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July 22, 2009

via Federal Express

Charles R. Fulbruge III, Clerk
United States Fifth Circuit Court of Appeals
600 Maestri Place
New Orleans, Louisiana 70130

In re: ***United States v. Mohammad El-Mezain; Ghassan Elashi; Shukri Abu Baker; Mufid Abdulqader; Abdulrahman Odeh; Holy Land Foundation for Relief and Development, also known as HLF***
No. 09-10560

Dear Mr. Fulbruge:

Enclosed for filing are the original and three copies of the Government's ***Motion to Remand for Evidentiary Hearing and Factual Findings Necessary to Determine this Court's Jurisdiction*** in the above-referenced case.

Thank you for your assistance in this matter.

Sincerely,

JAMES T. JACKS
ACTING UNITED STATES ATTORNEY

Coryn Petersen, Legal Assistant to

SUSAN COWGER
Assistant United States Attorney

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09-10560

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MOHAMMAD EL-MEZAIN; GHASSAN ELASHI; SHUKRI ABU BAKER;
MUFID ABDULQADER; ABDULRAHMAN ODEH; HOLY LAND
FOUNDATION FOR RELIEF AND DEVELOPMENT, also known as HLF,
Defendants-Appellants.

On Appeal from the United States District Court
for the Northern District of Texas
Dallas Division
District Court No. 3:04-CR-240-P

MOTION TO REMAND FOR
EVIDENTIARY HEARING AND FACTUAL FINDINGS
NECESSARY TO DETERMINE THIS COURT'S JURISDICTION

The government asks this Court to remand the case to the district court. As the record now stands, it is uncertain which co-defendant corporate officers of appellant HLF, if any, were authorized representatives of HLF at various stages of the proceedings below, as well as which attorneys, if any, represented it.

Moreover, it is unclear whether any HLF representative has authorized the filing of a notice of appeal in this case or whether HLF has authorized attorney Ranjana

Natarajan to act as counsel on its behalf. Accordingly, the case should be remanded so that the district court can make findings as to HLF's corporate and legal representation over the course of this case. Such findings will shed light on issues that will undoubtedly be part of any appeal that HLF pursues, including whether this Court has jurisdiction of the attempted appeal that Ms. Natarajan initiated for HLF with her June 5, 2009 notice of appeal.

Procedural Background

In 2004, the government brought an indictment against the appellants named in the caption (and others), charging crimes relating to the support of terrorism. In 2007, the case was ready for trial before Chief Judge Fish. The court began voir dire on July 16, 2007. As of that date, HLF was represented by three lawyers from the law firm now shown on this Court's docket as Freedman Boyd Hollander Goldberg & Ives PA: Nancy Hollander, John Boyd, and Theresa Duncan.¹ (Freedman Boyd had represented HLF from the time of arraignment and throughout the pretrial proceedings.) These lawyers also represented the individual defendant Shukri Abu Baker. (DS, Docs. 77, 82.)

¹ An Entry of Appearance Form filed in district court on September 30, 2004, was signed by Nancy Hollander and listed her and Mr. Boyd as attorneys for HLF. (District Court Docket Sheet ("DS"), Doc. 88.) Ms. Duncan filed her appearance forms on July 16, 2007, stating she represented both HLF and Shukri Abu Baker. (DS, Docs. 718-19.)

On the second day of voir dire, one of the government's lawyers noted that there remained a need for the court to have an oral colloquy with the two affected defendants, HLF and Mr. Baker, under FED. R. CRIM. P. 44(c)(2), so the record would thoroughly establish their waiver of any possible conflict of interest arising from the dual representation. In responding to that request, the court stated its own understanding that HLF "is a defunct corporate entity, and of course, any corporate entity for purposes of the Court [conducting such a colloquy] must be represented by a natural person, and I'm not sure[,] since this entity I understand is defunct[,] who will be the natural person representative of it." The upshot of this discussion was that the defense requested, and the court granted, until the following morning to ponder the matter. (*See* Excerpt of July 17, 2007 transcript, attached as Exhibit A.)

On the morning of the next day, the court asked for a progress report from the defense. Lawyer John Cline, representing Ghassan Elashi (who had signed the written waiver of conflict of interest on behalf of HLF – *see* DS, Doc. 376), said:

Your Honor, the question is whether Mr. Elashi is in a position to speak on behalf of [HLF] on this issue of a potential conflict. Unfortunately, we don't know either of the current status of [HLF], whether it exists even as an entity, or Mr. Elashi's status, if it does exist. And so although he has no personal objection to the joint representation, I'm afraid he cannot speak for [HLF] at this point.

