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CLERK OF DISTRICT COURT  
ALEXANDRIA, VIRGINIA

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA**

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UNITED STATES OF AMERICA, :

vs. :

IMAD HAGE, :

Defendant. :

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Case No. 04-Cr-162  
[Hon. James C. Cacheris]

**DEFENDANT'S DECLARATION IN  
SUPPORT OF THE OMNIBUS MOTION**

Imad Hage, a United States citizen, hereby declares pursuant to 28 U.S.C. § 1746 as follows:

**Preliminary Statement**

1. I am the defendant in the above captioned prosecution for alleged violation of 18 U.S.C. §§ 922(e) and (g)(1).<sup>1</sup> I submit this declaration in support of my omnibus motion for various relief, including suppression of statements I made to Government agents and physical evidence obtained by the Government, and to dismiss the charges. I have personal knowledge of the facts and circumstances described herein.
2. This case arose in connection with my return trip to Beirut, Lebanon, my place of domicile, begun on January 28<sup>th</sup> and completed on January 29<sup>th</sup>, 2003, from Dulles airport in Loudon County, Virginia.
3. As there are no direct flights between the United States and Lebanon, I was booked on a

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<sup>1</sup> Counsel advises that the first charge prohibits exporters from shipping firearms in foreign commerce without written notice to the airline carrier, and the second charge prohibits possession of firearms of persons previously convicted of certain types of felonies. This motion seeks to dismiss both charges on legal grounds laid out in my counsel's legal brief to the Court.

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British Airways flight to London, one of several transit points in Europe to catch a Middle East Airlines flight to Beirut. Middle East airlines is the Lebanese national carrier.

4. Routine X-ray examination of my checked baggage revealed the presence of an unloaded, inoperable handgun with no ammunition, and four, inoperable stun guns with no batteries. As described below, I was detained, locked up and interrogated at length, causing me to miss my flight on January 28<sup>th</sup>, and detained, locked up and interrogated again on January 29<sup>th</sup>, only to be released to continue my journey.
5. My need for these items of personal protection is laid out in my declaration in support of my prior motion to Magistrate-Judge Liam O'Grady to vacate the arrest warrant in this case so that I could voluntarily return to the United States under conditions which would not imperil my personal safety. My declaration with exhibits in support of that motion provides critical background to this motion, and I respectfully ask the Court to read the declaration and exhibits.<sup>2</sup>
6. In sum and substance, the prior motion papers describe: (i) the relevant ethnic and political context of Lebanon and the recent civil war, and my place in it; (ii) the fact that I am a well known political figure with controversial, pro-American views,<sup>3</sup> (iii) my political

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<sup>2</sup> As the Court already has these separately bound papers, they are not reproduced here.

<sup>3</sup> Unlike any other political leader in Lebanon, I openly support: (i) full democratization of Lebanon on the American model with creation of an empowered and independent judiciary; (ii) expulsion of all Syrian forces from Lebanon and restoration of complete Lebanese sovereignty throughout the entire territory of Lebanon, as called for in Security Council Resolution 520; (iii) the American doctrine of worldwide military preemption against international terrorism; (iv) projection of American power into the Middle East, including the Iraq war, to topple Arab states historically ruled by theocratic or fascist dictatorships; (v) expulsion of all terrorist organizations from Lebanon, especially Syria's proxy supplied by Iran, the infamous Hizbollah which murdered  
(continued...)

activities in the United States to end the Syrian occupation of Lebanon and restore Lebanese sovereignty and independence;<sup>4</sup> (iv) the facts surrounding my attempted assassination in Lebanon last year during my campaign for a seat in the Lebanese parliament (Le Chambre de Deputes); and (v) how all of these things bore on my need for personal protection in Lebanon where I employ a security staff and am constantly surrounded by my body guards.<sup>5</sup>

7. I was compelled to make that motion because the Government initially agreed with my counsel to permit me to voluntarily return and appear before this Court on December 15, 2003, but then obstructed my ability to do so in response to certain political pressures and media attention to this case..<sup>6</sup>

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<sup>3</sup>(...continued)

251 of my fellow Americans in 1983; and (vii) peace with Israel, including an open border, free trade, active cultural exchange and compensation to Lebanese Jews whose property was illegally expropriated when they became refugees from Lebanon.

