

The North Carolina Connection To Extraordinary Rendition and Torture

January 2012

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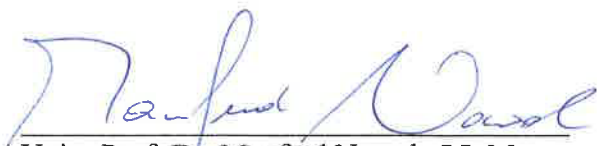
**Letter of Endorsement for the Report entitled *The North Carolina Connection to
Extraordinary Rendition and Torture***

As the former UN Special Rapporteur on Torture, I hereby submit this letter of endorsement for the Report entitled *The North Carolina Connection to Extraordinary Rendition and Torture*. The program of extraordinary rendition, which includes forced disappearances, secret detention, and torture, violates the terms of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and the International Covenant on Civil and Political Rights—terms that may not be derogated from under any circumstances. The United States is a State party to both of these treaties. This Report contributes to the efforts of international bodies to create a factual record about the program of extraordinary rendition, to prevent and eliminate the human rights violations occasioned by the program, and to seek accountability for the harms suffered by the victims of the program.

As demonstrated by declassified and other U.S. government documents pertaining to extraordinary rendition, as well as international institutional sources, public records, investigative journalists, and nongovernmental organizations, the United States has carried out this program at the federal, state, and local level as well as through contracts with private entities. Despite what is known about the program and the abuses suffered by its victims and their families, the United States has failed to investigate or provide any opportunity for redress.

This Report recognizes that implementation of treaty obligations which impose obligations on the United States, a State party with a federal structure, must occur at all levels of government. If states, such as North Carolina or their political subdivisions, were to fail to abide by U.S. treaty obligations, particularly in areas of substantive law for which they are responsible, treaty compliance by the United States as a State party to the treaties would be rendered meaningless. This Report thus reflects “good practices” promoted by the United Nations Human Rights Council on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, and advances the goals of international laws that recognize the need to prevent extraordinary rendition and torture and to seek accountability where such acts have occurred.

Dated: 13/12/2011



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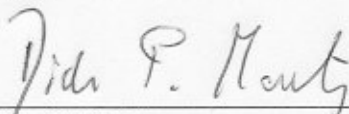
Letter of Support for the Report entitled *The North Carolina Connection to Extraordinary Rendition and Torture*

I write this letter of support for the Report, *The North Carolina Connection to Extraordinary Rendition and Torture* which endeavors to create transparency and develop a mechanism to hold the state of North Carolina, its political subdivision and its agents accountable for abduction, torture, and other human rights violations in the course of the program of extraordinary rendition. In the report entitled *Abuse of State Secrecy and National Security: Obstacles to Parliamentary and Judicial Scrutiny of Human Rights Violations* issued on September 16, 2011, the Committee on Legal Affairs and Human Rights of the Council of Europe issued a unanimously accepted draft resolution finding that the United States has relied on the notion of state secrecy to shield agents of extraordinary rendition and torture from mechanisms of accountability and has prevented victims of these crimes from pursuing redress. The Committee also determined that United States has refused to co-operate, in particular, with the judicial authorities of Germany, Lithuania and Poland in the criminal investigations launched in those countries in view of numerous elements of proof of abductions, secret detentions and illegal transfers of detainees.

The Committee and the Parliamentary Assembly of the Council of Europe recognize the need for states to ensure effective protection of secrets affecting national security. However, information concerning the responsibility of state agents who have committed serious human rights violations including enforced disappearances, torture, or abduction, should not be shielded from scrutiny under the guise of "state secrecy." Such lack of accountability leads to a dangerous culture of impunity, which undermines the very foundations of democratic institutions.

Given the failure of the United States and its political subdivisions to investigate extraordinary rendition and the refusal to allow victims to pursue their claims in U.S. courts, this report is an important contribution to the efforts to make up for the existing deficit of transparency. The report reveals that the program of extraordinary rendition is often carried out through private entities acting at the behest of the government, including state and local governments. It demonstrates the need for scrutiny at all levels of government in order to assure that the crimes inherent in the program of extraordinary rendition are addressed. The report represents "good practices" promoted by the United Nations Human Rights Council on the Promotion and Protection of Human Rights and fundamental Freedoms While Countering Terrorism.

Dated: 19. 12. 2011



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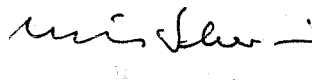
Letter of Endorsement for the Report entitled *The North Carolina Connection to Extraordinary Rendition and Torture*

I hereby submit this letter of endorsement for the Report entitled *The North Carolina Connection to Extraordinary Rendition and Torture*. The U.S. program of extraordinary rendition, which included forced disappearances, secret detention, and torture, violated the terms of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and the International Covenant on Civil and Political Rights— legally binding treaty provisions that may not be derogated from under any circumstances. The United States is a State party to both of these treaties. This Report contributes to the efforts of international bodies to create a factual record about the program of extraordinary rendition, to prevent and eliminate the human rights violations committed through the program, and to seek accountability for the harms suffered by the victims of the program.

