

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

**Criminal No.
03-CR-64 (NAM)**

v.

RAFIL A. DHAFIR,

**Vio: 18 U.S.C. § 371 [2 Counts]
18 U.S.C. § 1956(h) [1 Count]
18 U.S.C. § 1956(a)(2)(A) [12 Counts]
26 U.S.C. § 7201 [6 Counts]
26 U.S.C. § 7206(2)[1 Count]
18 U.S.C. § 1546 [1**

Count]

**18 U.S.C. § 1347 [26 Counts]
18 U.S.C. § 1001 [1 Count]
18 U.S.C. § 1341 [7 Counts]
18 U.S.C. § 1343 [3 Counts]
Defendant.**

**FOURTH SUPERSEDING
INDICTMENT**

THE GRAND JURY CHARGES THAT:

COUNT 1

INTRODUCTION

1. The International Emergency Economic Powers Act, Title 50, United States Code, Section 1701, *et seq.* (collectively "IEEPA"), provides authority to the President of the United States to "deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat." 50 U.S.C. § 1701(a).

2. The President is authorized, under such regulations as he may prescribe, to, among other things, "investigate, regulate, or prohibit – (i) any transactions in foreign exchange, (ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or any national thereof, [and] (iii) the importing or exporting of currency or securities." 50 U.S.C. § 1702(a)(1)(A).

3. In Executive Order 12722, signed August 2, 1990, the President of the United States found that "the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States" and declared "a national emergency to deal with that threat." Executive Order 12722, entitled "Blocking Iraqi Government Property and Prohibiting Transactions With Iraq" generally prohibits trade with Iraq.

a. Executive Order 12724, carrying the same title and dated August 9, 1990, prohibits certain activities relating to Iraq, including "any commitment or transfer, direct or indirect, of funds, or other financial or economic resources by any United States person to the Government of Iraq or any other person in Iraq."

b. Each year from 1990 to the present, the sitting President of the United States has issued a "Notice of President of the United States" continuing this national emergency with respect to Iraq.

c. Executive Orders 12724 and 12722 authorize the Secretary of the Treasury, in consultation with the Secretary of State, to "take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order."

4. Pursuant to this authority, the United States Department of the Treasury, Office of Foreign Assets Control has promulgated regulations in Title 31 of the Code of Federal Regulations, Part 575 entitled "Iraqi Sanctions Regulations." 31 CFR § 575.201 *et seq.*

a. No United States individual or organization may, except as authorized, "commit or transfer, directly or indirectly, funds or other financial or economic resources to the Government of Iraq or any person in Iraq." 31 CFR, Subpart B, § 575.210.

b. According to those regulations, individuals and organizations must obtain a specific license from the Office of Foreign Assets Control to provide donated foodstuffs in humanitarian circumstances and donated supplies intended strictly for medical purposes. 31 CFR §§ 575.205, 575.520, 575.521, 575.525.

c. The Iraqi Sanctions Regulations further provide that: "[a]ny transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this subpart [B] is hereby prohibited. Any attempt to violate the prohibitions set forth in this part [Iraqi Sanctions Regulations] is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited." 31 CFR § 575.211.

THE CONSPIRACY TO EVADE IRAQI SANCTIONS

5. Beginning at a time unknown but prior to February 1995, and continuing through February, 2003, in the Northern District of New York, and elsewhere, the defendant,

RAFIL DHAFIR

knowingly and willfully combined, conspired and agreed with other persons both known and unknown to the Grand Jury, to commit offenses against the United States, that is knowingly and willfully to violate and evade and attempt to violate and evade Executive

Order Numbers 12722 and 12724 and the regulations issued under those Executive Orders and under the International Emergency Economic Powers Act, including the "Iraqi Sanctions Regulations," 31 CFR § 575.201 *et seq.*, by, among other things, transferring, directly and indirectly, funds and other financial and economic resources to one or more persons in the Country of Iraq, contrary to Title 50, United States Code, Section 1701 *et seq.* and 31 CFR § 575.701.

MANNER AND MEANS OF THE CONSPIRACY

6. It was a part of the conspiracy that, from in or before 1995, **RAFIL DHAFIR** and the other conspirators, operating under the names **HELP THE NEEDY** and **HELP THE NEEDY ENDOWMENT, INC.** (hereinafter collectively referred to as "HTN") in the Northern District of New York and elsewhere, would solicit and collect funds from the public.

a. **HELP THE NEEDY** was an unincorporated association established in or before 1995, purportedly as a charity.

b. **HELP THE NEEDY ENDOWMENT, INC.** was a corporation, incorporated in the State of New York in November 2001, and a successor to the unincorporated association, **HELP THE NEEDY**.

c. Neither **HELP THE NEEDY**, **HELP THE NEEDY ENDOWMENT, INC.**, nor any individual associated with those entities, obtained the licence required by law to provide humanitarian aid to Iraq.

7. It was further a part of the conspiracy that the defendant, in soliciting funds from the public, would make false and misleading representations concerning, among other things, the intended uses of the donations.

8. It was further a part of the conspiracy that the defendant would establish a series of bank accounts, using both fictitious corporate and personal identification information, in part, to facilitate and conceal the unlawful transfer of funds to persons in Iraq.

9. It was further a part of the conspiracy that, from 1995 until February 2003, the defendant and others would deposit contributions to **HELP THE NEEDY** into accounts in the name of **HELP THE NEEDY** and, after July 2002, of **HELP THE NEEDY ENDOWMENT INC.**, at Oneida Savings Bank.

10. It was further a part of the conspiracy that, from in or about October 1997, **RAFIL DHAFIR** would deposit contributions to HTN into an account in the name of **HELP THE NEEDY** at Key Bank.

11. It was further a part of the conspiracy that, from 1995 until September 1999, the defendants would arrange to transfer funds from the **HELP THE NEEDY** account at Oneida Savings Bank into a personal account at Fleet Bank maintained in the name of Maher Zagha.

