

# Exhibit A



HUNTON & WILLIAMS LLP  
1111 BRICKELL AVENUE  
SUITE 2500  
MIAMI, FLORIDA 33131

TEL 305 • 810 • 2500  
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THOMAS R. JULIN

DIRECT DIAL: 305-810-2516  
EMAIL: [tjulin@hunton.com](mailto:tjulin@hunton.com)

FILE NO: 99997.029952

June 10, 2013

Melanie Ann Pustay  
Director, Office of Information and Privacy  
United States Department of Justice  
Attn: Sarah Ross, Attorney Adviser  
1425 New York Ave., NW – Suite 11050  
Washington, DC 20530

By Fax 202-514-1009

Re: Mandatory Declassification Request

Dear Ms. Pustay:

This is a request on behalf of our clients, Dan Christensen, Anthony Summers, and Robbyn Swan, pursuant to section 3.5 of Executive Order 13256 and 28 CFR § 17.31 for Mandatory Declassification Review of all classified information and records disclosed or referenced on pages 416 through 443(all of Part Four) of the 107<sup>th</sup> Congress's *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001*, that have not been publicly disclosed. Those pages involve information regarding "specific sources of foreign support for some of the September 11 hijackers while they were in the United States," the report says.

Our clients are reporters with *BrowardBulldog.org*, a not for profit news site in South Florida. Mr. Christensen is founder and operator of the site. Mr. Summers and Ms. Swan are also the authors of "*The Eleventh Day: The Full Story of 9/11 and Osama bin Laden*, a Finalist for the Pulitzer Prize for History in 2012.

To the best of our clients' knowledge and belief, the documents and material containing the classified information at issue are not within an operational file exempted from search and review, publication, and disclosure requirements of 5 U.S.C. §552, and the information is not the subject of pending litigation.

I note that section 3.6 of Executive Order 13256 specifies that when an agency receives a request for documents in its custody that contain classified information that originated with other agencies, it shall refer copies of the request to the originating agency. If, therefore, you conclude that this request seeks declassification of information that originated



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with other agencies such as the Central Intelligence Agency, please refer copies of this request to those other agencies.

Please also promptly forward this request, as required by 28 C.F.R. §17.31(b), to the component of the Department of Justice that originally classified the information and provide me with an acknowledgement of receipt of the request.

If any additional information is required to identify the requested information, please have the component that classified the information contact me and I will endeavor to provide the needed information on behalf of our clients. If the information or material requested cannot be obtained with a reasonable amount of effort, please have the component provide me with written notification of the reasons no action will be taken and our clients' right to appeal the decision to the Department Review Committee.

Please also ask the component that originally classified the information to provide a written response to this request for mandatory review within 60 days if possible, or to inform me in writing why additional time is needed.

My understanding of the Department's regulations is that unless there are unusual circumstances, the additional time needed by the component originally classifying the information shall not extend beyond 180 days from the receipt of the request. If no determination has been made at the end of the 180 day period, my clients may apply to the Department Review Committee for a determination.

More than a decade has passed since the Joint Inquiry's report was released to the American public without the 28 pages that our clients seek. The decision to withhold this information was apparently made by President George W. Bush for unspecified reasons of national security. Others who have seen the material have long disagreed with that assessment. For example, both Senator Bob Graham (D-FL), and Senator Richard C. Shelby (R-AL), who co-chaired the Joint Inquiry, have stated publicly that they believe 95 percent of the material is safe for public consumption and that the pages were kept secret for reasons other than national security. Sen. Graham further said that the information had been "misclassified" and that though "the information may be embarrassing or politically damaging, its revelation would not damage national security."

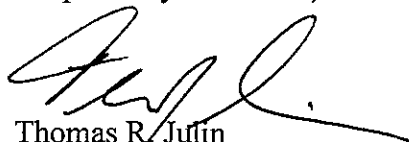
It also is important to note that the leaders of the Saudi Government, who some have said are the object of the redacted pages, want those pages declassified. As reflected in the

Mandatory Declassification  
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Congressional Record at 13,349-372 (Sen. Oct. 28, 2003), those leaders are angry and embarrassed by speculation about what the redacted materials might show and have wanted those pages declassified so that they could defend themselves against any charges that may have been made against them.