(*See* Excerpt from Transcript of July 18, 2007, attached as Exhibit B.)

Ms. Hollander added, somewhat cryptically: “. . .I would agree since it’s my firm at issue here. I agree that’s the position he takes, that there is no dispute on behalf of [HLF].” (*Id.*) The court responded:

I’m not sure I have really thought through the implications of that. We do have or at least I thought we had [HLF] as a represented defendant in this case; that is, represented by counsel. But I’m inferring from what has been said that there is no natural person as the representative of [HLF] who would be the client for the attorney who’s representing [HLF]. Am I understanding that correctly?

MS. HOLLANDER: That is correct at this time, Your Honor.

THE COURT: Let me think about that issue a little more and see what I think about advising the defendants of joint representation.

(*Id.*)

The matter came up once more on July 20, the fifth day of voir dire.

MS. HOLLANDER: Your Honor, all I can say is that[,] if there is no one here to represent [HLF, and] since we don’t know exactly what its status is[,] we can’t represent [HLF].

THE COURT: We being you and who else?

MS. HOLLANDER: We being my law firm, myself and Teresa [sic] Duncan and John Boyd, who’s not in the courtroom – the lawyers in my office. Since the government has raised this and is concerned that we need waivers on the record by your Honor asking questions, and there is no one to answer those questions on behalf of [HLF]. Since the government is concerned about it we’re concerned about it. So we can’t represent [HLF] under those circumstances.

MS. SHAPIRO² [a prosecutor]: Honestly, I'm not sure how we proceed when it comes to [HLF], but I think we would like to see[,] because there was a joint representation up to this point with the defendant Shukri Abu Baker[,] that at least he be questioned by the Court so that there is no issue with regard to his counsel. With regard to [HLF], I don't know what we do. Maybe remain unrepresented for the trial.

MS. HOLLANDER: Your Honor, I think in light of what the government has said, and we have no problem with your Honor questioning Mr. Baker although we do believe that should be ex parte in chambers if your Honor questions him, but based on what the government has said, we will simply withdraw from representing [HLF] and represent Mr. Baker, and your Honor can question him if you wish. I remind the Court he did sign a waiver.

THE COURT: A waiver of what?

MS. HOLLANDER: Of conflict.

THE COURT: Well, if you propose to withdraw from representing [HLF] at this point, I don't know that I really need to question him. * * *

MS. HOLLANDER: That's fine with us, if you don't want to question him, your Honor, but we will withdraw from representing [HLF] at this time. Ms. Duncan and I will continue to represent Mr. Baker.

(See Excerpt of July 20, 2007 transcript, attached as Exhibit C.) Later that day, during voir dire, the court introduced the parties to the jury panelists; it described HLF as a corporate entity that "is unrepresented at this trial." (*Id.*)

² Although the transcript identifies Ms. Shapiro as the speaker, Mr. Jonas, another prosecutor, recalls himself as the speaker, at least as to part of this passage.

The case proceeded to trial, but ended in a partial mistrial because of the jury's failure to reach verdicts on most counts as to most defendants. (DS, Docs. 863-68, 872.) It was reassigned to Judge Solis, and was tried again during September-November, 2008, this time resulting in guilty verdicts. (DS, Doc. 1250.) In late May, 2008, the district court sentenced HLF and the individual defendants; HLF was also shown to be unrepresented at the sentencing hearing. (DS, Doc. 1297.)

On June 5, 2009, attorney Ranjana Natarajan filed an appearance on behalf of HLF and a notice of appeal from the judgment. (DS, Docs. 1302, 1303.) The filings, made electronically, were accomplished through the account of attorney Marlo Cadeddu, who represented the individual defendant Mufid Abdulqader. (*Id.*) On receipt of these filings, one of the prosecutors (Mr. Jacks) telephoned Ms. Natarajan, inquiring who had hired her to represent HLF. Based on this conversation, the government believes that Ms. Natarajan does not have actual authority to represent HLF, nor to have filed anything on its behalf.

Discussion

This matter requires a factual finding as to Ms. Natarajan's authority, and such a finding should properly be made in the district court, as it will require the receipt of evidence and testimony. The government had moved in the district court to strike Ms. Natarajan's filings, (DS, Doc. 1305), and Ms. Natarajan replied

in part that the district court had been divested of jurisdiction by the filing of appeal notices. (DS, Doc. 1309.) Accordingly, the government now makes this motion for a limited remand.