12. It was further a part of the conspiracy that, from 1995 until September 1999, the defendants would arrange to transfer more than \$1,000,000 from the Fleet Bank account maintained in the name of Maher Zaghera to an account at the Jordan Islamic Bank in Amman, Jordan held by Maher Zaghera.

13. It was further a part of the conspiracy that, after September 1999, when the account maintained in the name of Maher Zaghera was closed by Fleet Bank, the defendants arranged to send over \$2,700,000 from the HTN accounts at Oneida Savings Bank and Key Bank to the Jordan Islamic Bank account, by checks made payable to Zaghera Trading Establishment.

14. It was further a part of the conspiracy that, from 1995 to February 2003, the defendants would arrange to transfer money from the Zaghera account in Jordan to individuals in Iraq.

15. It was further a part of the conspiracy that the defendants took various steps to conceal the nature and scope of the conspiracy and the identity of the conspirators.

OVERT ACTS

16. In furtherance of the conspiracy and to effect the objects of the conspiracy, the defendants committed the following overt acts, among others:

a. On or about November 14, 1995, **RAFIL DHAFIR** caused an account to be opened at Oneida Savings Bank in the name of “**HELP THE NEEDY**” by

submitting paperwork which used another organization's Employer Identification Number and false personal identification information with respect to the signatories, "Mo Harairi" (for whom a false social security number was used) and "Sam Wahidi" (for whom the social security number of OSAMEH AL WAHAIDY, with an incorrect date of birth, was used).

b. On or about October 9, 1997, Osameh al Wahaidy opened an account in the name of **HELP THE NEEDY** at Key Bank.

c. On or about March 23, 1998, **RAFIL DHAFIR** deposited a check drawn on the **HELP THE NEEDY** account at Oneida Savings Bank into the Fleet Bank account in the name of Maher Zagha.

d. On or about the dates set forth in Counts 3 through 14, each of which are incorporated herein by reference as if set forth in full, as a separate overt act, the funds described in each count were transmitted and transferred from the United States to Jordan for deposit in Maher Zagha's account at the Jordan Islamic Bank in Amman, Jordan.

e. On November 8, 2001, **RAFIL DHAFIR** telephoned the Oneida Savings Bank to arrange to obtain a check in the amount of \$200,000, payable to Zagha Trading Establishment, using a check from the **HELP THE NEEDY** account signed in the

name of Osameh al Wahaidy, which was obtained later that day by another individual known to the Grand Jury.

f. On November 8, 2001, Osameh al Wahaidy went to Key Bank and obtained a check from the **HELP THE NEEDY** account in the amount of \$100,000, payable to Zagha Trading Establishment.

g. On November 9, 2001, Ayman Jarwan mailed an express mail envelope to M. Zagha Trading Est., MADI Bldg., Room 201, Second Floor, King Faisal St., Amman, Jordan.

h. On or about December 24, 2001, **RAFIL DHAFIR** telephoned the Oneida Savings Bank to arrange to obtain a check in the amount of \$200,000 payable to Zagha Trading Establishment, using a check from the **HELP THE NEEDY** account signed in the name of Osameh al Wahaidy, which was obtained later that day by another individual known to the Grand Jury.

i. On or about December 31, 2001, **RAFIL DHAFIR** arranged to obtain a bank check from Oneida Savings Bank in the amount of \$200,000, payable to Zagha Trading Establishment, using a check from the **HELP THE NEEDY** account signed in the name of Osameh al Wahaidy.

j. On or about January 4, 2002, **RAFIL DHAFIR** sent an express mail envelope to Maher Ghalib Zagha, Zagha Trading Est., MADI Bldg., Room 201, Second Floor, King Faisal St., Amman, Jordan.

k. On or about September 16, 2002, Osameh Alwahaidy and Ayman Jarwan went to Key Bank and obtained a bank check in the amount of \$100,000 payable to Zagha Trading Establishment, using a check from the **HELP THE NEEDY** account.

l. On multiple occasions including those set forth below, each such occasion constituting a separate overt act, **RAFIL DHAFIR** directed that money sent from HTN to the Zagha Trading Establishment in Jordan be provided to individuals who were either located in Iraq or who would transport money into Iraq.

(1) On April 14, 2001, **RAFIL DHAFIR** e-mailed Maher Zagha directing him to give \$100,000 “from the relief” to an individual known to the Grand Jury who was located in Baghdad, Iraq.

(2) On June 25, 2002, **RAFIL DHAFIR** e-mailed Maher Zagha directing him to give \$20,000 “from the relief” to an individual known to the Grand Jury who was located in Baghdad, Iraq.

(3) On November 30, 2001, **RAFIL DHAFIR** e-mailed Maher Zagha directing him to pay “ten thousands” to an individual known to the Grand Jury who was located in Baghdad, Iraq.

(4) On December 22, 2001, **RAFIL DHAFIR** e-mailed Maher Zagha directing him to pay \$5,000 “from the relief” to an individual located in Baghdad, Iraq and known to the Grand Jury.

(5) On December 19, 2000, **RAFIL DHAFIR** directed Maher Zagha to give \$13,000 to an individual who was to transfer money into Iraq.

(6) On December 29, 2000, **RAFIL DHAFIR** directed Maher Zagha to give \$16,500 to an individual, who later reported how the money had been distributed in Iraq.

(7) On or about May 1, 2002, June 1, 2002, July 25, 2002, August 1, 2002, and September 2, 2002, Maher Zagha provided \$7,000 (on each occasion) to an individual who distributed at least some of the money in Iraq.

m. On or about August 8, 2002, a conspirator submitted to the Internal Revenue Service an application for recognition as a tax-exempt charitable organization (Form 1023) dated July 31, 2002, on behalf of **HELP THE NEEDY ENDOWMENT, INC.**, which included a false and misleading representation that HTN was an organization that recently concentrated on aiding the needy in the United States.