Finally, 9/11 survivors and family members would like those records made public. For example, Kristen Breitweiser, whose husband, Ronald, died in the World Trade Center, and Bill Doyle, whose son Joseph died there, have said that during a 2009 meeting with President Obama the President said he was willing to declassify the suppressed material. If so, we respectfully submit that it is now time to honor that commitment to the bereaved family members.

Respectfully submitted,



Thomas R. Julin  
Attorney for Dan Christensen, Anthony Summers  
and Robbyn Swan

# Exhibit B



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

JUN 26 2013

Thomas R. Julin, Esq.  
Hunton & Williams LLP  
1111 Brickell Avenue  
Suite 2500  
Miami, Florida 33131

Re: MDR FBI 2013-03597  
AMJ:BAC

Dear Mr. Julin:

This is to acknowledge receipt of your letter dated June 10, 2013, in which you requested a Mandatory Declassification Review of the 107<sup>th</sup> Congress' Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001, specifically pages 416 through 443.

Please be advised that your request has been forwarded to the Federal Bureau of Investigation (FBI) for processing and direct response to you. You may appeal any future adverse determination made by the FBI in accordance with 28 C.F.R. § 17.31 (2012). If you would like to inquire about the status of your request, please contact the FBI directly.

Sincerely,

A handwritten signature in cursive script that reads "Amanda M. Jones".

Amanda M. Jones  
Attorney-Advisor

cc: FBI

# Exhibit C



HUNTON & WILLIAMS LLP  
1111 BRICKELL AVENUE  
SUITE 2500  
MIAMI, FLORIDA 33131

TEL 305 • 810 • 2500  
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THOMAS R. JULIN  
DIRECT DIAL: 305-810-2516  
EMAIL: tjulin@hunton.com

FILE NO: 99997.029952

September 10, 2013

David M. Hardy  
Section Chief  
Federal Bureau of Investigation  
Record/Information  
Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4483  
Fax: (540) 868-4391 or 4997

Re: MDR FBI 2013-03597

Dear Mr. Hardy:

This letter requests an update regarding the status of a Mandatory Declassification Review request that I submitted to the Office of Information and Privacy of the Department of Justice on June 10, 2013, on behalf of Dan Christensen, Anthony Summers, and Robbyn Swan, and that was referred to the FBI, as the component that originally classified the information, on June 26, 2013, by Amanda M. Jones, attorney-adviser to the OIP.

Federal regulations provide:

The component that originally classified the information shall provide a written response to requests for mandatory review within 60 days whenever possible, or shall inform the requester in writing why additional time is needed. Unless there are unusual circumstances, the additional time needed by the component originally classifying the information shall not extend beyond 180 days from the receipt of the request. If no determination has been made at the end of the 180 day period, the requester may apply to the DRC for a determination.

28 C.F.R. § 17.31(d). Sixty days from the date of the original request was **August 9, 2013**. Sixty days from the referral was **August 25, 2013**.

Nevertheless, I have not received either a response or an explanation of why additional time is needed to formulate a response.

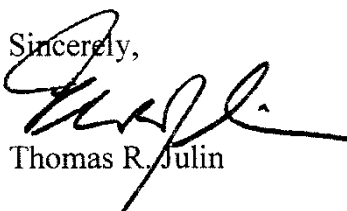


September 10, 2013  
Letter to David M. Hardy  
Re: MDR FBI 2013-03597  
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Please provide me the FBI's response or explanation as soon as possible.

The information that our clients seek to have declassified is pages 416 through 443 (all of Part Four) of the 107<sup>th</sup> Congress's *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001*. The Joint Inquiry report states that these pages contain information regarding "specific sources of foreign support for some of the September 11 hijackers while they were in the United States." Declassification of this information is of paramount public importance at this time.

Please call me at 305-810-2516 if you have any questions regarding the request. If you refer the request to another official or agency, please advise me of that action as well.