As demonstrated by declassified and other U.S. government documents pertaining to extraordinary rendition, as well as international institutional sources, public records, investigative journalists, and nongovernmental organizations, the United States carried out this program with the involvement of public authorities at the federal, state, and local level as well as through contracts with private entities. Despite what is known about the program and the human rights abuses suffered by its victims and their families, the United States has failed to investigate or provide any opportunity for redress.

This Report recognizes that implementation of treaty obligations which impose obligations on the United States, a State party with a federal structure, must occur at all levels of government. If states, such as North Carolina, or their political subdivisions, were to fail to abide by U.S. treaty obligations, particularly in areas of substantive law for which they are responsible under U.S. constitutional law, treaty compliance by the United States as a State party to the treaties would be rendered meaningless. This Report thus supports work to identify and promote “best practices”, as promoted by the United Nations Human Rights Council in the context of the promotion and protection of human rights and fundamental freedoms while countering terrorism, and advances the goals of international law in recognition of the need to prevent extraordinary rendition and torture and to seek accountability where such acts have occurred.

Florence, 13 December 2011



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Executive Summary

Extraordinary rendition is a covert operation in which U.S. agents, including private parties acting on behalf of the CIA, captured, transferred, imprisoned, and interrogated people without affording them legal process. This report documents the involvement of Aero Contractors, Ltd. (“Aero”) in extraordinary rendition. Aero’s corporate headquarters is at the Johnston County Airport in Smithfield, North Carolina. Aero was founded in 1979 by a former chief pilot for CIA-directed flights during the Vietnam War. From at least 2001 to 2006, Aero operated aircraft in the CIA’s extraordinary rendition program. Aero aided in the kidnapping, extraordinary rendition, secret detention, and torture of a number of men, including Abou el-Kassim Britel, Mohamed Bashmilah, Binyam Mohamed, Bisher Al-Rawi, and Khaled El-Masri. The first four men were transported in a plane registered as N379P, and Mr. Mohamed and Mr. El-Masri were transported in a plane registered as N313P; both planes were operated by Aero.

During their extraordinary rendition flights, these men were shackled, blindfolded, hooded, and then transferred either to CIA-controlled facilities termed “black sites” or to other countries for secret detention and interrogation through torture. They were subjected to forced nudity, waterboarding, continuous exposure to noises and lights, sleep deprivation, stress positions, and/or other techniques identified as torture by the United Nations, the European Parliament, and the International Committee of the Red Cross.

For its business, Aero relies on and benefits from North Carolina state and local resources. Its officeholders and employees are real-life residents of Johnston County or North Carolina. North Carolina and its political subdivisions have supported Aero in a number of ways, including by providing county resources to operate its business. North Carolina extended credit to Aero for the construction of a hangar at the Global TransPark Authority in Kinston. Johnston County facilitated Aero’s operations by providing permits for construction work and by conducting site safety inspections of Aero’s premises. Aero was intricately involved in the extraordinary rendition of individuals to overseas facilities and black sites, and as a North Carolina-based corporation, could not have carried out these functions without the support and resources of the state of North Carolina and its political subdivisions.

As a private entity established in the United States, Aero may not engage in the unlawful acts that comprise extraordinary rendition, secret detention, and torture. A majority of these flights were deliberately disguised through the filing of “dummy” flight plans. As a private corporation operating civil aircraft, Aero is subject to – and appears to have violated -- international aviation law under the Convention on Civil Aviation, to which the United States is a party. Aero and the individuals who comprise Aero and participated in these flights are not immune from consequences of such acts, even if they were committed by Aero as a private or government contractor at the request of a public official.

Given the vast amount of information about Aero’s role in extraordinary rendition, it is appropriate to establish a Commission of Inquiry to examine the role of a North Carolina business in torture.

I. Introduction

1. The purpose of this document is to set out a factual record about Aero Contractors, Ltd. (“Aero”), a company based in North Carolina, and its role in the program known as extraordinary rendition. Extraordinary rendition is a covert operation where U.S. agents, including private actors acting on behalf of the CIA, captured, transferred, imprisoned, and interrogated those individuals who were determined to be “high-value detainees” or other individuals suspected of terrorism without affording them legal process.¹

2. This document is based on the evidence obtained from:²

- Declassified and other U.S. government documents pertaining to extraordinary rendition;
- Remarks made by President Bush on September 6, 2006, relating to the “Global War on Terror”;
- Investigative reports from international institutional sources, including:
 - The U.N. Human Rights Council Report: Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism (Joint Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms, the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances);
 - The International Committee of the Red Cross, and the Commission on Legal Affairs and Human Rights of the Council of Europe;
- Journalists’ sources, newspapers, and other media sources;
- Public documents pertaining to airports located in Smithfield and Kinston, North Carolina;
- Public records concerning the corporate structure of Aero Contractors on file with the N.C. Secretary of State;
- Documents pertaining to the regulatory relationship between Aero Contractors and North Carolina and its political subdivisions;
- Legal documents available through court filings and treaty documents;
- Secondary advocate sources;
- The personal testimony of individuals who survived extraordinary rendition.