All in violation of Title 18, United States Code, Section 371.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 2

17. The allegations set out in Count 1 and Counts 3 through 14 are incorporated herein by reference, as if set forth in full.

18. Beginning at a time unknown, but prior to February 1995, and continuing through February 2003, within the Northern District of New York and elsewhere, the defendant,

RAFIL DHAFIR,

and others known and unknown to the Grand Jury, did knowingly and intentionally conspire to commit an offense under Title 18, United States Code, Section 1956(a)(2)(A), that is the knowing transmission and transfer of funds from places in the United States, including Syracuse, New York, to places outside the United States, including Amman, Jordan and Iraq, with the intent to promote the carrying on of specified unlawful activity -- that is, the knowing and willful violation and attempted violation of regulations issued under the International Emergency Economic Powers Act, including the "Iraqi Sanctions Regulations," 31 CFR § 575.201 *et seq.*, by, among other things, transferring, directly and indirectly, funds and other financial and economic resources to one or more persons in the Country of Iraq, contrary to Title 50, United States Code, Section 1705.

All in violation of Title 18, United States Code, Section 1956(h).

THE GRAND JURY FURTHER CHARGES THAT:

COUNTS 3 - 10

19. The allegations set out in Counts 1 and 2 are incorporated herein by reference, as if set forth in full.

20. On or about the dates specified below, within the Northern District of New York and elsewhere, the defendant,

RAFIL DHAFIR,

transmitted and transferred and caused to be transmitted and transferred funds from a place in the United States to a place outside the United States, with the intent to promote the carrying on of specified unlawful activity -- that is, the knowing and willful violation and attempted violation of regulations issued under the International Emergency Economic Powers Act, including the "Iraqi Sanctions Regulations," 31 CFR § 575.201 *et seq.*, by, among other things, transferring, directly and indirectly, funds and other financial and economic resources to one or more persons in the Country of Iraq, contrary to Title 50, United States Code, Section 1705 -- by the following transfers of funds from accounts of **HELP THE NEEDY** at the banks in the United States listed below to an account of Maher Zagha at the Jordan Islamic Bank, each such transfer constituting a separate count:

COUNT	Approximate Date of Deposit into Zagha Account in Jordan	Source Bank for HTN Funds	Amount
3	10/25/99	Key Bank	\$20,000
4	11/7/99	Oneida Savings Bank	\$50,000

5	11/25/99	Oneida Savings Bank	\$100,000
6	1/19/00	Oneida Savings Bank	\$100,000
7	2/23/00	Oneida Savings Bank Key Bank	\$200,000 \$30,000
8	7/5/00	Oneida Savings Bank	\$200,000
9	8/17/00	Oneida Savings Bank	\$200,000
10	11/12/01	Oneida Savings Bank Key Bank	\$200,000 \$100,000

All in violation of Title 18, United States Code, Section 1956(a)(2)(A) and Section

2.

THE GRAND JURY FURTHER CHARGES THAT:

COUNTS 11 - 14

21. The allegations set out in Counts 1 and 2 are incorporated herein by reference, as if set forth in full.

22. On or about the dates specified below, within the Northern District of New York and elsewhere, the defendant

RAFIL DHAFIR,

transferred and transmitted and caused to be transmitted and transferred funds from a place in the United States to a place outside the United States, with the intent to promote the carrying on of specified unlawful activity -- that is, the knowing and willful violation

and attempted violation of regulations issued under the International Emergency Economic Powers Act, including the "Iraqi Sanctions Regulations," 31 CFR § 575.201 *et seq.*, by, among other things, transferring, directly and indirectly, funds and other financial and economic resources to one or more persons in the Country of Iraq, contrary to Title 50, United States Code, Section 1705 -- by the following transfers of funds from accounts of **HELP THE NEEDY** at the banks in the United States listed below to an account of Maher Zagha at the Jordan Islamic Bank, each such transfer constituting a separate count:

COUNT	Approximate Date of Deposit into ZAGHA Account in Jordan	Source Bank for HTN Funds	Amount
11	1/15/02	Oneida Savings Bank (2 checks)	\$400,000
12	3/28/02	Oneida Savings Bank (2 checks)	\$400,000
13	9/16/02	Key Bank	\$100,000
14	1/15/03	Oneida Savings Bank	\$200,000

All in violation of Title 18, United States Code, Section 1956(a)(2)(A) and Section 2.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 15

23. The allegations set out in Counts 1 through 14 are incorporated herein by reference, as if set forth in full.

24. The Internal Revenue Service recognizes certain qualifying charitable organizations as tax exempt organizations under Title 26, United States Code, Section 501(c)(3). Contributions made to tax exempt charitable organizations are deductible by the donors for income tax purposes.

25. In order to be recognized as a tax exempt organization, a charity must generally submit an Application for Recognition of Exemption (IRS Form 1023) and the Internal Revenue Service must approve that application. Form 1023 requires that an organization applying for tax exempt status provide specific and accurate information about its activities, operations and finances.

26. Although a Form 1023 was submitted on behalf of **HELP THE NEEDY ENDOWMENT INC.** on or about August 8, 2002, the Internal Revenue Service never approved the application and HTN was never recognized as a tax exempt organization. Donations to an organization such as HTN are not deductible unless and until it is granted tax exempt status as a Section 501(c)(3) organization.

THE CONSPIRACY

27. Beginning at a time unknown but prior to January 1995, and continuing through February 2003, in the Northern District of New York, and elsewhere, the defendant

RAFIL DHAFIR

knowingly combined, conspired and agreed with other persons both known and unknown to the Grand Jury, to defraud the United States by impeding, impairing, obstructing and defeating the Internal Revenue Service in its lawful and authorized function of ascertaining, computing, assessing, and collecting income taxes from donors who improperly deducted contributions to HTN on their federal income tax returns, even though HTN had not been recognized by the Internal Revenue Service as a tax exempt organization.