Sincerely,  
  
Thomas R. Julin

# Exhibit D



HUNTON & WILLIAMS LLP  
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FILE NO: 99997.029952

January 31, 2014

Melanie Ann Pustay  
Director, Office of Information and Privacy  
United States Department of Justice  
1425 New York Ave., NW – Suite 11050  
Washington, DC 20530

By Fax 202-514-1009

Re: Application to the Declassification Review Committee  
for Determination of MDR FBI 2013-03597

Dear Director:

This is an application by our clients, Dan Christensen, Anthony Summers, and Robbyn Swan, for determination by the Declassification Review Committee of their June 10, 2013, request to the Department of Justice pursuant to section 3.5 of Executive Order 13256 and 28 CFR § 17.31 for Mandatory Declassification Review of all classified information and records disclosed or referenced on pages 416 through 443(all of Part Four) of the 107<sup>th</sup> Congress's *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001*, that have not been publicly disclosed. A copy of the request is attached as Exhibit A.

After making the request, I received a letter dated June 26, 2013, from Amanda M. Jones, attorney adviser to the U.S. Department of Justice Office of Information Policy acknowledging our clients' June 10, 2013, request; assigning the request No. MDR FBI 2013-03597; and advising that the request had been forwarded to the Federal Bureau of Investigation for processing and direct response to me. A copy of Ms. Jones' letter is attached as Exhibit B.

Because I had received no response from the FBI by September 10, 2013, I wrote to David M. Hardy, section chief of the FBI's Record/Information Dissemination Section, asking for an update regarding the status of the request and observing that 28 CFR §17.31(d) states that the component that originally classified the information "shall provide a written response to requests for mandatory review within 60 days whenever possible, or shall inform the requester in writing why additional time is needed." I pointed out that this 60 day period had expired and that I had received neither a response nor an explanation of why additional time would be needed to formulate a response.



Application for Determination  
of MDR FBI 2013-03597  
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I have received no written response from the FBI or an explanation of why additional time would be needed to formulate a response.

The applicable regulations provide: “Unless there are unusual circumstances, the additional time needed by the component originally classifying the information shall not extend beyond 180 days from the receipt of the request. If no determination has been made at the end of the 180 day period, the requester may apply to the DRC for a determination.” 28 CFR §17.31(d).

The 180-day period for the Department of Justice to make its determination expired on or before December 6, 2013. I therefore am requesting a determination of the June 10, 2013, request by the Declassification Review Committee itself.

Our clients are journalists and authors. Mr. Christensen is founder and operator of an investigative news organization in south Florida. Mr. Summers and Ms. Swan are also the authors of “*The Eleventh Day: The Full Story of 9/11 and Osama bin Laden*, a Finalist for the Pulitzer Prize for History in 2012. Their reporting has focused on the possibility that the terrorists who attacked the United States on September 11, 2001, received significant support from persons or entities who have not been prosecuted for their involvement in the attacks. They are requesting declassification in furtherance of this reporting.

The Joint Inquiry report itself states that classified section of the report at issue contains information regarding “specific sources of foreign support for some of the September 11 hijackers while they were in the United States.” Our clients therefore believe that declassification would advance their investigations and help the American people understand how the September 11 attacks were financed and how similar attacks may be avoided. At the same time, it seems unlikely that declassification would harm any national interest.

The decision to withhold this information was apparently made by President George W Bush for unspecified reasons of national security. Others who have seen the material have long disagreed with that assessment. For example, both former U.S. Senator Bob Graham (D-FL), and Senator Richard C. Shelby (R-AL), who co-chaired the Joint Inquiry, have stated publicly that they believe 95 percent of the material is safe for public consumption and that the pages were kept secret for reasons other than national security. Sen. Graham further has stated that the information had been “misclassified” and that though “the information may be embarrassing or politically damaging, its revelation would not damage national security.”

