

U.S. Department of Justice

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November 23, 2010

TO BE FILED UNDER SEAL
BY HAND DELIVERY

Honorable Victor Marrero
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 660
New York, New York, 10007

Re: **United States v. Mohammed Junaid Babar,**
04 Cr. 528 (VM)

Dear Judge Marrero:

The Government respectfully submits this letter to advise the Court of the pertinent facts concerning the assistance that Mohammed Junaid Babar has rendered in the investigation and prosecution of other persons. In light of these facts, and assuming that Babar continues to comply with the terms of his cooperation agreement and commits no additional crimes before sentencing, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the United States Sentencing Guidelines and Title 18, United States Code, Section 3553(e), that the Court sentence Babar in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Sentencing Guidelines. Babar is currently scheduled to be sentenced on December 10, 2010.

Babar's Offense Conduct

As set forth in the Probation Office's Pre-sentence Report dated October 29, 2010, Babar first became known to law enforcement through his activities with the fundamentalist group al-Muhajiroun ("ALM") in New York. ALM was founded in 1985 and supported the overthrow of Western governments and the institution of an Islamic state. In the late 1990s and early 2000s, ALM maintained offices in New York, London and Pakistan, among other places.

Babar joined ALM while a student at SUNY-Stonybrook in 2000. It was through his membership in ALM that Babar met and befriended Syed Hashmi. Babar was active in ALM from January to September 2001, and held ALM meetings in the basement of his parents' house in Queens. During this time period, Babar and Hashmi organized numerous ALM-sponsored events, including lectures and demonstrations, in and around New York City.

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On September 20, 2001, following the attacks of September 11, 2001, Babar left the United States to move to Pakistan to provide support to the Afghan jihad. At the time, Babar intended to travel to the front lines in Afghanistan to fight for the establishment of an Islamic state in Afghanistan.

After Babar arrived in Pakistan in the fall of 2001, he immediately began working at the ALM office in Lahore. At the office, he participated in a video recorded television interview with a British news reporter. On November 4, 2001, the British 5 News in the United Kingdom broadcast a story describing Al-Muhajiroun as a facilitator of United Kingdom citizens' travel to Afghanistan through Pakistan to fight for the Taliban against Western forces. During this broadcast, under the caption, "Taliban New Yorker," Babar stated, "I did not feel any remorse for the Americans [who died]. . . . I am willing to kill the Americans. I will kill every American that I see in Afghanistan. And every American soldier I see in Pakistan." During initial proffers with the Government, Babar stated that he made these statements to the reporter because the reporter paid Babar \$500 to do so. However, Babar later admitted that he was never paid any money by the reporter.

According to Babar, he still supports today the killing of American military service members on battlefields in Muslim countries. Babar has advised that he also supports the killing of Americans (both military and civilian) in Muslim countries "occupied" by the United States.

During his first year in Pakistan in 2001 and 2002, Babar worked at the Pakistani Software Export Board ("PSEB"), an agency within the Pakistan Government. Babar used his PSEB employment identification card to create approximately ten false identification cards for his friends and fellow jihad supporters. The false PSEB identification cards were valuable within Pakistan because they allowed the holder to claim an affiliation with the government and to travel more freely. In addition, after leaving the PSEB in early 2003, Babar stole five laptop computers from the agency, some of which he sold to friends.

Notwithstanding his jobs during his initial months in Pakistan, Babar spent the majority of his time working for ALM-Pakistan whose primary goal at the time was the overthrow of the Pakistan Government. Babar worked directly with Sajeel Shahid, the head of ALM-Pakistan, as he (Babar) continued to search for opportunities to support the Afghan jihad.

During this period, Babar participated in two different sets of discussions regarding plots to assassinate the President of Pakistan. During the first of these discussions, machine guns and grenades were obtained by others and Babar buried them for later use. Neither set of discussions advanced past the planning stage.

At this time, Babar also participated in discussions about bombing the French embassy in Pakistan, as well as an English library and cultural center in Pakistan; however, these discussions also did not advance beyond the planning stage.

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As part of his efforts to raise money in support of jihadist activities in Pakistan, Babar traveled to London in December 2002. During that trip, Babar met Omar Khyam, a known U.K.-based jihad supporter, at a lecture, and asked Khyam for money for jihad; however, Khyam refused to give Babar any money at that time.