MANNER AND MEANS OF THE CONSPIRACY

28. It was a part of the conspiracy that, from in or before January 1995, **RAFIL DHAFIR** and others would prepare and approve HTN advertising which falsely stated that HTN was a tax exempt organization, when in fact HTN was never recognized by the Internal Revenue Service as a tax exempt organization.

29. It was further a part of the conspiracy that the conspirators and others acting on their behalf, raised over \$5 million dollars in tax free revenue over six years while deceiving the Internal Revenue Service as to the true nature and taxability of HTN's

revenue by: 1) concealing from the Internal Revenue Service that HTN forwarded money to Iraq in violation of United States law; 2) concealing HTN's ownership and control of bank accounts; and 3) filing and causing to be filed with the Internal Revenue Service Forms 990 falsely reporting that a portion of HTN's revenue had been raised by the Somali Relief Network, an entity exempt from federal income taxation under Section 501 (c)(3).

30. It was further a part of the conspiracy that, at the request of **RAFIL DHAFIR**, Ahmed Ali agreed to allow HTN to use the employer identification number of the Somali Relief Network, which had been recognized the Internal Revenue Service as a tax exempt charity.

31. It was further a part of the conspiracy that, from 1995 until at least November 2002, agents of HTN, at the direction of **RAFIL DHAFIR**, would provide receipts to donors that falsely stated that their donations to HTN were tax deductible. These receipts included the employer identification number of the Somali Relief Network, or another organization, which would conceal the existence of HTN from the Internal Revenue Service.

32. It was further a part of the conspiracy that **RAFIL DHAFIR** deducted his own donations to HTN on his personal joint tax return, knowing that HTN had never been

granted tax exempt status and had never provided to the IRS a truthful description of its activities, operations and finances in an application for tax exempt status.

33. It was further a part of the conspiracy that, beginning in approximately December 2001, **RAFIL DHAFIR** and others provided and attempted to provide false information with respect to HTN's activities, operations and finances to the Internal Revenue Service in an Application for Recognition of Exemption (IRS form 1023) on behalf of **HELP THE NEEDY ENDOWMENT, INC.**

OVERT ACTS

34. In furtherance of the conspiracy and to effect the objects of the conspiracy, the defendants committed the following overt acts, among others:

a. From time to time from 1996 until November 2002, including on November 1, 1997 and April 23, 2000, (each occurrence being a separate overt act), representatives of HTN, acting at the direction of **RAFIL DHAFIR**, told potential donors that HTN was a tax exempt organization, so that donations to HTN were tax deductible,

b. From time to time from 1996 until November 2002, including on August 7, 1996 and February 11, 1997, **RAFIL DHAFIR** caused HTN to place advertisements in periodicals stating that donations to HTN were tax deductible, each advertisement being a separate overt act.

c. From 1996 through 2002, **RAFIL DHAFIR** deducted his own contributions to HTN, on his personal income tax return, the filing of each such return constituting a separate overt act.

d. For tax years 1996 through 2001, **RAFIL DHAFIR** sent information by facsimile purportedly concerning the finances of HTN to Ahmed Ali, who filed a tax return for the Somali Relief Network, each facsimile transmission being a separate overt act.

e. For tax years 1996 through 2001, using information provided by **RAFIL DHAFIR**, the Somali Relief Network filed tax returns, reporting income and expenses relating to HTN as if it had been the income and expenses of the Somali Relief Network, the filing of each such tax return being a separate overt act.

f. On or about November 23, 2000, at the request of **RAFIL DHAFIR**, Ahmed Ali wrote a letter “to whom it may concern” certifying that HELP THE NEEDY is a not-for profit organization “dedicated to the relief of the needy in Iraq,” which letter falsely stated that HTN “is registered in the State of New York in the name of Somali Relief Network.”

g. On or about November 15, 2001, at the request of **RAFIL DHAFIR**, Ayman Jarwan, the “Executive Director” of HTN, contacted a tax return preparer to prepare an Application for Recognition of Exemption (IRS Form 1023) on behalf of **HELP THE NEEDY ENDOWMENT, INC.**

h. On or about December 19, 2001, Ayman Jarwan told a tax preparer that half of the monies collected by HTN would remain in the United States and half of the monies would be sent overseas, mainly to the children of Iraq.

i. On or about January 24, 2002, **RAFIL DHAFIR** sent an e-mail to Ayman Jarwan containing a description of HTN's activities for the IRS Form 1023 which description falsely stated that "recently the concentration [on helping the needy] is within the United States . . . [t]his is done through volunteer work in cooperation with local civic organizations such as the Dunbar Center in Syracuse."

j. On or about January 25, 2002, at the direction of **RAFIL DHAFIR**, Ayman Jarwan gave the tax preparer the above-described false description of HTN's activities.

k. On or about May 13, 2002, **RAFIL DHAFIR** sent, to various individuals, including some of the HTN trustees, an e-mail containing a proposed HTN solicitation for contributions to help the needy in Iraq which falsely stated "Help the Needy is a non-for-profit, tax exempt, charitable organization."

l. On or about October 19, 2002, **RAFIL DHAFIR** attended an HTN fund raising dinner where potential contributors to HTN received materials soliciting contributions to help the needy in Iraq which included the false representation that "Help the Needy is a not-for profit, tax-exempt charitable organization."

m. On or about August 8, 2002, **RAFIL DHAFIR** caused an IRS Form 1023 to be filed with the Internal Revenue Service which: (1) falsely described HTN's activities as having recently concentrated on feeding the needy in the United States and omitted any reference to its unlicensed transmission of money into Iraq; (2) falsely asserted that **HELP THE NEEDY ENDOWMENT, INC.** did not have a predecessor organization; (3) falsely stated that **HELP THE NEEDY ENDOWMENT, INC.** did not have any income and assets; and (4) fraudulently omitted the identities of the trustees of **HELP THE NEEDY ENDOWMENT INC.**