Application for Determination  
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It also is important to note that the leaders of the Saudi Government, who some have said are the object of the redacted pages, want those pages declassified. As reflected in the Congressional Record at 13,349-372 (Sen. Oct. 28, 2003), those leaders are angry and embarrassed by speculation about what the redacted materials might show and have wanted those pages declassified so that they could defend themselves against any charges that may have been made against them.

Significant, 9/11 survivors and family members also would like the requested records made public. For example, Kristen Breitweiser, whose husband, Ronald, died in the World Trade Center, and Bill Doyle, whose son Joseph died there, have said that during a 2009 meeting, President Obama said he was willing to declassify the suppressed material. Now is the time to honor that commitment to the bereaved family members.

At this juncture neither the Department of Justice nor the FBI has made any determination of the request for declassification that was made on June 10, 2013, and no explanation has been provided for the delay. I therefore request on behalf of our clients a determination of their request by the Declassification Review Committee as is required by 28 CFR §17.31(d).

Please acknowledge receipt of this request and whether any additional information is needed to make the determination.

Sincerely,



Thomas R. Julin  
Attorney for Dan Christensen, Anthony Summers  
and Robbyn Swan

Attachments

# Exhibit E



U.S. Department of Justice  
Department Review Committee  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

FEB 25 2014

Thomas R. Julin, Esq.  
Hunton & Williams LLP  
1111 Brickell Avenue  
Suite 2500  
Miami, FL 33131

Re: MDRA No. 2014-01548  
MDR No. FBI 2013-03597  
SVR:BAC

Dear Mr. Julin:

This is to advise you that your mandatory declassification review (MDR) appeal was received by the Office of Information Policy (OIP) on January 31, 2014. You requested records maintained by the Federal Bureau of Investigation concerning the 107th Congress' Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2011.

The Department Review Committee (DRC) has the responsibility of adjudicating such appeals. OIP provides administrative support and advises the DRC on MDR appeals. Your MDR appeal has been assigned number **MDRA 2014-01548**. Please mention this number in any future correspondence to OIP regarding your appeal.

Because of the need for careful review of your appeal by the Federal Bureau of Investigation, the DRC staff, and the DRC itself, we anticipate that more than sixty days will be needed to reach a final determination in this case. We regret the necessity of this delay and appreciate your patience.

Sincerely,

Mark A. Bradley  
DRC Chairman

cc: Federal Bureau of Investigation

# Exhibit F





SENATOR BOB GRAHAM

GOVERNOR OF FLORIDA  
1979-1987

UNITED STATES SENATE  
1987-2005

July 9, 2014

Mr. John P. Fitzpatrick, Executive Secretary  
Interagency Security Classification Appeals Panel  
Attn: Mandatory Declassification Review Appeals  
C/o Information Security Oversight Office  
National Archives and Records Administration  
700 Pennsylvania Avenue NW, Room 503  
Washington, DC 20408.

Re: MDRA No. 2014-01548  
MDR No. FBI 2013-03597  
SVR:BAC

Dear Mr. Fitzpatrick:

I have reviewed the request that Dan Christensen, Anthony Summers, and Robbyn Swan have made for declassification of pages 416 through 443 (all of Part Four) of the 107<sup>th</sup> Congress's *Joint Inquiry into Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001* ("the Report"), and I am submitting this letter in support of that request and their appeal to ISCAP of the inaction on their request by the FBI and the Declassification Review Committee.


I served as co-chair of the Joint Committee that issued the Report and consequently I am familiar with the information that is sought to be declassified. It is my opinion that the information was not properly classified at the time that the Report was issued and is not properly classified at this time.

6843 MAIN STREET  
MIAMI LAKES, FLORIDA 33014  
BOB.GRAHAM@GRAHAMCOS.COM

It also is my opinion that declassification would not harm any national security interests. To the contrary, I believe that release of the information would advance national security interests.

If ISCAP would like to consider my views in further detail, I would be glad to appear before the Panel to elaborate and to address any questions that the Panel might have.

Respectfully,

A handwritten signature in black ink, appearing to read "Bob Graham". The signature is written in a cursive style with a large, stylized initial "B".