Although there is a rebuttable presumption that an attorney has authority to represent the person for whom he purports to appear, *see Dorey v. Dorey*, 609 F.2d 1128, 1131 (5th Cir. 1980), the government has evidence to rebut that presumption in this case, and it should be afforded the opportunity to present that evidence to the district court as factfinder. That course is particularly appropriate here, where the district court presided over a trial involving these parties and has a deep fund of knowledge about the parties, the lawyers, and the case's history that will serve it well in making the necessary factual findings.

Furthermore, there is a need for factual findings on the identity and status of the corporate representative for HLF, both at the time of each trial and now. The government can establish that HLF has been a party to several lawsuits, presumably by authority and with the assistance of one or more corporate representatives, from the time it was named a Specially Designated Terrorist in 2001. HLF was a plaintiff in a civil action that it initiated, and was a defendant in civil actions initiated by others. To the government's knowledge, the Freedman Boyd law firm has represented it in all of these cases. Indeed, at the same time that Ms. Hollander said she and her colleagues were withdrawing from represent-

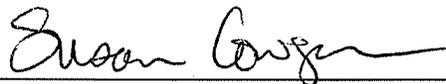
ing HLF in the criminal trial – on the ostensible ground that no one could speak on HLF’s behalf – her partner John Boyd was representing HLF in civil proceedings in federal district court in Illinois. What is more, John Cline was co-representing HLF in that suit. *See* docket sheet for Case No. 1:00-CV-02905, Northern District of Illinois, at <http://ecf.ilnd.uscourts.gov>. Mr. Boyd also filed a pleading in the Supreme Court on HLF’s behalf as recently as February 12, 2009. *See* Supreme Court docket sheet, at <http://origin.www.supremecourtus.gov/docket/08a712.htm>. The district court should be permitted to look into these matters and elucidate the factual picture before the appeal proceeds, as the question of HLF’s representation by counsel and by corporate agents will undoubtedly be an appellate issue. Indeed, the factual record, depending on what it establishes, may well support an argument that HLF was represented in this criminal trial, despite what was said before Judge Fish in July, 2007.

Accordingly, the Government asks this Court to remand the case to the district court for a factual determination as to whether Ms. Natarajan has authority to act on behalf of HLF as its lawyer, as to whether HLF was actually represented at trial, as to the corporate status of HLF before, during, and after the trial, and as to the identity and status of HLF’s corporate representatives and its legal representatives over time. Following the district court’s findings pursuant to such a limited remand, it will also be possible to determine whether HLF has authorized

the filing of a notice of appeal in this case and who its authorized representatives would be in any further proceedings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this motion was mailed to the following attorneys on

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SUSAN COWGER

Assistant United States Attorney

8:00 1 MR. JONAS: I don't think it would, but I
2 suggest starting out finishing the hearing first thing
3 Wednesday morning, if there is anything left over, and as
4 soon as we are done with the Daubert hearing go straight
5 into testimony.

6 THE COURT: Well, I in principal don't have any
7 objection to that, especially if counsel have agreed on
8 it. But I will have to say that I would like to
9 accommodate witness schedules. We have a lot of people
10 involved in this case, as you can see, by looking around
11 the courtroom. We have a lot of court staff. The
12 government is paying for most or all of this. And it just
13 seems to me an awful lot to ask for us to shift our
14 schedules around to accommodate the schedule of the
18:00 15 witness just because he doesn't want to come down on
16 Sunday. That's my concern about it, and I am going to be
17 unhappy if our schedule is thrown out of kilter because
18 the witness was unwilling to come on the weekend.

19 MR. JONAS: I will check with the witness about
20 the weekend, and I will let the Court know tomorrow. My
21 understanding is he's going to be out of town on the
22 weekend, and that's why he was unable to fly in.