All in violation of Title 18, United States Code, Section 371.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 16

35. Beginning in or about June 2002 through August 8, 2002, in the Northern District of New York, the defendant,

RAFIL DHAFIR

did willfully aid and assist in, and procure, counsel and advise the preparation and presentation of a document to the Internal Revenue Service which was fraudulent and false as to material matters, that is an IRS Form 1023 Application for Recognition of Exemption which:

a. falsely described the activities of HTN by stating that the “recently the concentration [on feeding the needy] is within the United States . . . through volunteer work in cooperation with local civic organizations such as the Dunbar Center in Syracuse,” with an estimate that such domestic activity accounted for 98% of the organization’s time, when in fact the organization primarily solicited money to aid the needy in Iraq, and did in fact provide monies to individuals in Iraq;

b. falsely asserted that **HELP THE NEEDY ENDOWMENT, INC.** did not have a predecessor organization, when in fact the organization had operated as **HELP THE NEEDY** since at least 1995, and had used the EIN of the Somali Relief Network; and

c. falsely stated that **HELP THE NEEDY ENDOWMENT, INC.** did not have any income or assets, when in fact HTN had over \$ 372,000 on deposits in bank accounts in the United States and controlled over \$800,000 in a bank account in Amman, Jordan on the date the Form 1023 was signed.

All in violation of Title 26, United States Code, Section 7206(2).

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 17

36. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

37. That on or about the 15th day of April, 1997, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 1996, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his spouse, which falsely claimed \$218,720 in charitable contributions to **HELP THE NEEDY**, which return was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$183,591 and that the amount of tax due and owing thereon was the sum of \$50,588; whereas, as he then and there well knew, their contributions to **HELP THE NEEDY** were not deductible, and their joint taxable income for the said calendar year was the sum of \$364,983, upon which said taxable income there was owing to the United States of America an income tax of \$119,533.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 18

38. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

39. That on or about the 15th day of April, 1998, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 1997, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his spouse, which falsely claimed \$282,071 in charitable contributions to **HELP THE NEEDY**, which return was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$279,016, and that the amount of tax due and owing thereon was the sum of \$84,801; whereas, as he then and there well knew, their contributions to **HELP THE NEEDY** were not deductible, and their joint taxable income for the said calendar year

was the sum of \$557,929, upon which said taxable income there was owing to the United States of America an income tax of \$195,251.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 19

40. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

41. That on or about the 15th day of April, 1999, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 1998, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his spouse, which falsely claimed \$151,300 in charitable contributions to **HELP THE NEEDY**, which return was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$201,126, and that the amount of tax due and owing thereon was the sum of \$56,033; whereas, as he then and there well knew, their contributions to **HELP THE**

NEEDY were not deductible, and their taxable income for the said calendar year was the sum of \$385,976, upon which said taxable income there was owing to the United States of America an income tax of \$126,450.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 20

42. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

43. That on or about the 15th day of April, 2000, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 1999, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his spouse, which falsely claimed \$150,450 in charitable contributions to **HELP THE NEEDY**, which return was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$200,252, and that the amount of tax due and owing thereon was the sum of \$55,445; whereas, as he then and there well knew, their contributions to **HELP THE NEEDY** were not deductible, and their taxable income for the said calendar year was the sum of \$366,110, upon which said taxable income there was owing to the United States of America an income tax of \$118,141.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 21

44. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

45. That on or about the 15th day of April, 2001, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2000, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his spouse, which falsely claimed \$160,100 in charitable contributions to **HELP THE NEEDY**, which return was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$231,411, and that the amount of tax due and owing thereon was the sum of \$66,356; whereas, as he then and there well knew, their contributions to **HELP THE NEEDY** were not deductible, and their joint taxable income for the said calendar year was the sum of \$395,223, upon which said taxable income there was owing to the United States of America an income tax of \$129,176.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 22

46. The allegations set out in Counts 1 through 16 are incorporated herein by reference, as if set forth in full.

47. That on or about the 15th day of April, 2002, in the Northern District of New York, defendant

RAFIL A. DHAFIR,

a resident of Fayetteville, New York, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2001, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his spouse, which falsely claimed \$57,008 in charitable contributions to **HELP THE NEEDY** which was filed with the Internal Revenue Service, wherein he stated that their joint taxable income for said calendar year was the sum of \$124,490, and that the amount of tax due and owing thereon was the sum of \$29,062; whereas, as he then and there well knew, their contributions to **HELP THE NEEDY** were not deductible, and their joint taxable income for the said calendar year

was the sum of \$195,428, upon which said taxable income there was owing to the United States of America an income tax of \$52,144.

In violation of Title 26, United States Code, Section 7201.

THE GRAND JURY FURTHER CHARGES THAT:

COUNT 23

48. The allegations set out in Paragraphs 1 through 47 are incorporated as if set forth in full.

49. On or before August 17, 2001, **HELP THE NEEDY** sought to sponsor Ayman Jarwan, a citizen of Jordan, for an H-1B visa, allowing him to work for **HELP THE NEEDY**.

50. In order to qualify for an H-1B1 (Specialty Occupation) visa, the employee (Jarwan) had to earn in excess of \$63,000, but Ayman Jarwan was to be paid only \$30,000 per year by **HELP THE NEEDY**.

51. **RAFIL DHAFIR** told Ayman Jarwan and Ahmed Ali, who had agreed to sign the application as the “President” of **HELP THE NEEDY**, that **HELP THE NEEDY** should state in the application for Jarwan’s H-1B visa that Jarwan would be paid \$63,669, when in fact he would only be paid \$30,000 per year.

52. On or about August 17, 2001, in the Northern District of New York, the defendant,

RAFIL DHAFIR,

did knowingly cause to be presented to the Immigration and Naturalization Service an application for an H-1B1 visa, which contained a false material statement, subscribed to

as true under penalty of perjury, to wit, that Ayman Jarwan earned a salary of \$63,669, which the defendant then and there knew was false, in that Jarwan was to be paid only \$30,000 per year.

