That was my story. Also, when Saudi representatives came here, they asked me if I knew anyone in Yemen and if I sent a letter to Yemen. I told them no, I don't know anyone in Yemen. These are the notes in regards to the file that I wanted to address. I would like to say that I know America was attacked wrongly, and it is your right to do what is right for you from the people who attacked you. That is your right; I am not saying anything about that. I am also hoping that you look at things in a humanitarian point of view to some of the people that might be innocent here. I swear I do not agree with the attacks that occurred in America. I did not have any part in the attacks that happened in America. I did not leave my country to fight against America or to do any wrong towards America. When you look at my case, please look at it in a humanitarian way. This is what I am asking the Tribunal for.

Tribunal President: Thank you. Does that conclude your statement?

Detainee: Yes.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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Detainee wrote the following statement:

When I retired my job I obtained approximately one hundred thousand riyals. Retirement money that I earned for the period of time I worked with the police. Afterwards, I wanted to work as a merchant, buying and selling cars (used). I wanted to do this because of the difficulty in the Army jobs. So then I obtained free time and I wanted to participate in charity work. I also obtained the idea of traveling as well. Then I met a person by the name of Hassan and he wanted to help with distributing some help to the poor as well. I wanted to do the same and so I asked Sheikh Abdul Aziz ((Al Sheik) and Sheikh Aleehidan Abdul ((Aziz)) about that topic. They both encouraged me to do the charity work. I obtained a passport in Mecca, SA and traveled to Jeddah, SA. After Jeddah I traveled to Damascus, Syria and afterwards to Iran and I met Hassan there. Hassan had stayed there one to two months before I arrived, I do not remember the specifics. We used to buy merchandises like clothes, wheat, and oil. We would distribute everything we bought to the poor in Afghanistan. After that we entered He rat, Afghanistan and stayed there for two months. Then we passed by some towns in Afghanistan looking to buy some goods and distribute to the villages. We arrived the border of Afghanistan/Pakistan then we agreed to keep buying goods from Pakistan and bring them back to distribute in Afghanistan. During this time the assault of America had occurred. I heard this in the radio in Afghanistan. I also heard that America was looking to strike back. America would try to get in a war with Afghanistan. For those reasons we decided to leave Afghanistan. When we arrived in Pakistan we started the food distribution in several villages and towns until we arrived in Peshawar, PK. The amount of time I spent I cannot recall but I spent a period of months. We bought goods in Peshawar and we gave all the things away in villages near the Afghanistan/Pakistan border. Once we realized that we did not have enough money to continue distributing food for an additional amount of time we both decided to go on our separate ways. I went to one village to give away food and Hassan went to another village. As soon as we were done distributing the food we were both going to meet back up and return home. I entered a village and went inside a small mosque. I placed all of my belongings in the floor and I spent the night. I woke up in the morning and I started distributing the relief goods to the villagers. When I returned to the mosque all of my belongings were missing along with some additional relief goods. I wanted to return to Peshawar and so I decided to take a car from the road. When I reached the police station they arrested me. They handcuff me took me to jail and gave me away to the Americans.

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Detainees Signature

Exhibit R3

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Summarized Detainee Statement – 8 November 2004

Tribunal President: The Tribunal for Saud Khatem Al Malki is reopened. The unclassified session is reopened to swear in the new reporter and also to bring in additional unclassified documents. Recorder, please swear in the reporter.

The new reporter was sworn in and the detainee was brought into the room.

Tribunal President: Saed, we have reopened the unclassified session of this Tribunal to introduce additional unclassified information. You have seen the unclassified information?

Detainee: Yes.

Tribunal President: And to let you know that during the classified portion of the Tribunal, we were able to identify the witness that you had requested. However, that witness is not reasonably available. So now the Recorder will submit the unclassified documents that you saw. Recorder, would you please identify those unclassified documents?

The recorder submitted to the Tribunal the additional unclassified documents (Exhibits R-26 and R-27).

Detainee: The information that was just presented, it looked like it was two files, two folders, but I only saw a few lines.

Tribunal President: Personal Representative, did you explain or just summarize the documents to Saed?

Personal Representative: Yes, ma'am, if I may? We summarized the two documents in our session that we just conducted. The second document, R-27, talked about essentially information on a little bit of background on that Al Birr Foundation. That it was established in 1987, where it was established.

Detainee: Where was it established?

Personal Representative: In Saudi Arabia and Pakistan, by the Saudi Arabian government. And the second piece was the United States' list on terrorism that identifies the month, day, year that the Al Birr Foundation was established. Correction on that. That was the day, month, year as when it was designated and put on this terrorism list, which is November 19, 2002.

Detainee: The Al Birr Foundation is in Saudi Arabia. As far as I know, it is not in Pakistan, or I did not know it was in Pakistan.

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Tribunal President: Okay, we'll note that. Any other comments from the Tribunal members on the unclassified documents?

Members: I have no comments, ma'am.

Tribunal President: Personal Representative, do you have any other comments?

Personal Representative: Just the comments in the part being relayed from the session we just conducted. I have a couple of comments. As he stated from our meeting that just concluded, that he did not and does not have, other than I'm showing it to him, knowledge about the Al Birr Foundation.

Detainee: This information that was just presented to me, I did not have any knowledge of it before.

Personal Representative: And that your association was through somebody else.

Detainee: Now my association with the organization was that person, because I personally don't have an association with the organization.

Personal Representative: And that was the other piece, that he has never had an association with that organization.

Detainee: Other than the fact that I met this person and went to help that person, also I have some information. I was talking to someone who worked with the Al Birr Foundation. I asked this person, "This Foundation, does it have ties or work outside of Saudi Arabia, or is it just within Saudi Arabia?" And the answer was no, the only things that they do, the only ties that they have, are within Saudi Arabia. Also, the work that it did inside Saudi Arabia was charity work. Handing out supplies to families who are poor and in need, and would distribute some money as well to these families. And that is the information that I have on that Foundation that I got while I was here, by talking to that person who was part of that Foundation.

Tribunal President: Do you have any other comments that you would like to say to us?

Detainee: No, just that truly I did not know about this Foundation, that it was a terrorist Foundation, or whether it was a terrorist Foundation or not. As far as I know about this Foundation, that it only provided help within Saudi Arabia. And that is the information that I got, while I was here.

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Tribunal President: The open session of this Tribunal is closed if there are no other comments from the Recorder, Personal Representative or the Tribunal. This concludes the Tribunal session.

AUTHENTICATION

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

[REDACTED]

Colonel, U.S. Army
Tribunal President

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