23 THE COURT: All right. That was the first item.
24 What is the next?

25 MR. JONAS: The second involves an issue that

18:00 1 has surfaced a few times over the last year or so, and the
2 Court touched on it last week, and that is with regard to
3 conflict of interest of Shukri Abu Baker and Holy Land
4 Foundation being represented by the same counsel. The
5 government is concerned about the record. Coming out of
6 Washington, I have practiced in different jurisdictions.
7 Up there, what normally happens is the defendants are
8 brought before the court, and the court itself questions
9 the defendants regarding their understanding about the
10 conflict and the waiver. In fact, I have had experience
11 where the court will bring in outside counsel -- usually
12 from the public defender's office -- to talk to the
13 defendants themselves. In this instance, we have written
14 waivers with the defendants, but we're uncomfortable that
18:00 15 may not be enough to protect the record on conflict, and I
16 understand the Court questioned Ms. Duncan last week about
17 her understanding of the conflict. But we would be more
18 comfortable if the Court questioned the defendants on this
19 issue.

20 THE COURT: When you say the defendants, I'm not
21 sure if all the defendants are affected. I have the
22 impression that at least some of them are represented by
23 only one counsel and that counsel in turn represents only
24 one defendant. But there may be some other defendants who
25 are represented by counsel who represent more than one

8:00 1 defendant?

2 MS. JONAS: Yes, that's correct. This only
3 affects the Defendant Shukri Abu Baker and Holy Land
4 Foundation.

5 THE COURT: Like you, I would like to be sure
6 the record is clear in that regard before we invest the
7 amount of time that everyone has been talking about in
8 this case, and so I do think that is something that I
9 probably should question the defendants about personally,
10 as I think Rule 44 of the Rules of Criminal Procedure
11 actually requires. Like you, I have not researched the
12 subject area at least recently on the Fifth Circuit
13 precedent in that regard. But I think the Rule does
14 contemplate that the Court will directly talk with the
18:00 15 defendant about the issue of multiple representation. One
16 question I have, and I don't know if you are the right
17 person to ask this question of, but it is my understanding
18 that the Holy Land Foundation is a defunct corporate
19 entity, and of course, any corporate entity for purposes
20 of the Court complying with Rule 44 must be represented by
21 a natural person, and I'm not sure since this entity I
22 understand is defunct who will be the natural person
23 representative of it.

24 MR. JONAS: That's a good question, your Honor.
25 Ms. Hollander informed me that the Defendant Ghassan

18:00 1 Elashi signed the waiver a few months ago on behalf of
2 Holy Land Foundation. That, of course, raises another
3 question as to whether or not there is a conflict with him
4 doing that. And I don't know the answer to that.

5 THE COURT: Counsel for any of the defendants
6 who are involved in this representation have any help for
7 us on this issue?

8 MS. HOLLANDER: May we have a moment, your
9 Honor?

10 THE COURT: All right.

11 MR. CLINE: Your Honor, John Cline on behalf of
12 Mr. Elashi. We're a bit puzzled here. We're not sure
13 what Mr. Elashi's status is with respect to the Holy Land.
14 May we have overnight and take it up first thing tomorrow
18:00 15 morning?

16 THE COURT: Yes, sir. I don't know about
17 tomorrow morning. If we have people downstairs waiting to
18 be interviewed, I don't know that I want to take the time
19 to resolve this issue while they are waiting, but if you
20 need overnight to talk about it, I would appreciate
21 whatever assistance you can provide.

22 MR. JONAS: Your Honor, one other quick matter.
23 I guess procedural. The government is going to be moving
24 to dismiss five of the counts, and our question for the
25 Court is on the indictment do you wish us to renumber and

8:00 1 accounts. Thank you, ma'am. You may be excused.

2 MS. MORENO: Your Honor, we move for cause
3 against Ms. Brown. She cannot afford the presumption of
4 innocence against these gentlemen. She indicated she can
5 not be a fair and impartial juror.

6 THE COURT: Mr. Jackson, do you have a position
7 about that?

8 MR. JACKS: No objection.

9 THE COURT: I will excuse Ms. Brown for cause.
10 Ladies and Gentlemen, due to the hour I think this will be
11 our last person to see today. As in the two preceding
12 days, I think we have made good progress today, but I'm
13 still not satisfied that we have enough people, given the
14 pendency of these challenges for cause that I have taken
18:00 15 under advisement as well as the persons who have expressed
16 some hardship about serving in this case. So I think we
17 need to continue to process for some period of time
18 tomorrow. Perhaps all day depending on the progress we
19 make. But certainly probably until noon.

20 We had an issue left over from yesterday
21 concerning joint representation of the defendants in this
22 case, and Ms. Hollander and Mr. Cline asked overnight to
23 discuss that, and I don't know how much time it will take
24 to fully deal with that issue, but I would like to at
25 least have a progress report if counsel have made any

18:00 1 progress after overnight in how to handle this issue.