Bob Graham

# Exhibit G

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) ECF Case
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This document relates to:

*All Actions*

**AFFIRMATION OF DANIEL ROBERT "BOB" GRAHAM**

I, Bob Graham, being duly sworn, declare and state as follows:

1. My full name is Daniel Robert Graham. From 1966 through 1970, I served as a member of the Florida State House of Representatives and from 1970 through 1978, as a Member of the Florida State Senate. Between 1979 and 1987, I served as Governor of the State of Florida. From January 3, 1987 to January 3, 2005, I served as a United States Senator for the State of Florida. During my tenure as a United States Senator, I served on the Senate Select Committee on Intelligence for more than ten (10) years, and as Chairman of that Committee between June 6, 2001 and January 3, 2003. In my capacity as Chairman of the Senate Select Committee on Intelligence, I co-chaired the Joint Inquiry of the Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence into intelligence community activities before and after the terrorist attacks of September 11, 2001 (the "Joint Inquiry"). Following my retirement from the Senate, I served for one year as a senior fellow at the Kennedy School of Government. Thereafter, from May 2008 to February 2010, I served as Chairman of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism,

whose mandate was to build on the work of the National Commission on Terrorist Attacks Upon the United States (the “9/11 Commission”). I also served as a Commissioner on the bi-partisan Financial Crisis Inquiry Commission, established by Congress in May 2009 to examine the global and domestic causes of the financial crisis. On May 21, 2010, President Barack Obama appointed me as Co-Chair of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. Since 2010 I have served as a member of the Central Intelligence Agency External Advisory Board. I am the Chair of the Board of Overseers of the Graham Center for Public Service at the University of Florida, and the author of numerous books and articles, including *Intelligence Matters: The CIA, the FBI, Saudi Arabia and the Failure of America's War on Terror*. (Random House, 2004)

2. I submit this Affirmation on behalf of the Plaintiffs, based on my experiences as a long-time Member of the Senate Select Committee on Intelligence and Co-Chair of the Joint Inquiry, descriptions of activities in the Final Report of the 9/11 Commission and other reports and published materials I have reviewed to address statements in the January 30, 2012 Memorandum of Law of the Kingdom of Saudi Arabia in Opposition to Plaintiffs' Motion for Relief of Final Judgments (the “Kingdom's Memorandum of Law”).

3. In February 2002, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence agreed to conduct a Joint Inquiry into the activities of the U.S. intelligence community in connection with the terrorist attacks perpetrated against our nation on September 11, 2001. The Committees' decision was unprecedented in congressional history: for the first time, two permanent committees, one from the House and one from the Senate, would join together to conduct a single, unified inquiry.

4. The three principal goals of the Joint Inquiry were to:

- Conduct a factual review of what the intelligence community knew or should have known prior to September 11, 2001, regarding the international terrorist threat to the United States, to include the scope and nature of any possible international terrorist attacks against the United States and its interests;
- identify and examine any systemic problems that may have impeded the intelligence community in learning of or preventing these attacks in advance; and
- make recommendations to improve the intelligence community's ability to identify and prevent future international terrorist attacks.

5. During the course of the Joint Inquiry, the Committees held nine public hearings, as well as thirteen closed sessions in which classified information was considered. In addition, the Joint Inquiry staff reviewed almost 500,000 pages of relevant documents from the intelligence community agencies and other sources, conducted approximately three hundred interviews, and participated in numerous briefings and panel discussions that involved almost 600 individuals from the intelligence agencies, other U.S. government organizations, state and local entities, as well as representatives from the private sector and foreign governments.

6. As part of the Joint Inquiry, the Inquiry staff conducted an intensive investigation into the details of the 9/11 plot, the activities of the 19 hijackers, and the network of support that allowed them to carry out the September 11<sup>th</sup> Attacks.