3. These reports have documented in concrete terms the ways that the program of extraordinary rendition has come into existence, how the program has operated through privately chartered aircraft owned and/or leased and operated by Aero Contractors in North Carolina. These reports describe the consequences for the individuals who have been kidnapped and transferred to secret detention sites where they have been held incommunicado for prolonged periods of time, and where they have been subject to torture and other cruel, inhuman or degrading treatment or

¹ See [Background Paper on CIA's Combined Use of Interrogation Techniques](#), 30 December 2004. The White House, Office of the Press Secretary, Remarks by the President on the Global War on Terror, speech delivered in the East Room of the White House, 06.09.2006. <http://www.highbeam.com/doc/1P2-13224433.html>. See *Extraordinary Rendition, FAQs*, <http://www.aclu.org/national-security/extraordinary-rendition-faqs>.

² See Appendix A: Methodology, *The North Carolina Connection to Extraordinary Rendition and Torture*.

punishment. Many of these reports also document the suffering caused to the families of those who have been extraordinarily rendered, and note that the infliction of such suffering also often amounts to torture or other form of prohibited ill-treatment.³

4. These reports and documents, particularly those completed by international legal experts charged with investigating violations of legal norms to which the United States is bound, have concluded that international law clearly prohibits secret detention, which includes extraordinary rendition, and that such laws “may not be derogated from under any circumstances.”⁴

5. As a private entity established in the United States, Aero Contractors may not engage in the unlawful acts that comprise extraordinary rendition, secret detention, and torture. Aero and the individuals who comprise Aero and participated in these flights are not immune from consequences of such acts even if they were committed by Aero as a private or government contractor or subcontractor at the request of a public official.⁵ Among other international legal sources, the report of the U.N. Human Rights Council’s Working Group on the Use of Mercenaries makes clear that private companies offering military assistance are accountable for human rights violations.⁶

6. This document explains the involvement of Aero Contractors, Ltd. (“Aero”), a CIA-affiliated company based in North Carolina, in the CIA rendition program from 2001 to 2006. Aero Contractors operated aircraft on behalf of the CIA, primarily by providing pilots and flight crews. Aero was created by a former CIA pilot at the CIA’s request, and later operated exclusively for and at the behest of the United States government.⁷ In the past, much of Aero’s work was related to operations with American troops and providing transportation for foreign dignitaries visiting the United States. Recently, however, Aero has performed secret transfers of prisoners to CIA black sites as part of the CIA’s illegal practice of extraordinary rendition. Based upon review and analysis of investigative reports, documentation, records and data strings pertaining to planes operated by Aero, this document describes the role of Aero-operated aircraft in the renditions of five individuals: Binyam Mohamed, Abou Elkassim Britel, Khaled El-Masri, Bisher Al-Rawi, and Mohamed Farag Ahmad Bashmilah.

³ *Human Rights Council Report: Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism* [A/HRC/13/42] p. 3, Jan. 6, 2010 [hereinafter *Joint Study on Global Practices*] http://www.humansecuritygateway.com/documents/HRC_AHRC1342_JointStudy_SecretDetentionInTheContextOfCounteringTerrorism.pdf.

⁴ *Id.* at p. 4.

⁵ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Arts. 5(1)(b), 5(1)(1) Dec. 10, 1984, S. Treaty Doc. No 100-20 (1988) 1465 U.N.T.S 85, 23 I.L.M. 1027 (1984); U.N. Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, General Comment¶1*, p10., U.N.Doc.A/HRC//7/2, (Jan.10,2008) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/101/05/PDF/G0810105.pdf?OpenElement>.

⁶ See Comm. on Human Right, Report of the Working Group on the Use of Mercenaries, U.N. Doc. E/CN.4/2006/11/Add.1 (March 3, 2006). <http://www2.ohchr.org/english/bodies/chr/docs/62chr/E.CN.4.2006.11.Add.1.pdf>

⁷ Jay Price and Peggy Lim, *The Greatest Pilot We Never Saw*, Raleigh News and Observer, May 13, 2007 http://www.air-america.org/newspaper_articles/Jim_Rhyne_Story.pdf

II. The CIA's Rendition Program

7. The CIA's original rendition program was first developed in the 1990s under the Clinton administration. In 1995, the U.S. National Security Council developed the original rendition program for the stated purpose of responding to and addressing the threat of the terrorist network known as Al-Qaeda and to capture and incapacitate senior Al-Qaeda officials wanted in connection with identifiable crimes.⁸ Since then, it has become popular to describe that program as "rendition to justice," as the United States relied on assurances from receiving nations that captives would be afforded an opportunity to challenge their detention in fair and open legal procedures.

