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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

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v.

CASE NO.: 8:03-CR-77-T-30-TBM

SAMI AMIN AL-ARIAN,
SAMEEH HAMMOUDEH

UNITED STATES' RESPONSE
TO COURT'S ORDER DATED MARCH 26, 2003

The United States of America, by Paul I. Perez, United States Attorney for the Middle District of Florida, submits the following statement in response to the Court's Order, dated March 26, 2003:

1. Upon receipt of the Court's Order, the undersigned Assistant United States Attorney contacted the Bureau of Immigration and Customs Enforcement (ICE) (formerly known as the Immigration and Naturalization Service), Department of Homeland Security, and was provided the following information by ICE:

a. ICE lodged detainers with the United States Marshals Service against the defendants pursuant to its legal authority under section 1226 and 1357 of Title 8, United States Code, and sections 236.1(a) and 287.7 of Title 8, Code of Federal Regulations. "A detainer serves to advise another law enforcement agency that [ICE] seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien." See, Title 8, Code of Federal Regulations, Section 287.7(a). "The detainer is a request that such agency advise [ICE], prior to the release of the alien, in order for [ICE] to arrange to assume custody, in situations when gaining

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immediate physical custody is either impracticable or impossible.” See id. After an alien enters ICE custody, ICE has forty-eight hours to make a determination as to whether to release an alien from its custody and whether to issue a Notice to Appear (NTA) against an alien. See, Title 8, Code of Federal Regulations, Section 287.3(d). An NTA is a document that serves to inform an alien of the charges of removal against him. See, Title 8, Code of Federal Regulations, Section 3.15(b).

b. The detainees lodged in this case serve to advise the United States Marshals Service to notify ICE if and when the defendants are released from custody. If the defendants are released by the court and enter ICE’s custody, ICE then has forty-eight hours to make a determination as to whether to release the defendants from its custody and whether to issue NTAs against the defendants. See, Title 8, Code of Federal Regulations, Section 287.3(d). Presently, ICE is reviewing its cases against the defendants. ICE has not made a formal decision with respect to custody and to issue NTAs, if any, against the defendants.

c. If an alien is inadmissible or deportable under any of the grounds set forth in the subparagraphs of Title 8, United States Code, Section 1226(c)(1), then that alien is subject to mandatory detention pending the removal decision.

2. In short then, ICE has not yet formally instituted a removal action against either defendant and therefore there are no “grounds” for removal to report to the Court.

3. The government stands ready to answer any other questions posed by the Court or to provide any other information if so requested.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by facsimile, this 28th day of March, 2003, to the following:

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