After a one-month stay in London, Babar returned to Pakistan. In early 2003, Babar attended a meeting of al Qaeda supporters in Islamabad and saw Khyam again. During that meeting, another al Qaeda supporter, Salahuddin Amin, a/k/a "Khalid," discussed the different types of training he could arrange for members of the group. Approximately one month later, Babar met with Khyam again in Pakistan, and Khyam discussed for the first time with Babar the fact that he worked for Abd al Hadi al Iraqi ("Hadi al Iraqi"). According to Babar, Khyam told him that Hadi al Iraqi was the third in command within al Qaeda behind Osama bin Laden and Ayman al Zawahri and the senior commander of al Qaeda's fighters in Afghanistan and Pakistan.

Shortly after this meeting with Khyam, Babar returned to London to meet with al Qaeda supporters based there. During this visit, he met with Khyam again at a hotel outside the city. During this meeting, Khyam introduced Babar to his brother and told Babar that he was in England to buy equipment to send back to Pakistan for a training camp he was setting up. After approximately one month in England, Babar returned to Pakistan.

In May 2003, Khyam contacted Babar in Pakistan, and asked Babar if he could live in the guest quarters of Babar's house in Lahore. Babar agreed, and in June 2003, Khyam and a friend of his, Anthony Garcia, moved in with Babar. At this time, Khyam asked Babar if he could arrange a training camp for him and his associates to conduct physical training and weapons training.

After Khyam moved into the guest quarters at Babar's residence in Pakistan, Khyam told Babar that he wanted to bomb soft targets, including trains and nightclubs, in England. Khyam also spoke in positive terms about a recent suicide bombing at a restaurant in Israel. In response, Babar said that more needed to be done. This conversation was the first of several that Khyam and Babar had about potential targets for detonating a bomb, though Babar was never aware of any specific targets identified by Khyam and the other members of the plot.

As part of the conversations about the bomb plot in England, Khyam asked Babar to transport detonators in radios from Pakistan to Khyam in Belgium who would then transport them to England. In furtherance of this plan, Khyam gave Babar several detonators. Khyam also sent Babar approximately 230,000 Pakistani rupees (approximately \$2700) via a wire transfer and told Babar that some of the money was for expenses related to Babar's transport of the detonators. Babar never bought any additional aluminum powder and never brought any detonators to England. Babar and Khyam also discussed possibly targeting the U.K., Spain and France; Babar suggested hitting multiple targets either simultaneously or seriatim.

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When Khyam was staying in Babar's house in Lahore, Khyam had a black grocery bag filled with what Khyam said was ricin. Ricin is a severely toxic protein that has been used as an agent of chemical and biological warfare in the past. When Khyam left Pakistan in September 2003, he left the ricin in Babar's house; Babar stated that he later disposed of it.

In July 2003, Babar arranged a three-week training camp in a remote region of Pakistan where Khyam and about ten other young men received training on various types of weapons. Babar charged Khyam 4,000 British pounds for setting up the facility. Babar also coordinated the rental of a private bus to transport the individuals to and from the camp near Peshawar. The training lasted for the entire month. At the camp, the attendees received training in basic military skills, as well as the use of explosives and weapons. Babar only attended the last few days of the camp but during that time, he saw Khyam detonate a one pound ammonium nitrate bomb. In addition, according to Babar, during the stay at the camp, Khyam was "feeling people out" regarding their interest in martyrdom for the bomb operation in England.

During the training camp, Babar provided a video camera which was used to tape the participants, who wore scarves to cover their faces, as they shot at targets and chanted about jihad. According to Babar, Khyam wanted to make the videotape to distribute to associates in the U.K.

After returning from the camp, at Khyam's suggestion, Khyam and Babar together bought different types of substances for use in making bombs, including aluminum powder, ammonium nitrate and urea. They stored the substances in a closet in Babar's residence in Lahore. Around that time, Khyam and Babar constructed a bomb using a jar from Babar's kitchen and then detonated it in the backyard of Babar's residence.

Khyam returned to London in September 2003. He brought some of the aluminum powder he and Babar had bought with him. He also asked Babar to bring additional aluminum powder with him on his next trip to England, and later sent Babar several hundred British pounds to pay for Babar's airfare and for the additional aluminum powder. Babar never brought any aluminum powder to England.

In October 2003, Khyam and Amin, a known al Qaeda supporter, asked Babar to send gear to Hadi al Iraqi that Khyam had left behind in Pakistan with Amin. Babar met with Amin to receive the gear and Amin confirmed to Babar that he also worked for Hadi al Iraqi. After receiving the gear from Amin, Babar sent it to Hadi al Iraqi who was based in North Waziristan in the border region between Afghanistan and Pakistan.