8. However, even this practice tested the boundaries of international human rights covenants because "individuals subject to such transfers cannot avail themselves of the usual human rights protections."⁹

9. After September 11, 2001, the CIA significantly shifted the purpose of the rendition program. Individuals outside of the United States were captured and transferred for detention and interrogation with the goal of gathering intelligence on Al-Qaeda or allied terrorist organizations, without regard to articulated or verifiable evidence of criminal conduct.¹⁰

10. One significant change in the post-9/11 rendition program was that the CIA began rendering suspects to clandestine detention facilities around the world run by the U.S. government, also known as "black sites."¹¹

11. Members of the U.S. Congress, international organizations including the U.N. Human Rights Council, the Council of Europe, the European Parliament, investigative journalists and human rights organizations termed these extra-legal post-9/11 CIA renditions "extraordinary rendition."¹²

⁸ Comm. on Legal Affairs and Human Rights, *Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states*, ¶¶ 27-31 Doc. 10957 (June 12, 2006) (prepared by Rapporteur Dick Marty, Switzerland, Alliance of Liberals and Democrats for Europe) [hereinafter Marty Report 2006]. See Memorandum from Bill Clinton, President of the United States, to the Vice President of the United States et al. [Presidential Decision Directive 39] (June 21, 1995), available at <http://www.fas.org/irp/offdocs/pdd39.htm>; See also Jane Mayer, *Outsourcing Torture: The Secret History of America's "extraordinary rendition" program*, THE NEW YORKER, Feb. 14, 2005, http://www.newyorker.com/archive/2005/02/14/050214fa_fact6?currentPage=all.

⁹ Marty Report, 2006, *supra* note 8, at ¶ 36. Margaret L. Sattlerthwaite, *The Legal Regime Governing Transfer of Persons in the Fight Against Terrorism* in COUNTER-TERRORISM AND INTERNATIONAL LAW: MEETING THE CHALLENGES, van den Herik & Schrijver, eds., 2010, New York University School of Law. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1157583

¹⁰ Marty Report, 2006, *supra* note 8 at ¶¶ 35-37.

¹¹ *Id.* ¶38.

¹² See, *Extraordinary Rendition in US Counterterrorism Policy: The Impact on Transatlantic Relations*, Joint Hearing Before the Subcommittee on International Organizations, Human Rights, and Oversight and the Subcommittee on Europe of the Committee on Foreign Affairs of House of Representatives, April 17, 2007 <http://foreignaffairs.house.gov/110/34712.pdf>; *Joint Study on Global Practices*, *supra* note 3, ¶36, Marty Report 2006, *supra* note 8, at ¶1, *Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners* (2006/2200(INI)), Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners, Rapporteur: Giovanni Claudio Fava, Jan. 20, 2007, p.4, ¶E [hereinafter Fava Report 2007]. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0020+0+DOC+PDF+V0//EN>. See e.g., Mayer, *supra* note 8 (using the term

12. A declassified CIA memorandum described how the practice of extraordinary rendition was designed to implement predictable and precise procedures.¹³ Extraordinary rendition began when the CIA captured the individual. During the rendition flight, individuals were shackled, blindfolded and hooded so that they were unable to move, see or hear. The individual was deprived of any interaction during the flight. Once the plane arrived at the destination, the individual was transferred—under similar conditions—to a facility under complete CIA control to undergo so-called “enhanced interrogation techniques.”¹⁴ Alternatively, captured individuals were sent to other proxy detention sites, or to other countries for secret detention and interrogation through torture.¹⁵

13. Captured individuals were deprived of physical control of their bodies. They were shaved; held incommunicado; and subjected to so-called “enhanced interrogation techniques,” including forced nudity, continuous exposure to “white noise/loud sounds” and light, sleep deprivation, “dietary manipulation,” waterboarding, and psychological and physical “corrective techniques” such as attention grasp, walling, facial hold, facial slap, abdominal slap, wall standing, stress positions, and water dousing.¹⁶

14. These techniques have been identified by the U.N. Human Rights Council, the European Parliament’s Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners, and the International Committee of the Red Cross as violations of binding international legal norms including but not limited to the prohibition against torture and cruel, inhuman and degrading treatment.¹⁷

15. In a recently declassified memorandum from the Office of Legal Council at the U.S. Department of Justice, the author(s) acknowledged that of the 94 detainees held in 2005 alone, 28 of them were subjected to enhanced interrogation techniques.¹⁸

extraordinary rendition to describe the illegal post-9/11 U.S. government practice of extraditing terrorism suspects to other countries for interrogation and torture).

¹³ See CIA, Background Paper *supra* note 1. The ACLU received this document on August 24, 2009 after filing two lawsuits against the US Department of Justice under the Freedom of Information Act, 5 U.S.C. § 551 *et. seq.* For more information, see ACLU, *ACLU Obtains Detailed Official Record of the Torture Program*, http://www.aclu.org/human-rights_national-security/aclu-obtains-detailed-official-record-cia-torture-program (last accessed March 29, 2011).

¹⁴ “Regardless of their previous environment and experiences, once an HVD is turned over to CIA a predictable set of events occur:

1) Rendition.