In violation of Title 18, United States Code, Section 1546(a) and Section 2.

THE GRAND JURY FURTHER CHARGES THAT:

COUNTS 24-50

INTRODUCTION

At all times relevant to this Indictment:

The Defendants and the Dhafir Medical Practice

53. Defendant **RAFIL A. DHAFIR** was a medical doctor licensed in New York State. He specialized in oncology and hematology.

54. Defendant **RAFIL A. DHAFIR** maintained and operated a medical practice at 1316 Black River Boulevard in Rome, New York (the Dhafir medical practice). The Dhafir medical practice was known by various names, including Rome Oncology Care, P.C. and Madison County Medical Care, P.C.

55. Priscilla A. Dhafir Was the Billing Manager for the Dhafir Medical Practice. Priscilla A. Dhafir was a Medicare Education and Delivery Counselor (MEDIC) who had successfully completed a training program in Medicare billing and regularly attended training in Medicare billing.

56. Defendant **RAFIL A. DHAFIR** employed nurse practitioners and a laboratory technician at the Dhafir medical practice.

Medicare

57. Medicare Part B [“Medicare”] is a public, federally-funded health care benefit program affecting commerce. Medicare provides health insurance coverage for persons who are 65 or older, disabled, or suffering from end-stage renal disease.

58. Health Now Upstate Medicare Division (UMD), located in Binghamton, New York, is responsible for processing Medicare claims from medical practices in Upstate, Central, and Western New York, including the Dhafir medical practice. Companies that process Medicare claims are known as “Medicare carriers.”

59. The Dhafir medical practice regularly submitted claims to Medicare (through UMD) for reimbursement for medical services reportedly provided to patients.

Claims for Reimbursement For Patient Treatment During Office Visits

60. In order to obtain reimbursement for medical services, health care providers, including the Dhafir medical practice, submit claims to Medicare and other health care benefit programs.

61. In order to submit claims for reimbursement for medical services from Medicare a health care provider must obtain a unique multi-digit code known as a “provider identification number” from Medicare. Generally, claims for reimbursement

must be submitted under the provider number of the individual who actually provided the medical services.

62. Medicare pays for services and supplies which are furnished “incident to” a physician’s services. In order to be covered as services incident to the services of a physician the services and supplies must be furnished by the physician or by auxiliary personnel under the physician’s direct supervision. Direct supervision requires that the physician be present in the office suite and immediately available to provide assistance and direction throughout the time the aide is performing services.

63. The use of a physician’s provider number on a claim to Medicare represents that the physician personally rendered treatment or that the treatment was rendered under the physician’s direct supervision while he was present in the office suite and immediately available to provide assistance and direction.

64. A nurse practitioner may obtain a provider number from Medicare, and bill for her services under her own provider number. Medicare reimburses for services billed under a nurse practitioner’s provider number at 85% of the rate at which it reimburses services billed under a physician’s provider number.

The Scheme to Defraud Involving False Claims That Defendant Dhafir Treated Or Directly Supervised His Patients’ Treatment When, in Fact, A Nurse Practitioner Or A Laboratory Technician Provided the Treatment With No Physician Present

65. Beginning in approximately 1998 and continuing through approximately February 2003, in the Northern District of New York, and elsewhere, defendant **RAFIL A. DHAFIR** and others known and unknown, executed a scheme and artifice to defraud, and to obtain money owned by, and under the custody and control of Medicare, a health care benefit program, by means of false and fraudulent pretenses and representations in connection with the delivery of and payment for health care benefits, items, and services. The conduct described in paragraphs 66 through 74 was part of the scheme and artifice to defraud:

66. Nurse practitioners employed by defendant **RAFIL A. DHAFIR** provided medical services to patients at the Dhafir medical practice. **RAFIL A. DHAFIR** traveled frequently, and nurse practitioners continued to treat patients, including but not limited to those patients whose initials are listed in counts 24 through 49 below, when neither **RAFIL A. DHAFIR** nor any other physician was present at the Dhafir medical practice.

67. After providing medical services to a patient, nurse practitioners at the Dhafir medical practice filled out a standard form designed to record the type of medical service provided. These forms are sometimes known as “superbills.” The nurse practitioners signed the superbills. The nurse practitioners also dictated notes, referred to as “progress notes,” regarding the services provided to the patients.

68. Priscilla A. Dhafir submitted claims to Medicare, and supervised the submission of claims to Medicare, which falsely indicated that **RAFIL A. DHAFIR** had provided patient treatment, or directly supervised the treatment provided to patients when he in fact was not in New York state. These claims were false and fraudulent because, in fact, nurse practitioners and a laboratory technician had provided services to patients alone, with no doctor present, when defendant **RAFIL A. DHAFIR** was not even in the state of New York.

69. A laboratory technician employed by **RAFIL A. DHAFIR**, who was not licensed to practice medicine, regularly administered injections to patients and, on occasion, administered chemotherapy to patients. The laboratory technician administered injections to patients and administered chemotherapy to patients when neither **RAFIL A. DHAFIR** nor any other physician was present at the Dhafir medical practice.

70. The Dhafir medical practice engaged in practices which were designed to disguise the identity of the individual who actually provided services to the patient, and to cover up the fact that nurse practitioners and a laboratory technician provided services to patients when defendant **RAFIL A. DHAFIR** was not present at the Dhafir medical practice.

71. A transcriptionist employed and supervised by **RAFIL A. DHAFIR** typed progress notes dictated by **RAFIL A. DHAFIR** and the nurse practitioners on the patient

charts without including any record of who actually performed the service on the progress notes.