7. Based on my experiences as Co-Chair of the Joint Inquiry, and the evidence collected by the Joint Inquiry during the course of its investigation into the events of September 11, 2001, the information contained in the Final Report of the 9/11 Commission, and reports and published materials I have reviewed, I am convinced that there was direct line between at least some of the terrorists who carried out the September 11<sup>th</sup> attacks and the government of Saudi

Arabia, and that a Saudi government agent living in the United States, Omar al Bayoumi, provided direct assistance to September 11<sup>th</sup> hijackers Nawaf al Hazmi and Khalid al Mihdhar. Based on the evidence discovered by the Joint Inquiry, I further believe that al Bayoumi was acting at the direction of elements of the Saudi government and that an official from the Islamic and Cultural Affairs section of the Saudi Consulate in Los Angeles, Fahad al Thumairy, likely played some role in the support network for the 9/11 Attacks. In May 2003, the United States revoked al Thumairy's diplomatic visa and banned him from the United States.

8. It has been well documented that al Bayoumi, a Saudi residing in San Diego, provided financial and other assistance to al Hazmi and al Midhar in the months leading up the September 11<sup>th</sup> Attacks. Al Bayoumi met al Hazmi and al Midhar at a restaurant in Los Angeles in late January 2000, immediately following a meeting between al Bayoumi and al Thumairy at the Saudi Consulate. Shortly thereafter, the two hijackers traveled to San Diego, where al Bayoumi held a dinner in their honor, helped them find an apartment, fronted the initial payments for that apartment, and provided them continuing financial assistance going forward. During the period that he supported the hijackers, al Bayoumi's allowances from a ghost job with a Saudi private firm and contractor to the Saudi government increased eightfold. During that same period, al Bayoumi had an unusual number of telephone conversations with Saudi government officials in both Los Angeles and Washington.

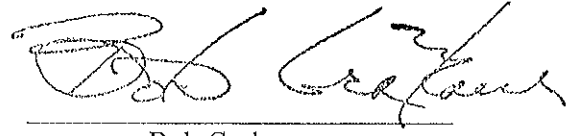
9. Based on my review of the evidence unearthed by the Joint Inquiry concerning al Bayoumi's sources of income, the nature of his activities while residing in the United States, his established ties to Saudi officials, the circumstances surrounding his meeting with al Hazmi and al Midhar in Los Angeles, the status assigned to al Bayoumi by the Federal Bureau of Investigation San Diego field office prior to 9/11, and the nature of the assistance he thereafter

provided to the two hijackers - as informed by my decades of service in government and more than a decade as a Member of the Senate Select Committee on Intelligence - I am convinced that al Bayoumi was an agent of the government of Saudi Arabia. To this date, this evidence has not been fully explored and pursued, to the considerable detriment of the American public. Whether other of the hijackers also received support from elements of the Saudi government has never been adequately explored. The American public deserves a more robust inquiry into these issues, and I fully support the effort by the 9/11 plaintiffs to use the civil justice system toward that goal.

10. Another issue deserving of further attention and investigation concerns the involvement of Saudi based charities in the provision of financial and other support to al Qaeda, and the precise character of the relationships between those charities and the government of the Kingdom. The 9/11 attacks were a sophisticated operation, which in my judgment was implausible to have been successfully planned, practiced and executed without a supportive infrastructure. I applaud the 9/11 plaintiffs for their efforts to use the civil justice system to enlighten the American public concerning those important issues.

11. Although I recognize that the Final Report of the 9/11 Commission stated that the 9/11 Commission had “found no evidence that the Saudi government *as an institution or senior* Saudi officials individually funded al Qaeda,” the meaning of this ambiguous statement is far from clear, and in my judgment the Kingdom is mistaken to the extent it relies on that language to support a claim that the government of Saudi Arabia has been fully exonerated of any culpability for the events of September 11, 2001, whether through the investigation and findings of the 9/11 Commission or any other investigation of the United States government.



A handwritten signature in black ink, appearing to read "Bob Graham", written over a horizontal line.

Bob Graham

Executed on this 27<sup>th</sup> day of February, 2012.