- a. The HVD is flown to a Black Site. A medical examination is conducted prior to the flight. During the flight, the detainee is securely shackled and is deprived of sight and sound through the use of blindfolds, earmuffs, and hoods. There is no interaction with the HVD during this rendition movement except for periodic, discreet assessments by the on-board medical officer.
- b. Upon arrival at the destination airfield, the HVD is moved to the Black Site under the same conditions and using appropriate security procedures.”

CIA Background Paper, *supra* note 1,, at 2.

¹⁵ See *Joint Study on Global Practices*, *supra* note 3, at 3..

¹⁶ *Id.* at 4-19.

¹⁷ *Id.* at 5, Fava Report 2007, *supra* note 12, ¶¶ 36-41, INTERNATIONAL COMMITTEE OF THE RED CROSS, REPORT ON THE TREATMENT OF FOURTEEN “HIGH VALUE DETAINEES” IN CIA CUSTODY § 4 ¶¶ 5-6 (2007) [hereinafter “ICRC Report”].

¹⁸ Memorandum from the Office of Legal Counsel to the CIA 5 (May 30, 2005), *available at* http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05302005_bradbury.pdf [hereinafter “May 30 OLC Memo”].

16. As noted by the U.N. Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, the U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the U.N. Working Group on Arbitrary Detention, and the U.N. Working Group on Enforced or Involuntary Disappearances, these serious human rights violations “cannot be justified under any circumstances, including states of emergency,” and must be investigated with findings made public, and victims should be provided with legal remedies and reparation.¹⁹

17. The extraordinary rendition flights that are included as comprising the “global spider web” of secret detention and torture have been privately chartered aircrafts including aircraft that are leased and/or owned and operated out of North Carolina by Aero Contractors, and used for purposes of circumventing obligations under international aviation law.²⁰

III. The Network of Companies in the Rendition Program

18. At least from 2001 to 2006, Aero served as a CIA-affiliated company that flew under the CIA’s direction.²¹ The aircraft used in these operations were registered to dummy corporations.²² These corporations include, but are not limited to:²³

- Stevens Express Leasing, Inc. (“Stevens”)
- Premier Executive Transport Service (“Premier”)

Aero is the operating company for these “entities.”²⁴

19. At least from 2001 to 2006, logistical support and flight planning for Aero’s domestic and international flights was provided by Jeppesen Dataplan, Inc. (“Jeppesen”).²⁵ Jeppesen is a subsidiary of Boeing, a large aerospace company.²⁶

¹⁹ Joint Study on Global Practices, *supra* note 3 at p. 5, 6, 14.

²⁰ European Center for Constitutional and Human Rights, *CIA Extraordinary Rendition Flights, Torture and Accountability—A European Approach*, (Manfred Nowak, Special Rapporteur on Torture, Preface, p. 9 (2009) http://www.ecchr.eu/cia_flights/articles/cia-extraordinary-rendition-flights-torture-and-accountability-a-european-approach.html.

Scott Shane, Stephen Grey, Margot Williams. *CIA Expanding Terror Battle Under Guise of Charter Flights*. N.Y. TIMES, May 31, 2005, <http://www.nytimes.com/2005/05/31/national/31planes.html>.

Enabling Torture: International Law Applicable to State Participation in the Unlawful Activities of Other States (February 2006), Center for Human Rights and Global Justice, New York University School of Law, <http://www.chrgj.org/docs/BriefingPaperEnablingTorture.pdf>

²¹ *Id.*

²² BLACK’S LAW DICTIONARY (8th ed. 2004) (defining dummy corporation as “[a] corporation whose only function is to hide the principal’s identity and to protect the principal from liability”).

²³ AMNESTY INTERNATIONAL, USA: BELOW THE RADAR – SECRET FLIGHTS TO TORTURE AND ‘DISAPPEARANCE’ 23, 29, AMR/51/051/2006 (2006) [hereinafter “Amnesty Report”].

²⁴ Temporary Committee on the Alleged Use of European Countries by the CIA for the Transport and Illegal Detention of Prisoners, Rapporteur: Giovanni Claudio Fava, Jan. 6, 2006, p. 4, http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dt/617/617722/617722en.pdf; Temporary Committee on the Alleged Use of European Countries by the CIA for the Transport and Illegal Detention of Prisoners, Rapporteur: Giovanni Claudio Fava, Nov. 16, 2006, Table 5, p. 9, <http://www.statewatch.org/cia/documents/working-doc-no-8-nov-06.pdf>

IV. The Corporate Structure of Aero Contractors, Ltd.

20. Aero Contractors Limited is a corporation doing business in North Carolina, with corporate headquarters at the Johnston County Airport in Smithfield, North Carolina.²⁷

21. Due to the secretive nature of Aero's work, it is difficult to fully know its corporate purpose.

22. Aero was founded in 1979 by an individual who served as a chief pilot for CIA-directed flights during the Vietnam War.²⁸