<sup>4</sup> Chief among these activities was my organizing the Council of Lebanese American Organizations (“CLAO”) and providing testimony to Congress, both personally and through CLAO, in support of legislation that became H.R. 1828, the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 which President Bush signed into law on December 12, 2003. As set forth in greater detail in my prior declaration, this law represents a radical shift in policy as it makes Lebanon's independence and sovereignty a key component of American foreign policy in the Middle East and the war on terrorism. The bill imposes sanctions on the Syrian dictatorship, including the freezing of Syrian assets in the United States, prohibiting trade with Syria and limiting its diplomatic activities in the United States, until Syria ends its occupation of Lebanon, stops supporting terrorism, ends its development of weapons of mass destruction, and ceases its anti-Coalition activities in Iraq.

<sup>5</sup> My counsel met with me in Beirut in January can confirm this, as he met all of my security staff.

<sup>6</sup> Counsel advises that this is the only case anywhere to his knowledge in which a defendant belatedly charged with a crime following his legitimate departure from this country was  
(continued...)

**Brief Recitation of Facts Relevant to the Motion  
to Suppress Statements and Physical Evidence**

8. Counsel advises that, in response to his discovery demands, the Government has produced certain reports by various Government agents which purport to record statements I made on January 28<sup>th</sup> and 29<sup>th</sup>, 2003, as well as statements I made by telephone to Government agents. The Government seeks to use these statements against me at trial, along with the firearms and stun guns seized.
9. After X-rays revealed the presence of the handgun in my checked baggage, I was forcibly detained and questioned by numerous Government agents; handcuffed and taken from the terminal to a separate building with a security facility and locked up; then freed to continue my journey. I was interrogated throughout.
10. As I missed my British Airways flight on January 28<sup>th</sup>, I returned on January 29<sup>th</sup>, booked a flight on Air France, and again was detained, transported to the secure facility, locked up, interrogated throughout, and yet again, freed to continue on my return journey to Beirut.
11. Notably, the Government did not believe any crime had been committed until four and a half months later when the complaint in this case was filed on May 19, 2003. An arrest warrant issued at that time, and both documents were placed under seal.
12. In the complaint and initial indictment, I was charged only with violating 18 U.S.C. § 922(e), *viz.*, shipping firearms in foreign commerce without written notice to the airline

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<sup>6</sup>(...continued)

compelled to seek court intervention to allow him to voluntarily return to face such charges due to the Government's obstruction of his return. Yet, that is precisely what happened in this case, as the prior motion papers and court proceedings make clear.

carrier. That charge is now Count II in the superceding indictment, as the Government on April 13, 2004, added as Count I a charge under section 922(g)(1), the so-called "felon in possession" charge, based on my prior conviction of conspiracy to violate a provision of the immigration laws pertaining to farm workers, 8 U.S.C. § 1160(b)(7)(a)(i), and 18 U.S.C. § 1512(b)(3), viz., hindering law enforcement in its investigation of the immigration law violations.

13. Counsel advises that it is illegal for anyone to disclose the existence or contents of sealed, court documents. However, in August, Government agents leaked information about this case to the news media which reported that I was under investigation for allegedly smuggling arms to Lebanon and Liberia, and falsely reported that I was a fugitive wanted by U.S. authorities. These stories were broadcast throughout in the Middle East on the Al-Jazeera network.
14. As the Government agents who forcibly detained me in January did not arrest me, but to the contrary, apparently determined no crime had been committed and permitted me leave, counsel advises that I was never a fugitive from justice, but to the contrary, the belated filing of charges, and my efforts to return voluntarily, proved the opposite was true.
15. Iraqi intelligence agents approached me in January of 2003 to open a back channel to the Bush Administration on behalf of the Iraqi regime in a last ditch attempt to avert an American invasion of Iraq.
16. Following my return to Lebanon, I was contacted by agents of the Iraqi government and traveled to Baghdad where I met with Intelligence Minister and right hand to Saddam Hussein, Tahir Habboush (Tahir Abd' Jalil Habbush al-Tikriti), since 1999, the head of the

Mukhabarat, *i.e.* the Iraqi General Intelligence Service, or more to the point, the dreaded Iraqi secret police. Habboush had attempted to open a back channel earlier via a Saudi industrialist, Harb al Zuhair, who met in Marseilles on January 3, 2003, with the chief defense policy advisor to the Bush Administration and then Chairman of the Defense Policy Board, former Assistant Secretary of Defense, Richard Perle. That meeting went nowhere.