# Exhibit H

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) ECF Case
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This document relates to: *All Actions*

**AFFIRMATION OF JOSEPH ROBERT "BOB" KERREY**

I, Bob Kerrey, being duly sworn, declare and state as follows:

1. My full name is Joseph Robert Kerrey. Between 1983 and 1987, I served as the 35<sup>th</sup> Governor of the State of Nebraska. Between 1989 and 2001, I served as United States Senator for the State of Nebraska. From December of 2003 through August 21, 2004, I served as a Member of the bi-partisan National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission"), by appointment of then Senate Majority Leader Thomas A. Daschle.

2. I submit this affirmation on behalf of the Plaintiffs, to address certain statements in the January 30, 2012 Memorandum of Law of the Kingdom of Saudi Arabia and Saudi High Commission for Relief of Bosnia & Herzegovina ("SHC") in Opposition to Plaintiffs' Motion for Relief of Final Judgments (the "Kingdom's Memorandum of Law"), concerning the investigation and findings of the 9/11 Commission. The views expressed in this Affirmation are my own, based on my experience as a Member of the 9/11 Commission.

3. Congress established the 9/11 Commission through H.R. 4628, the "Intelligence Authorization Act for Fiscal Year 2003" (the "IAA"), which was signed into law by then President George W. Bush on November 27, 2003.

4. Under the IAA, the 9/11 Commission was given broad authority and responsibility to investigate the facts and circumstances concerning the terrorist attacks of

September 11, 2001, and to make recommendations to the President and Congress for corrective measures that could be taken to prevent future acts of terrorism.

5. The 9/11 Commission was comprised of ten Members, all of whom were appointed to their positions in accordance with the IAA. The 9/11 Commission carried out its work with the assistance of a staff of approximately eighty (80) full-time employees, contractors, and detailees.

6. In accordance with the requirements under law concerning the focus and scope of the 9/11 Commission's work, the 9/11 Commission organized work teams to address each of the following eight topics:

- al Qaeda and the organization of the 9/11 Attack;
- intelligence collection, analysis, and management (including oversight and resource allocation);
- international counter-terrorism policy, including states that harbor or harbor terrorists, or offer or offered terrorists safe havens;
- terrorist financing;
- border security and foreign visitors;
- law enforcement and intelligence collection inside the United States;
- commercial aviation and transportation security, including an investigation into the circumstances of the four hijackings;
- the immediate response to the attacks at the national, state and local levels, including issues of continuity of government.

7. The 9/11 Commission held its first meeting on January 11, 2003, and issued its Final Report on July 22, 2004. The 9/11 Commission formally closed its operations on August 21, 2004, and on that same day released a staff monograph on the subject of terrorist financing.

8. The Kingdom's Memorandum of Law contains several misleading statements concerning the investigation and findings of the 9/11 Commission relative to possible Saudi culpability for the sponsorship of al Qaeda and the events of September 11, 2001 that should not go unaddressed. First, the Kingdom and SHC state "[following an exhaustive and authoritative investigation, the National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission") concluded that the Government of Saudi Arabia had no role in the attacks of September 11, 2001, declaring: '[W]e have found no evidence that the Saudi government as an institution or senior Saudi officials individually funded' al Qaeda." MDL DKT. #2542 at p.1. Second, the Kingdom and SHC assert that "[even before this Court dismissed them, Plaintiffs' claims against Saudi Arabia had been directly rebutted by facts found by the United States government. The 9/11 Commission concluded that Saudi Arabia did not assist the September 11 terrorists. Although it did not rule out the possibility that some independent (non-sovereign) charities may have diverted funds to al Qaeda, the 9/11 Commission 'found no evidence that the Saudi government as an institution or senior Saudi officials individually funded' al Qaeda. 9/11 Report at 171. The 9/11 Report further concluded that 'we have seen no evidence that any foreign government – or foreign government official – supplied any funding' to the September 11 hijackers." MDL DKT. #2542 at p. 4.