23. On September 20, 1993, the Johnston County Airport Authority leased "Space No. 3" to James H. Rhyne, whose address was listed as 3400 Gordon Road, Clayton, North Carolina, 27520. The lease indicates that Space No. 3 was to be used "for the erection of a portable, all-metal aircraft hangar to use or rent for storage of aircraft, and for no other purposes." The initial lease was from October 1, 1993 to December 21, 1993, with an automatic renewal term of one year unless either party give written notice of its intention to terminate. The lease contains the following clause: "Lessee shall make no unlawful use of said space If so, this lease may be terminated by Lessor." The lease is signed by James H. Rhyne and the Chairman and Secretary-Treasurer of the Johnston County Airport Authority.²⁹ Aero's 1992 Annual Report, filed with the North Carolina Department of the Secretary of State, lists James H. Rhyne as a registered agent.³⁰

24. On November 1, 1999, the Johnston County Airport Authority leased "Space No. 37" to James "Jim" Kovalesky, whose address is 1213 Swift Creek Drive, Clayton, North Carolina, 27520. The lease indicates that Space No. 37 was a "portable all-metal aircraft hangar to use for storage of aircraft, and for no other purposes." The initial lease was from November 1, 1999 to December 31, 1999, with an automatic renewal term of one year unless either party gives written notice of its intention to terminate. The lease contains the following clause: "Lessee shall make no unlawful use of said space If so, this lease may be terminated by Lessor." The lease is signed by "Jim K" and the Chairman and Secretary-Treasurer of the Johnston County Airport Authority.³¹

²⁵ Jane Mayer, *The CIA's Travel Agent*, THE NEW YORKER, Oct. 30, 2006, http://www.newyorker.com/archive/2006/10/30/061030ta_talk_mayer; American Civil Liberties Union, *ACLU Fact Sheet on "Air CIA"*, <http://www.aclu.org/national-security/aclu-fact-sheet-air-cia>.

²⁶ Jeppesen, The Boeing Company, <http://www.jeppesen.com/company/about/the-boeing-company>. ("Jeppesen: A Proud Subsidiary of Boeing").

²⁷ NC Secretary of State, Aero Contractors Limited, <http://www.secretary.state.nc.us/corporations/Corp.aspx?PitemId=4621307>.

²⁸ Shane *et. al.*, *supra* note 21. See Price and Lim, *supra* note 7.

²⁹ 1993 Jim Rhyne Lease. The authors obtained this document by means of a public record request. The lease is on file with the authors.

³⁰ 1992 Business Corporation North Carolina Annual Report, Document 923450131, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PitemId=4621307> (As filed on 12/10/1992).

³¹ 1999 Kovalesky Lease. The authors obtained this document by means of a public record request. The lease is on file with the authors.

25. According to an undated Business Corporation Annual Report (“Corporation Report”) filed with the North Carolina Department of the Secretary of State (“NCDOS”), Aero is a “Contract aviation services” business and is incorporated in Delaware. Aero’s North Carolina Secretary of State ID number is 0002253.³²

26. According to public filings made with NCDOS, Aero has been registered in North Carolina continuously since 1979 and has filed Annual Reports from 1991 to 2010.³³

27. According to records with the NCDOS, Aero’s Principal Mailing Address is P.O. Box 1139 in Smithfield, North Carolina. Aero’s Registered Office Mailing Address is 602 S. Third Street, Smithfield, NC 27577 and the telephone number is 919-934-0978.³⁴

28. The most recent Annual Report, filed on December 21, 2010, lists Aero’s principal officers as:

- President: Dolph Overton, IV, 3638 Statesville Rd., North Wilkesboro, NC 28659
- Vice President: S. Barry Hales, P.O. Box 400, Hampstead, NC 28443
- Secretary: L. Lamar Armstrong, Jr., P.O. Box 27, Smithfield, NC 27577³⁵

29. In the 2007 Annual Report, the President of Aero Contractors was listed as Norman L. Richardson.³⁶

30. As of December 21, 2010, Aero listed its registered agent as L. Lamar Armstrong, Jr. (“Armstrong”). According to NCDOS records, Armstrong’s Registered Office Address and Registered Mailing Address are 602 S. Third Street, Smithfield, NC 27577.³⁷

31. In 2005, 2003, 2002, 2001, 2000, 1999, and 1998, the names of the president and vice president do not appear on the annual report. Armstrong’s signature accompanies the filings.³⁸

32. In 1991, William J. Rogers of Auburn, ME is listed as an additional principal officer.³⁹ The 1992 Annual Report lists James H. Rhyne as a registered agent, as well as Richardson,

³² “Business Corporation Annual Report: Aero Contractors Limited,” North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

³³ “Annual Reports for: Aero Contractors Limited,” North Carolina Department of the Secretary of State, <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307>.

³⁴ “Business Corporation Annual Report: Aero Contractors Limited,” North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

³⁵ 2010 Business Corporation North Carolina Annual Report, Document CA200935500252, North Carolina Department of State, *available at* chrome://downloads/Users/allisonwhiteman/Downloads/ANRT-AnnualReport_CA201035500252.pdf. (As filed on 12/21/2010).