Also in October 2003, Babar traveled to Islamabad to meet with Momin Khawaja. Khawaja, a Canadian resident, was part of the group led by Khyam plotting to bomb soft targets in England. During this trip, they met with Amin. Khawaja was a computer programmer in Canada and they discussed the possible use of remote devices, i.e., devices that could detonate explosives from a distance. Khawaja also told them that he was working on creating a model

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airplane that could carry explosives and could be navigated by a GPS system. During this meeting, Khawaja gave Amin 1,000 to 1,500 British pounds to give to Abu Munthir, a known al Qaeda leader.

In early January 2004, Babar arranged for another individual who knew Hadi al-Iraqi to introduce him (Babar) to the senior al Qaeda commander. During the first meeting at a mosque in North Waziristan, Pakistan, Hadi confirmed that he had received the gear that Babar had sent him a few months earlier, specifically boots, sleeping bags, and clothing, which Babar had received from Amin. In addition, Babar and another individual gave Hadi al Iraq 10,000 Pakistani rupees to support jihad activities.

Approximately one week later, Babar traveled to meet with Hadi al Iraq again. During this meeting, Hadi al Iraq asked Babar to provide him with materials in support of al Qaeda's jihad activities in Afghanistan. Specifically, Hadi al Iraq asked Babar to provide him with money and gear, namely, ponchos, shoes, socks, and sleeping bags. Babar agreed to this request.

In January 2004, Babar traveled again to London in an effort to resolve a dispute among al Qaeda supporters about who was actually working for Hadi al Iraq. Shortly after Babar arrived in London, he and Khyam met in Khyam's car. During this meeting, Khyam asked Babar, "Are you with us?" Babar understood Khyam to be asking whether Babar planned to be part of the bomb plot. In response, Babar indicated to Khyam that he planned to work on his own.

During the same visit, Babar stayed with Syed Hashmi, his friend whom he had met through ALM-New York in 2000, and used Hashmi's cellphone to contact Khyam and other al Qaeda supporters. Babar also introduced Hashmi to Khyam and Khyam's brother. Babar and Hashmi also attended several meetings with al Qaeda supporters about the need to support Hadi al Iraq.

During his nearly two-week stay with Hashmi in London, Babar collected two to three garbage bags full of gear from other al Qaeda supporters in London, which he stored in Hashmi's bedroom with Hashmi's knowledge. The gear included ponchos, waterproof socks and raincoats. Babar collected this gear in order to deliver it to Hadi al-Iraqi when he returned to Pakistan. When he left Hashmi's apartment in early February 2004, he took some of it, as well as additional gear he received from Tanveer Ali, another London-based al Qaeda supporter, with him on the plane back to Pakistan. Babar left the remainder of the gear from Hashmi's apartment with Ali for Ali to bring to Pakistan the following week.

In February 2004, after he returned from the U.K., Babar again traveled to meet with Hadi al-Iraqi for the third time. During this trip, Babar provided Hadi with the ponchos, waterproof socks, and raincoats that he had received from Tanveer Ali in the U.K. One of the individuals who accompanied Babar on the trip, Ansar Butt, was one of the London-based al Qaeda supporters who had asked Babar for an introduction to Hadi al-Iraqi. During the meeting, Butt gave Hadi

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2,000 British pounds. Babar met alone with Hadi for 15 minutes during this trip. During this private meeting, he showed Hadi all of the gear that he had brought and also discussed activities in Afghanistan.

On or about February 21, 2004, Babar made his final trip to meet with Hadi. Babar traveled with Tanveer Ali who had arrived from England. Babar and Ali gave Hadi more ponchos, waterproof socks, sleeping bags, one set of night vision goggles and one set of binoculars with night vision capability. Babar told Hadi that he was going to the U.K. for some period of time but that he would continue to raise money and bring similar items to Hadi in the future. Ali did not return with Babar from South Waziristan; he told Babar that he intended to stay and fight jihad with Hadi for one year.

In early March 2004, Babar returned to New York to live with his parents in Queens. Babar planned to save money working as a taxi cab driver and return to Pakistan to live with his wife and daughter. There is no evidence that Babar returned to the United States in furtherance of any terrorist activity.