2 MR. CLINE: Your Honor, John Cline for Mr.
3 Elashi. Is it all right if I speak from here?

4 THE COURT: Yes.

5 MR. CLINE: Your Honor, the question is whether
6 Mr. Elashi is in a position to speak on behalf of the Holy
7 Land Foundation on this issue of a potential conflict.
8 Unfortunately, we don't know either of the current status
9 of the Holy Land Foundation, whether it exists even as an
10 entity or Mr. Elashi's status, if it does exist. And so
11 although he has no personal objection to the joint
12 representation, I'm afraid he cannot speak for the Holy
13 Land Foundation at this point.

14 THE COURT: Anyone else on the defense side who
18:00 15 wants to be heard on this issue? Ms. Hollander.

16 MS. HOLLANDER: Your Honor, I would just add
17 that I would agree since it's my firm at issue here. I
18 agree that's the position he takes, that there is no
19 dispute on behalf of the Holy Land Foundation.

20 THE COURT: I'm not sure I have really thought
21 through the implications of that. We do have or at least
22 I thought we had the Holy Land Foundation as a represented
23 defendant in this case; that is, represented by counsel.
24 But I'm inferring from what has been said that there is no
25 natural person as the representative of the Holy Land

8:00 1 Foundation who would be the client for the attorney who's
2 representing the Holy Land Foundation. Am I understanding
3 that correctly?

4 MS. HOLLANDER: That is correct at this time,
5 your Honor.

6 THE COURT: Let me think about that issue a
7 little more and see what I think about advising the
8 defendants of joint representation.

9 Another I guess housekeeping issue that I needed
10 to discuss with you is, as I mentioned earlier today, we
11 need to put a notice on the automated telephone system
12 that the clerk's office uses for jury communications by
13 three o'clock tomorrow afternoon as to what we're going to
14 do on Friday. And I don't yet have a good idea of how
18:00 15 much time we will need for a general voir dire session,
16 and so I don't know at what hour to schedule it to
17 commence on Friday. And also the actual method of
18 exercising peremptory challenges, as I have discussed
19 previously with counsel at our various status conferences,
20 is not really familiar to me. I have never been through
21 that before, and so I don't know how much time to
22 anticipate that process will take. So I would like some
23 guidance from counsel as to what our schedule for Friday
24 should be.

25 MR. WESTFALL: And I wanted to update you on an

'8:00 1

P R O C E E D I N G S:

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THE COURT: Good morning, Ladies and Gentlemen.

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I asked you to come this morning before ten o'clock

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because Ms. Hudson told me earlier this morning that she

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had received a phone call from Ms. Hollander to the effect

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that Ms. Hollander thought we needed to resolve the

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question of attorney representation for some of the

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defendants and their counsel before counsel were

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introduced to the jury panel, and I agree with that. I

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didn't want to keep the jury panel waiting to start this

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at ten o'clock, and that's why I asked you to be here at

12

an earlier time.

13

Ms. Hollander, do you have anything to say about

14

that issue?

18:00 15

MS. HOLLANDER: Your Honor, all I can say is

16

that if there is no one here to represent Holy Land since

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we don't know exactly what its status is we can't

18

represent Holy Land.

19

THE COURT: We being you and who else?

20

MS. HOLLANDER: We being my law firm, myself and

21

Teresa Duncan and John Boyd, who's not in the courtroom --

22

the lawyers in my office. Since the government has raised

23

this and is concerned that we need waivers on the record

24

by your Honor asking questions, and there is no one to

25

answer those questions on behalf of Holy Land. Since the

18:00 1 government is concerned about it we're concerned about it.
2 So we can't represent Holy Land under those circumstances.

3 THE COURT: Mr. Jonas.

4 MS. SHAPIRO: Honestly, I'm not sure how we
5 proceed when it comes to Holy Land, but I think we would
6 like to see because there was a joint representation up to
7 this point with the defendant Shukri Abu Baker that at
8 least he be questioned by the Court so that there is no
9 issue with regard to his counsel. With regard to Holy
10 Land Foundation, I don't know what we do. Maybe remain
11 unrepresented for the trial.

12 MS. HOLLANDER: Your Honor, I think in light of
13 what the government has said, and we have no problem with
14 your Honor questioning Mr. Baker although we do believe
18:00 15 that should be ex parte in chambers if your Honor
16 questions him, but based on what the government has said,
17 we will simply withdraw from representing Holy Land and
18 represent Mr. Baker, and your Honor can question him if
19 you wish. I remind the Court he did sign a waiver.