³⁶ 2007 Business Corporation North Carolina Annual Report, Document 2007 351 01717, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 12/17/2007).

³⁷ “Business Corporation Annual Report: Aero Contractors Limited,” North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

³⁸ “Business Corporation Annual Report: Aero Contractors Limited,” North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

³⁹ 1991 Business Corporation North Carolina Annual Report, Document 912950166, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 10/22/1991).

Armstrong, and Hales as principal officers.⁴⁰ The 1996 Annual Report includes Thomas P. Hartness of Greenville, SC as a director,⁴¹ and the 1997 Annual Report includes as a director Peter Wright of West Chester, PA.⁴²

33. At the time of their writing, numerous journalistic accounts have found that the names listed in flight manifests relating to extraordinary rendition flights and the capture and transfer of individuals for interrogation through torture were aliases of actual Aero pilots or employees.⁴³

34. Aero has actual operations and does business for which it relies on and benefits from North Carolina state and local resources.

35. Aero is comprised of officeholders and employees who are real-life residents of Johnston County or North Carolina:

- Public records show that James “Jim” Kovalesky entered into a lease with the Johnston County Airport Authority for “space No. 37” in 1999. Kovalesky’s address is listed on the lease as “1213 Swift Creek Drive, Clayton, North Carolina, 27520.”⁴⁴
- Public records show that James H. Rhyne entered into a lease with the Johnston County Airport Authority for “space No. 3” in 1993. Rhyne’s address is listed on the lease as “3400 Gordon Road, Clayton, North Carolina, 27520.”⁴⁵ Aero’s 1992 Annual Report lists James H. Rhyne as a registered agent.⁴⁶
- Public records show that L. Lamar Armstrong, a resident of Johnston County, is listed as Aero’s secretary.
- Other employees of Aero live in Johnston County.

⁴⁰ 1992 Business Corporation North Carolina Annual Report, Document 923450131, North Carolina Department of State, available at <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 12/10/1992).

⁴¹ 1996 Business Corporation North Carolina Annual Report, Document 963100005, North Carolina Department of State, available at <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 11/5/1996).

⁴² 1997 Business Corporation North Carolina Annual Report, Document 973080524, North Carolina Department of State, available at <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 11/4/1997).

⁴³ See, e.g., Shane *et al.*, *supra* note 20. See also Stephen Grey, *Ghost Plane: The True Story of the CIA Torture Program* (St. Martin’s Press 2006); Trevor Paglen & A.C. Thompson, *TORTURE TAXI* (2006).

⁴⁴ 1999 Kovalesky Lease. The authors obtained this document by means of a public record request. The lease is on file with the authors.

⁴⁵ *Id.*

⁴⁶ 1992 Business Corporation North Carolina Annual Report, Document 923450131, North Carolina Department of State, available at <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (Accessed April 26, 2010) (As filed on 12/10/1992).

V. Aero's Role in the Rendition Program

36. Aero provided and/or operated the transportation necessary to capture and transfer the individuals to overseas detention facilities and "black sites," where these individuals were detained and interrogated.⁴⁷

37. Flight logs indicate that the Aero-operated aircraft registered as N379P departed from Johnston County, North Carolina, on numerous occasions between 2001 and 2004.⁴⁸

38. N379P flights from Johnston County stopped at domestic sites, most often Washington Dulles Airport, before flying to international locations.⁴⁹

39. Flight logs indicate that the Aero-operated aircraft registered as N313P departed from Kinston, North Carolina, on a number of flights including from Kinston, NC to Dulles Washington, from Dulles Washington to Frankfurt Main, and thento Kabul.⁵⁰

40. Many of the individuals who were subject to extraordinary rendition were first arrested by local country officials. Capture took place when the individual was transferred to CIA custody, at which point a routine set of events occurred.⁵¹

41. Aero-operated aircraft were used to pick up persons who had been arrested and captured.⁵²

42. Usually, a small number of Aero personnel would fly the plane from North Carolina (either Kinston or Smithfield) to Dulles Airport, where it would pick up a "rendition team" made up of approximately 12 U.S. officials. Four to six of these officials would be dressed all in black with their faces covered, and would prepare the individual for rendition in the method described below.⁵³

43. Once the Aero-operated plane landed at the destination country, CIA officials would prepare the individual for transfer on the Aero plane by using a standardized procedure intended to put the individual in a state of total immobility and sensory deprivation.⁵⁴

44. This procedure for preparation to rendition involved removing the individual's clothes, taking photographs of the naked individual, conducting a body cavity check, and inserting suppositories. The individual would then be forced to wear a diaper and a tracksuit. Blindfolds and

⁴⁷ Shane *et al.*, *supra* note 20. See also Marty Report 2006, *supra* note 8, at ¶ 42 (describing the role of civilian and military aircraft in carrying out renditions to overseas detention facilities and "black sites").