On March 30, 2004, as part of a English investigation known as Operation Crevice, Omar Khyam and others were arrested in England for their participation in a plot to detonate fertilizer bombs in various locations across England, including a shopping center and a nightclub. The thirteen-month trial revealed that, over the course of at least five months, the group planned to make an improvised explosive device from ammonium nitrate fertilizer, which they intended to mix with aluminum powder, the necessary fuel for the detonation of the fertilizer. They also discussed using a remotely operated detonation system to detonate the bomb. In November 2003, in furtherance of the plot, the conspirators bought 600 kilograms (approximately 1,300 pounds) of fertilizer at a wholesale agricultural company in rural England, and rented a storage unit to secure the 600 kilogram bag of fertilizer.

On April 6, 2004, FBI agents approached Babar on the street after he walked out of his parents' house in Queens. The FBI agents informed Babar that they wanted to speak to him and Babar voluntarily agreed to accompany them to a hotel room in Manhattan. Once they arrived at the hotel, Babar was advised of his *Miranda* rights. Babar waived his *Miranda* rights orally and in writing. At the conclusion of the first interview by the FBI agents on April 6, 2004, the agents informed Babar that they wanted to continue to speak with him. Babar voluntarily agreed to stay in the hotel room and continue the interview the next day. The FBI agents continued to interview Babar from April 7, 2004, through April 10, 2004.

On April 10, 2004, at the conclusion of five days of voluntary interviews, Babar was arrested on a material witness warrant and taken into custody by the FBI. On April 12, 2004, Babar was appointed counsel, presented before District Judge Leonard B. Sand, and ordered detained.

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On June 3, 2004, after nearly two months of proffering, Babar pled guilty to a five-count Information before this Court, in which he was charged with four counts of providing and conspiring to provide material support to a foreign terrorist organization, namely al Qaeda, and to terrorist activity, in violation of 18 U.S.C. §§ 2339B and 2339A, and one count of making a contribution of funds, goods and services to, and for the benefit of, al Qaeda, in violation of 50 U.S.C. § 1705(b). Following his plea, Babar remained detained until December 18, 2008, when he was released on bail. Accordingly, to date, Babar has served approximately four years and eight months in prison in connection with the offenses to which he pled guilty.

Babar's Other Criminal Conduct

Aside from the terrorism-related offenses to which Babar pled guilty in this case, Babar's other documented criminal conduct is limited to a New York State conviction for driving without proof of insurance for which he was fined \$75. (See PSR §§ 64-65.) Babar has also admitted that he knowingly overcharged customers while working as a parking valet in New York in the late 1990s.

Babar's Guidelines Range

The Government agrees with the Probation Office's calculation of Babar's sentencing range under the United States Sentencing Guidelines. Based on his plea to the five terrorism charges in Information 04 Cr. 528 (VM), Babar's base offense level is 26. Because the offenses involved the provision of funds and other material support or resources with the intent, knowledge or reason to believe they would be used to commit or assist in the commission of a violent act, a two-level increase is warranted. In addition, because the offenses are felonies that involved or were intended to promote a federal crime of terrorism, a twelve-level increase is warranted. After reducing the offense level three levels for acceptance of responsibility, Babar's total offense level is 37. Accordingly, given that he falls within Criminal History Category I, Babar's applicable Guidelines range is 30 years to life imprisonment. The statutory maximum sentence for Counts 1 through 5, however, is 70 years' imprisonment. Accordingly, absent cooperation, Babar would be facing a Guidelines range of 30 to 70 years' imprisonment.

Babar's Cooperation and Assistance

Over the last six and a half years, the level of assistance provided by Babar to both the U.S. Government and foreign governments has been more than substantial; it has been extraordinary. As described in more detail below, Babar testified as a government witness in four terrorism trials overseas; was prepared to testify in a fifth terrorism trial in this District earlier this year; and met with authorities from the U.S. government and foreign governments on nearly 100 occasions in total during which he provided information about organizations and individuals engaged in terrorist activities in various parts of the world.

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Babar attended his first proffer session with the Government on April 6, 2004, after he was approached on the street by representatives of the Joint Terrorism Task Force (“JTTF”). Babar agreed to go with the JTTF agents to a local hotel. Over the course of the following five days, Babar agreed to waive his *Miranda* rights and his right to speedy presentment as he answered the agents’ questions about his prior conduct and the conduct of others. During these initial proffers, while generally forthright and credible, Babar was not entirely forthcoming regarding his knowledge of senior al Qaeda commander Hadi al Iraqi due to his concern that his contacts with Hadi al Iraqi would increase his criminal exposure. However, within a matter of days and before he was placed under arrest on April 10, 2004, Babar admitted that he had been withholding information on Hadi al Iraqi and provided the agents with a full accounting of his visits with Hadi al Iraqi. Other than that single instance, over the last six and a half years, the Government has found that Babar was always completely truthful about his criminal conduct and the criminal activities of others. Babar’s memory has always been precise and detail-oriented, and the information he provided was regularly consistent with and corroborated by other evidence gathered by the U.S. and foreign governments.