9. To the extent the Kingdom and SHC offer those statements in support of the proposition that the 9/11 Commission fully exonerated Saudi Arabia and any Saudi government charities for any potential culpability for the financing and emergence of al Qaeda or the events of September 11, 2001, following a comprehensive evaluation of all potentially relevant evidence, the Kingdom and SHC are incorrect. To the contrary, significant questions remain unanswered concerning the possible involvement of Saudi government institutions and actors in

the financing and sponsorship of al Qaeda, and evidence relating to the plausible involvement of possible Saudi government agents in the September 11<sup>th</sup> Attacks has never been fully pursued.

10. Although the 9/11 Commission conducted an investigation of historic scale into the facts and circumstances surrounding the events of September 11, 2001, our investigation and findings were subject to certain inherent challenges and unavoidable limitations. The challenges included the sweeping scope of our mandate itself, which required us to conduct inquiries into a broad range of complex and disciplinarily distinct issues relating to intelligence agencies, law enforcement agencies, diplomacy, immigration and border control, the flow of assets to terrorist organizations, commercial aviation, the role of Congressional oversight and resource allocation, and other issues identified by the 9/11 Commission during the course of its work. And although we were assisted in our work by a singularly dedicated and capable staff, our investigation was subject to the limitations of available resources and time, as well as our access to witnesses and evidence outside of the United States.

11. The 9/11 Commission noted these limitations in the Preface to our Final Report, stating:

We want to note what we have done, and not done. We have endeavored to provide the most complete account we can of the events of September 11<sup>th</sup>, what happened and why. This final report is only a summary of what we have done, citing only a fraction of the sources we have consulted. But in an event of this scale, touching so many issues and organizations, we are conscience of our limits. We have not interviewed every knowledgeable person or found every relevant piece of paper. New information will inevitably come to light. We present this report as a foundation for a better understanding of a landmark in the history our nation.

9/11 Final Report at xvii.

12. Given the limits of the investigation conducted by the 9/11 Commission, as acknowledged in the Preface of our Final Report, it is fundamentally inaccurate to characterize our investigation and findings as “exhaustive” with respect to any of the issues within the scope of our mandate, and most certainly incorrect to characterize our investigation into potential Saudi culpability for the sponsorship of al Qaeda and the September 11<sup>th</sup> Attacks as exhaustive or conclusive.

13. Stated simply, the 9/11 Commission did not have the time, opportunity or resources to pursue all potentially relevant evidence on that important question, and the American public deserves a more comprehensive inquiry into the issue.

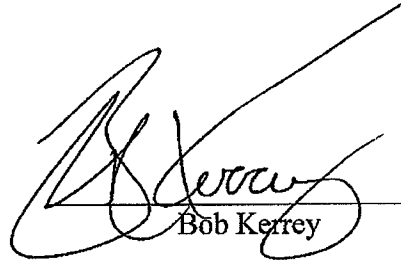
14. In portraying the 9/11 Commission’s findings concerning the government of Saudi Arabia in the Memorandum of Law, the Kingdom overstates not only the comprehensiveness of our inquiry, but the character of our findings as well.

15. Although the Kingdom accurately quotes a few statements from our Final Report relating to the Kingdom, it presents them out of context and without reference to our finding that there was a “likelihood that charities with significant Saudi government sponsorship diverted funds to al Qaeda.” 9/11 Commission Final Report at p. 171.

16. Importantly, our Final Report did not address in any further detail the character of the Kingdom’s relationships to the charities in question, and there is no statement in the 9/11 Final Report identifying those charities as “independent (non-sovereign)” entities as the Kingdom and SHC suggest in their Memorandum of Law. As a corollary, our Final Report also did not address at all whether the actions of those purported charities would be attributable to the government of Saudi Arabia under governing legal standards, a question that was beyond the scope of the 9/11 Commission’s mandate.

17. Finally, neither our Final Report nor the Staff Monograph on Terrorist Financing contain a single reference to the SHC.

18. For all of the reasons set forth above, it is fundamentally inaccurate and misleading for the Kingdom and SHC to suggest that the 9/11 Commission's investigation exonerated them for the events of September 11, 2001, or that the 9/11 Commission's investigation directly rebutted Plaintiffs' claims.



Bob Kerrey

Executed on this 24th day of February, 2012.