72. A laboratory technician employed and supervised by **RAFIL A. DHAFIR** signed superbills in the name of Dr. DHAFIR, thereby creating documentation which falsely reflected that defendant **RAFIL A. DHAFIR** had performed the services when in fact the laboratory technician had performed the services.

73. Defendant **RAFIL A. DHAFIR** and the Dhafir medical practice received payment from Medicare for the false and fraudulent claims.

74. Defendants **RAFIL A. DHAFIR** and Priscilla A. Dhafir made false and misleading statements to investigators who were auditing Dhafir's medical practice to determine who actually provided services described on claims which were billed to Medicare by the Dhafir medical practice.

COUNTS 24 - 49

HEALTHCARE FRAUD

75. The Grand Jury realleges all of the allegations contained in paragraphs 53-74 of this Indictment as set forth above and incorporates said paragraphs by reference as if the same were fully set forth herein.

76. On or about the dates listed below, each such occasion constituting a separate count, in the Northern District of New York and elsewhere, the defendant, **RAFIL A. DHAFIR**, knowingly and willfully executed and attempted the above-

described scheme and artifice to defraud, and to obtain money by means of false and fraudulent pretenses and representations by submitting and causing employees of the Dhafir medical practice to submit to Medicare claims, including but not limited to those listed below representing that defendant **RAFIL A. DHAFIR** had rendered medical services when, in fact, a nurse practitioner or a laboratory technician had treated the patients with no physician present at the practice:

Count	Date of Service	Date of Claim	Initials of Patient on Claim	Medicare Claim Internal Control Number	Employee Who Actually Performed the Service
24	2/11/99	2/22/99	JP	800299053750430 800299053750440	Laboratory Technician ("LT")
25	2/12/99	2/22/99	JP	800299053750450 800299053750460	LT
26	12/9/99	12/16/99	AW	800299350082100 800299350082110	LT
27	12/16/99	12/27/99	AW	800299361264060 800299361264070 800299361264080	LT
28	3/9/00	3/16/00	AW	800200076109600 800200076109630	LT
29	5/4/00	5/11/00	AW	800200132345520	LT
30	12/7/00	12/14/00	DS	800200349083550	LT
31	3/15/01	3/27/01	DC	800201086086720	LT
32	9/28/01	11/27/01	LK	809701331900536	LT

Count	Date of Service	Date of Claim	Initials of Patient on Claim	Medicare Claim Internal Control Number	Employee Who Actually Performed the Service
33	2/6/02	2/12/02	NG	800202043388990 800202043388980 800202043389000	Nurse Practitioner ("NP")
34	2/12/02	2/15/02	ER	800202046192300 800202046192290 800202046192310	NP
35	2/13/02	2/15/02	NG	800202046192990 800202046192980 800202046193000	NP
36	4/9/02	4/11/02	ER	800202101103640 800202101103660 800202101103670	NP
37	6/3/02	6/7/02	LB	800202158109990 800202158109980 800202158109970	NP
38	6/5/02	6/7/02	FP	800202158110340 800202158110330 800202158110350	NP
39	6/5/02	6/7/02	NG	800202158110410 800202158110400 800202158110420	NP
40	6/6/02	6/7/02	MC	800202158110150	LT
41	6/10/02	6/12/02	LB	800202163377220 800202163377230 800202163377240	NP

Count	Date of Service	Date of Claim	Initials of Patient on Claim	Medicare Claim Internal Control Number	Employee Who Actually Performed the Service
42	6/12/02	6/12/02	NG	800202163377390 800202163377400 800202163377410	NP
43	6/12/02	6/12/02	FP	800202163377300 800202163377310 800202163377320	NP
44	9/18/02	9/27/02	NG	800202270090180 800202270090170 800202270090190	NP
45	9/18/02	1/28/03	MB	800303028006790	NP
46	9/18/02	9/20/02	JG	800202263425430	NP
47	9/18/02	9/20/02	LC	800202263425420	NP
48	9/23/02	9/27/02	LK	800202270090400 800202270090410 800202270090420	NP
49	9/23/02	9/30/02	JH	800302273077360 800302273077350	NP

In violation of Title 18, United States Code, Section 1347 and Section 2.

THE GRAND JURY FURTHER CHARGES:

COUNT 50

77. The Grand Jury realleges all of the allegations contained in paragraphs 53-76 of this Indictment as set forth above and incorporates said paragraphs by reference as if the same were fully set forth herein.

78. On or about September 16, 2002, within the Northern District of New York, the defendant,

RAFIL A. DHAFIR,

knowingly and willfully did make a false, fictitious and fraudulent statement and representation as to material facts in a matter within the jurisdiction of the Department of Health and Human Services, a department and agency within the executive branch of the government of the United States, in that, during an interview with a benefit integrity specialist for a Medicare carrier who was auditing his medical practice, defendant **RAFIL A. DHAFIR** falsely stated and represented: (1) that he is always present when the nurse practitioner is onsite; and (2) that he had not needed to use a back up physician this year (2002). In truth and in fact, as **RAFIL A. DHAFIR** then and there well knew, nurse practitioners treated patients of **RAFIL A. DHAFIR**'s medical practice when **RAFIL A. DHAFIR** was not present, and **RAFIL A. DHAFIR** traveled overseas three times in 2002 prior to September 16, 2002.

In violation of Title 18, United States Code, Section 1001(a)(2).

THE GRAND JURY FURTHER CHARGES THAT:

COUNTS 51 - 56

INTRODUCTION: MAIL AND WIRE FRAUD

79. The allegations set out in Counts 1 and 2 are incorporated herein by reference, as if set forth in full.

THE SCHEME AND ARTIFICE TO DEFRAUD

80. From on or about February 1995 and continuing to on or about February 2003, the defendant, **RAFIL DHAFIR**, devised a scheme and artifice to defraud donors to **HELP THE NEEDY** and **HELP THE NEEDY ENDOWMENT, INC.** (collectively "HTN") and to obtain their money by means of false and fraudulent pretenses and representations. In particular, the defendant, directly and through others, solicited donations to HTN by focusing primarily on the needs of starving children in Iraq, but then diverted those donations to support activities other than those identified in HTN's solicitations, including the defendant's private businesses and other commercial projects in the Middle East and the United States. In executing this scheme, **RAFIL DHAFIR** used the United States mails and interstate and foreign wire communications (and caused others to do so) to solicit contributions to HTN, to divert those contributions for unauthorized purposes, to operate HTN, to conceal the true nature and scope of the operations of HTN from the public and from Government regulators, and to conceal his own role in HTN from Government regulators.