During Babar’s initial proffers, it quickly became apparent that his information was of significant value for not only U.S. law enforcement and intelligence agencies but also foreign authorities, including England and Canada. As a result, Babar’s information was regularly disseminated by the FBI through standard law enforcement and intelligence channels. In fact, Babar’s information was so credited and valued by authorities in England and Canada that he ultimately entered into the equivalent of cooperation agreements with each of those two countries. And it was pursuant to these agreements that Babar testified as a critical prosecution witness in three terrorism trials in England and one terrorism trial in Canada.

Babar’s assistance was extremely useful to the Government in a number of ways. Preliminarily, Babar truthfully revealed his own criminal activities, including his organization of a month-long terrorist training camp in rural Pakistan in the summer of 2003, his efforts to assist several extremist groups in England with ties to al Qaeda, and his direct financial and material support of al Qaeda’s military commander for Afghanistan and Pakistan at the time. Some of this information was not previously known to the Government and was not available through other sources.

More importantly, however, Babar provided valuable assistance in the successful prosecution and conviction of many others who engaged in serious terrorism activity, including Omar Khyam and his group in England, Momin Khawaja in Canada, and Syed Hashmi here in New York.

First, in the spring of 2006, Babar was flown to England to testify at the trial of Omar Khyam and others pursuant to his cooperation agreement with the English government. As referenced above, in March 2004, Omar Khyam and seventeen others, including Khyam's brother,

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were arrested for their role in a plot to detonate fertilizer bombs in various locations across England, including a shopping center and a nightclub. Over the course of at least five months, the group planned to make an improvised explosive device from ammonium nitrate fertilizer and aluminum powder. They also discussed using a remotely operated detonation system to detonate the bomb. In furtherance of the plot, the conspirators bought 600 kilograms (approximately 1,300 pounds) of fertilizer, and were recorded discussing the distance needed for the remote detonation system and the use of a cellphone as a transmitter for the detonator.

Prior to trial, Babar met with English authorities on numerous occasions in order to draft his written statement, which was filed with the court in England in advance of trial and formed the basis of his trial testimony. The final version of Babar's witness statement for this trial numbered 47 pages. During the trial, Babar testified as the prosecution's lead witness and was on the stand for 15 days. In April 2007, after a trial and jury deliberations that spanned 13 months, Khyam and four other members of the plot were convicted of various terrorism offenses and all were sentenced to life imprisonment. At the time, this case was considered by many in England to be the most significant terrorism prosecution in the country's history.

According to English authorities, Babar was not only a credible witness at this trial but information provided by Babar led to the investigation of a number of individuals engaged in extremist activity not previously known to them. As a result, the English government has employed and continues to employ a variety of disruptive measures against these individuals, including imprisonment, to frustrate their activities.

Second, in the summer of 2008, Babar was flown to Canada to testify at the trial of Mohammad Momin Khawaja. As described above, Khawaja is a Canadian citizen who was charged for his role in the bomb plot in England led by Khyam. As with the English prosecution, Babar met with representatives of the Canadian government prior to this trial to prepare his testimony and he was again a critical witness for the prosecution. According to the Canadian government, Babar was "cooperative" and the information he provided "greatly assisted" them in their investigation. Babar was on the stand for four days. Khawaja was later convicted of various terrorism offenses, and in March 2009, he was sentenced to 10 and a half years' imprisonment.

Third, in April 2008, Babar testified via video-link in the English prosecution of Mohammed Shakil, Waheed Ali and Sadeer Saleem, three individuals charged with participating in the July 2005 London bus and train bombings that killed 52 people. In preparation for his testimony, Babar again met with English authorities on multiple occasions and assisted in the drafting of multiple witness statements that were filed with the court. While Babar did not provide testimony about the bomb plot itself, he offered important background information about certain of the defendants and their links to terrorist training camps and to terrorist activities. Babar was on the stand for two days. The trial ended in a hung jury, and a retrial was conducted in January 2009.