20 THE COURT: A waiver of what?

21 MS. HOLLANDER: Of conflict.

22 THE COURT: Well, if you propose to withdraw
23 from representing the Holy Land Foundation at this point,
24 I don't know that I really need to question him. The only
25 questioning that I felt was necessary was that which I

18:00 1 typically do as required by Rule 44 when there is joint
2 representation to be sure that each of the defendants
3 who's jointly represented understands the hazards of that
4 representation. But if there is to be no joint
5 representation at trial, I'm not sure that I see the
6 necessity for that, and if I do engage in such
7 questioning, I don't see the necessity to do it ex parte.
8 I typically do it in the courtroom during arraignment when
9 it is necessary.

10 MS. HOLLANDER: That's fine with us, if you
11 don't want to question him, your Honor, but we will
12 withdraw from representing Holy Land at this time. Ms.
13 Duncan and I will continue to represent Mr. Baker.

14 THE COURT: Let me while we're on that subject
18:00 15 be sure that I am correct later this morning in who I
16 introduce as representing what defendants. Because as I
17 said at an earlier conference, I'm not sure our docket
18 sheet is completely up to date. In fact, I checked it
19 again this morning, and that may be the clerk's office's
20 fault. I'm not saying that counsel bear any
21 responsibility for that. But the docket sheet I think as
22 of this morning reflected that Holy Land was represented
23 by John Boyd, Nancy Hollander and Josh Dratel and Mr.
24 Baker was represented by Nancy Hollander and John Boyd.
25 So I guess on Holy Land, I can simply say that it is

18:00 1 unrepresented.

2 MS. HOLLANDER: Your Honor, I believe that's an
3 error. I don't know where the error originated. But the
4 lawyers who represent Holy Land are the same lawyers who
5 represent Shukri Abu Baker, and it's my law firm. So it's
6 myself, Teresa Duncan and John Boyd. I'm not sure how
7 Joshua Dratel's name got in there.

8 THE COURT: I don't know either.

9 MS. HOLLANDER: So as it would stand now, my law
10 firm -- John Boyd who's not going to be in court or at
11 counsel table. But John Boyd, Teresa Duncan and I
12 represent Shukri Abu Baker, and in terms of introductions
13 to the jury it will simply be Teresa Duncan and Nancy
14 Hollander.

18:00 15 THE COURT: So Mr. Boyd will not be
16 participating?

17 MS. HOLLANDER: At counsel table, that's
18 correct.

19 THE COURT: I guess I need not include his name.
20 And then Mr. El Mezain, I have Joshua Dratel and Mr.
21 Mysliwicz. Then I have Mr. Odeh represented by Mr.
22 Westfall and Mr. Abdulqader represented by Ms. Cadeddu.
23 And Ms. Moreno and Mr. Cline representing Mr. Elashi.

24 MR. JACKS: Your Honor, I am going to want to
25 address some of the issues with regard to the

8:00 1 representation issue. I can wait.

2 THE COURT: I think I am finished. I was told
3 you had other issues, but I wasn't told what they were.

4 MR. JACKS: Yes, your Honor. The reason it is
5 being brought up now is simply that it is something that
6 has only recently I guess -- the extent of this practice
7 or whatever has come to light. I believe it was earlier
8 this week that Ms. Duncan filed an entry of appearance in
9 which she filed two forms, one indicating that she was
10 appearing as a retained attorney for the Holy Land
11 Foundation, and the second page of that indicated she was
12 appearing as appointed attorney for Shukri Abu Baker. The
13 government has never been served or seen any notice or
14 paperwork from the Court showing that Ms. Duncan has been
18:00 15 appointed by the Court to represent Shukri Abu Baker. Ms.
16 Hollander has at various times claimed that her firm was
17 appointed, and I don't believe that is the accurate
18 statement. A law firm cannot be appointed. Only an
19 attorney can be appointed. In addition, with regard to
20 Mr. Mysliwec -- I apologize for mispronouncing his name
21 as well. Mr. Dratel's associate, Mr. Mysliwec. He also
22 entered last Thursday, and the Court raised the question
23 of how many attorneys is an indigent entitled to, and it's
24 the government's understanding only in a capital case is a
25 defendant entitled to more than one attorney. The Court