MANNER AND MEANS OF THE SCHEME

81. It was part of the scheme and artifice to defraud that, from in or before 1995, the defendant, **RAFIL DHAFIR**, operating the IANA Relief Fund and later HTN, would solicit and collect funds from the public.

82. It was further part of the scheme and artifice to defraud that solicitations for **HELP THE NEEDY** represented to potential donors that the donated money would be primarily used to aid hungry children in Iraq through an organization that was registered with the United States.

83. It was further part of the scheme and artifice to defraud that solicitations for **HELP THE NEEDY** contained statements to potential donors such as “your donations are tax deductible and nothing is deducted from it for expenses.”

84. It was further part of the scheme and artifice to defraud that, in order to keep the organization operating for both his advertised and unstated purposes, **RAFIL DHAFIR** disguised the true nature and scope of the operation of HTN from the United States Government, while performing the operations of HTN through a series of nominees and false identities.

85. It was further part of the scheme and artifice to defraud that **RAFIL DHAFIR** opened and maintained bank accounts in the name of **HELP THE NEEDY**, using other people’s names as signatories, and then transacted business in those accounts using names other than his own.

86. It was further part of the scheme and artifice to defraud that **RAFIL DHAFIR** conducted transactions with the proceeds of donations to HTN using the names and accounts of other individuals, thereby disguising his use of the funds of HTN.

87. It was further part of the scheme and artifice to defraud that starting in 1995, **RAFIL DHAFIR** signed another individual's name to approximately 200 checks from a **HELP THE NEEDY** bank account, each in amounts slightly under \$10,000, for the purpose of avoiding scrutiny from the Government.

88. It was further part of the scheme and artifice to defraud that, from September 1999 until January 2003, **RAFIL DHAFIR** signed another person's name to checks in order to transfer donated funds directly from the **HELP THE NEEDY's** accounts into accounts held by **MAHER ZAGHA** at the Jordan Islamic Bank in Jordan

89. It was further part of the scheme and artifice to defraud that **RAFIL DHAFIR** would send e-mail messages in interstate and foreign commerce (from New York to the country of Jordan), directing **MAHER ZAGHA** to disburse the donations to a variety of individuals and projects.

90. It was further part of the scheme and artifice to defraud that, using HTN donations that had been transferred to **ZAGHA's** Fleet Bank account or to **ZAGHA's** accounts in Jordan, **RAFIL DHAFIR** transferred over \$300,000 to himself and for the benefit of a partnership co-owned by **RAFIL DHAFIR** and another individual located in Syracuse, New York.

91. It was further part of the scheme and artifice to defraud that **RAFIL DHAFIR** used HTN donations to purchase assets and pay expenses of that partnership, and that **RAFIL DHAFIR** later transferred income-producing assets of that partnership to another nominee, while obtaining the income from those assets.

92. It was further part of the scheme and artifice to defraud that **RAFIL DHAFIR** maintained the facade that HTN undertook no business that was not charitable, and that its principal charitable activity was to deliver food to the needy in Iraq, when, in fact, he directed that HTN donations be used for other projects and expenses.

USE OF THE MAILS

93. For the purpose of executing such scheme and artifice to defraud the donors to HTN and attempting to do so, the defendant, **RAFIL DHAFIR**, knowingly caused to be delivered by mail to the recipient identified below, according to the direction thereon, the item described below on or about the dates listed below, each such mailing being a separate count:

Count	Approximate Date of Mailing	Item Mailed	Recipient
51	4/8/00	Power of Attorney from Individual in Abu Dhabi	Rafil Dhafir
52	2/15/01	Express Mail Containing \$400,000 from Rafil Dhafir	Maher Zagha

53	8/5/02	Form 1023 for HTN from Accountant	Internal Revenue Service
54	8/19/02	\$10,000 in checks from Rafil Dhafir	Individual in Lackawanna NY
55	9/25/02	Mass Mailing from HTN	Donors
56	10/02/02	Ledger from Egypt from Rafil Dhafir	Rafil Dhafir
57	2/27/03	Visa from Saudi Arabian Embassy	Rafil Dhafir

In violation of Title 18, United States Code, Section 1341 and Section 2.

THE GRAND JURY FURTHER CHARGES THAT:

COUNTS 58 - 60

94. The allegations set out in Paragraphs 1 through 93 are incorporated herein by reference, as if set forth in full.

USE OF THE WIRES IN INTERSTATE AND FOREIGN COMMERCE

95. For the purpose of executing such scheme and artifice to defraud the donors to HTN, the defendant, **RAFIL DHAFIR**, did use and cause to be transmitted by means of wire communications in interstate and foreign commerce, writings and signals on or about the dates listed below, each such wire communication being a separate count:

Count	Approximate Date	Communication	Recipient
58	10/30/02	Fax from Accountant re: Postal Rates	United States Postal Service, Memphis Tennessee
59	11/20/02	E-mail from Individual in Canada re: Transferring money	Maher Zagha
60	1/3/03	E-mail from Dhafir re: transferring money	Maher Zagha

In violation of Title 18 United States Code, Section 1343 and Section 2.

Dated: August 18, 2004

FOREPERSON OF THE GRAND

JURY

GLENN T. SUDDABY
United States Attorney

By: _____
Michael C. Olmsted

Stephen C. Green
Gregory A. West
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