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At the retrial, Babar once again testified via video-link for two days. After three months, the jury acquitted the three defendants of all charges relating to the July 7, 2005, bombings but convicted two of the defendants – Shakil and Ali – on charges relating to their plans to attend a terrorist training camp. Both Shakil and Ali were sentenced to 7 years' imprisonment.

Fourth, Babar was instrumental in securing the guilty plea of Syed Hashmi in this District to one count of conspiracy to provide material support to al Qaeda. As described above, Babar met Hashmi in 2000 through their mutual membership in ALM's New York chapter. They quickly became close friends as they shared similar views on jihad, al Qaeda and U.S. foreign policy. Four years later, after Babar had moved to Pakistan and Hashmi had moved to London, Babar stayed with Hashmi for approximately two weeks while he met with al Qaeda supporters there to discuss how they could support Hadi al Iraqi and his troops who were fighting Coalition forces in Afghanistan. During Babar's stay, Hashmi accompanied Babar to meetings with fellow al Qaeda supporters, allowed Babar to store gear at his apartment with the knowledge that it was destined for Hadi al Iraqi and his troops, and gave Babar several hundred dollars in cash for an airline ticket back to Pakistan so that Babar could provide the gear to Hadi al Iraqi.

Babar was the central witness (and only cooperating witness) in the Government's case against Hashmi, and thus it is clear that Hashmi pled guilty prior to trial with the knowledge that Babar would testify against him if he did not plead. The Government would have relied on Babar's testimony to explain his friendship with Hashmi, his private conversations with Hashmi about their mutual support of jihad and al Qaeda, and the details of Hashmi's involvement with other al Qaeda supporters in London and his participation in the provision of material support to Hadi al Iraqi, al Qaeda's military commander in Afghanistan and Pakistan.

Hashmi pled guilty before the Honorable Loretta A. Preska on April 27, 2010, and on June 10, 2010, he was sentenced to 180 months' imprisonment. Because Hashmi did not plead guilty until literally the eve of trial, the Government — and hence Babar — went through full pretrial preparations. Babar met with the Government numerous times, often for hours, to prepare for his trial testimony. He reviewed relevant emails and photographs, described in detail the interactions and conversations he had with Hashmi, Hadi al Iraqi and other relevant co-conspirators, and reviewed the extensive quantity of 3500 material that had been generated as a result of his prior testimony and interviews. Throughout the extended pre-trial period (the trial date was adjourned four times), Babar was cooperative and always did what was asked of him. At no point did any Government attorney or agent believe that Babar was not being truthful in the information he provided.

Finally, in addition to the trial testimony he provided in England and Canada and the testimony he was prepared to provide in this District, Babar supplied the Government and foreign governments with a wealth of credible information about terrorist organizations, including al Qaeda, and terrorist activity, including the London bomb plot. Some of this information was relevant to ongoing terrorism investigations both in the United States and abroad and some of it led

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to the initiation of new investigations. Because Babar agreed to cooperate on the day he was first approached and because he was honest, detailed and consistent about his own conduct from virtually the beginning of his proffers, the Government felt comfortable trusting Babar's information at a very early stage. Foreign governments, in turn, came to rely on his insider's perspective as well, and Babar became a valued government resource for certain terrorism-related matters.¹

Conclusion

In sum, it is the Government's view that Mohammed Junaid Babar has contributed substantially and materially to the successful prosecution of the individuals named above. Accordingly, assuming that Babar continues to comply with the terms of his cooperation agreement and commits no additional crimes before sentencing, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the Sentencing Guidelines and Title 18, United States Code, Section 3553(e), that the Court sentence Babar in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Guidelines. Because of the sensitive nature of this application, the Government further respectfully requests that this letter be filed under seal.

Respectfully submitted,

PREET BHARARA
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK

By: /s/ Brendan R. McGuire
BRENDAN R. MCGUIRE

¹ Although the majority of the individuals against whom Babar could reasonably be expected to testify have been convicted and sentenced or are beyond the Government's jurisdictional reach, some individuals remain unapprehended or are not presently in a position to be criminally prosecuted. Should certain of those individuals be arrested or become available for prosecution, the Government may need to call Babar as a witness. For this reason, the Government respectfully requests that the Court make it a specific condition of any term of supervised release that may be imposed on Babar that he continue to cooperate with the Government, pursuant to the terms of his cooperation agreement, for the duration of any such period of supervision.

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cc: Daniel Ollen, Esq.
U.S. Probation Officer Ross Kapitansky