17. Habboush upped the ante and offered more concessions to the American government on behalf of Saddam Hussein and requested I relay these to the Administration. Thus, I met with Mr. Perle in London in February, 2003, and conveyed the Iraqis new position.
18. On November 6, 2003, a front page story was published in the New York Times and carried around the world about my meeting with Mr. Perle. I had been interviewed on the Fox News Network, Al-Arabiya and Al-Jazeera that afternoon (*i.e.*, in the morning U.S. time). As I was waiting to be interviewed by C.N.N., I received a telephone call on my mobile telephone from Special Agents Philip Reed and Thomas Kim from the Department of Homeland Security, Bureau of Customs Enforcement ("B.I.C.E.").
19. They advised me that they had a warrant for my arrest in connection with the January 28<sup>th</sup> gun incident at Dulles Airport. They pressured me to return to the United States immediately. I was concerned about doing anything without speaking with counsel, but they were insistent that I had to return *post haste*. I was prepared to do so, but engaged counsel before taking any further steps. I was deeply concerned that, should any television camera depict me in handcuffs upon my return, my life might be in danger.
20. These agents threatened that, if I failed to return immediately, they would issue

international warrants through INTERPOL to have me arrested if I ever touched down in any country friendly to the United States, thereby effectively trapping me in Lebanon.

21. At no time – not on January 28<sup>th</sup> or 29<sup>th</sup> at Dulles Airport, not on the telephone on November 6<sup>th</sup> – not at any time was I ever I advised of my constitutional rights to remain silent or that I had a right to consult counsel before being interrogated.
22. As such, counsel advises that all my statements to Government agents may not be used against me at trial. Likewise, I am advised that none of the physical evidence seized by the Government may be used against me as such evidence – in this case, the handgun and stun guns – albeit inert in and of themselves, became incriminating only as a result of my illegally obtained statements.
23. In addition to B.I.C.E. agents, I was also questioned at the airport by agents of the Federal Bureau of Investigation (“F.B.I.”) and possibly, other federal or local law enforcement, as there were many in attendance surrounding me on both days when I was interrogated.
24. In addition, agents from the Bureau of Alcohol, Tobacco and Firearms (“A.T.F.”) have been involved in this case, and recovered the handgun which belongs to my chief of security. The gun had been returned by B.I.C.E. to a senior official I know in the Department of Defense acting on a power-of-attorney.
25. On January 28<sup>th</sup>, before going to Dulles Airport, I had met earlier in the day with Jayme Durnan, Special Assistant to Secretary of Defense, Donald Rumsfeld, and Deputy Secretary of Defense, Paul Wolfowitz, about certain national security matters. Counsel advises that, based on his independent investigation, at least one case agent in this prosecution interviewed high Government officials in the Department of Defense (“DoD”)

about me, including Mr. Durnan, even though my work for DoD has absolutely no connection to the charges against me whatsoever.

26. I respectfully request the Court grant me a hearing at which my counsel can question the various agents who interrogated and investigated me to establish my entitlement to suppress my statements and the physical evidence the Government seeks to use against me in this case.

#### **Due Process and Lack of Notice to Charge a Violation Under § 922(e)**

27. Counsel advises that, so long as a traveler complies with certain regulations, it is perfectly legal to transport unloaded handguns in checked baggage, and that a person charged with violating 18 U.S.C. § 922(e) – the second count in the superceding indictment against me – must have constitutionally sufficient notice of his obligation to declare the presence of the gun to the air carrier.
28. Counsel also advises there are regulations compelling the authorities at Dulles Airport to post such notices to warn air travelers to declare the presence of firearms in checked baggage.
29. Notably, on January 28<sup>th</sup> and 29<sup>th</sup> of last year, I recall conspicuous signs advising travelers of their obligation to declare any cash or monetary instruments they were carrying in excess of \$10,000. In contrast, there were no visible signs advising travelers to declare the presence of a firearm in checked baggage.
30. As such, I am advised that prosecution of me under the circumstances violates my due process rights under the Fifth Amendment. I respectfully request the Court grant me a



hearing on this issue also.

31. I swear under the penalties of perjury that the foregoing is true and correct.

Dated: Washington, D.C.  
June 1, 2004



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Imad Hage