⁴⁸ Grey, *supra* note 43, Appendix B, Flight logs, pp 286-300; Marty Report 2006, *supra* note 8, Appendix No. 5, 7.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ CIA Background Paper, *supra* note 1, at 3.

⁵² Shane *et al.*, *supra* note 20. For general information about the process of arrest and capture, see ICRC Report, *supra* note 14, §1.1.

⁵³ Shane *et al.*, *supra* note 20. For general information about the rendition team, see Marty Report 2006, *supra* note 8 at, ¶ 85.

⁵⁴ Shane *et al.*, *supra* note 20. For general information about preparation for rendition, see ICRC Report, *supra* note 17, § 1.1; Marty Report 2006, *supra* note 8, at ¶¶ 84-85.

earphones were used for sensory deprivation. The individual would then be shackled and transferred to the airport and loaded onto the Aero-operated rendition plane while forced to remain in diapers and deprived of sight, sound, and the ability to move. On the Aero flight, the individual was not allowed to use the toilet or to communicate.⁵⁵

45. Flight records confirm that Aero completed at least six individual rendition flights in the transportation of Binyam Mohamed, Abou Elkassim Britel, Khaled El-Masri, Bisher Al-Rawi, and Mohamed Farag Ahmad Bashmilah using two aircraft—a Gulfstream V turbojet and a Boeing Business Jet.⁵⁶ The Gulfstream V turbojet was housed at the airport hangar in Johnston County; the Boeing Business Jet was housed at a larger airport facility in Kinston, N.C.⁵⁷

VI. Two Aero Aircraft Participating in Rendition

A. Gulfstream V Turbojet, N379P

46. Aero operated a Gulfstream V turbojet registered as N379P.⁵⁸ The plane could transport a maximum of 18 passengers, but was usually configured for 8 passengers.⁵⁹

47. N379P was initially registered with the FAA by Premier Executive Transport Services, a dummy corporation and operated by and for the benefit of the CIA. Aero was the operator of this plane and flew the plane to capture and transport individuals to be interrogated through means of torture.⁶⁰

48. Flight information compiled by the Council of Europe indicates that the Aero-operated Gulfstream Jet, registered as N379P, flew Binyam Mohamed from Islamabad to Rabat on July 21, 2002; Abou Elkassim Britel from Islamabad to Rabat on May 24, 2002; and Bisher Al-Rawi from Banjul to Kabul, via Cairo, on December 8, 2002; and Mohamed Farag Ahmad Bashmilah, from Amman to Kabul, October 26, 2003.⁶¹

⁵⁵ Shane *et. al.*, *supra* note 20. For general information about the flights, see ICRC Report, *supra* note 17, § 1.1; Marty Report 2006, *supra* note 8, at ¶ 85.

⁵⁶ See Tables 1-5, *infra*.

⁵⁷ See Shane *et. al.*, *supra* note 20.

⁵⁸ Paglen and Thompson, *supra* note 43, at 80-81.

⁵⁹ Amnesty Report, *supra* note 23, at 36.

⁶⁰ *Id.* See Fava Reports (Jan and Nov. 2006), *supra* note 24.

⁶¹ Marty Report 2006, *supra* note 8, at Appendix No. 5, 7; Declaration of Abou Elkassim Britel in Support of Plaintiffs' Opposition to the United States' Motion to Dismiss or, in the Alternative, for Summary Judgment ¶ 14, Mohamed *et al.* v. Jeppesen Dataplan, Inc., 539 F. Supp.2d 1128 (2008) (No. C 07-02798 JW) [hereinafter "Britel Declaration"]; Declaration of Mohamed Farag Ahmad Bashmilah in Support of Plaintiffs' Opposition to the United States' Motion to Dismiss or, in the Alternative, for Summary Judgment ¶ 42, Mohamed *et al.* v. Jeppesen Dataplan, Inc., 539 F. Supp.2d 1128 (2008) (No. C 07-02798 JW) [hereinafter "Bashmilah Declaration"].

49. Flight logs indicate that the Aero-operated N379P plane originated from Johnston County Airport and flew to Washington Dulles Airport in the days preceding the renditions of the above individuals.⁶²

50. Specifically, flight logs show that Aero-operated N379P originated from Johnston County Airport on the following flights:⁶³

- From Johnston County Airport to Washington Dulles on July 17, 2002.
- From Johnston County Airport to Washington Dulles on May 22, 2002.
- From Johnston County Airport to Washington Dulles on December 8, 2002.

B. Boeing Business Jet, N313P

51. Aero operated a 737 Boeing Business Jet registered as N313P. The plane could transport a maximum of 127 passengers.⁶⁴

52. N313P was initially registered with the FAA by Stevens Express Leasing, Inc. ("Stevens"), and operated by and for the benefit of the CIA. Aero was the operator of this plane and flew the plane to capture and transport individuals to be interrogated through means of torture.⁶⁵

53. N313P was re-registered by Premier Executive on May 1, 2002. It was again re-registered as N4476S on December 1, 2004 by Keeler & Tate Management.⁶⁶

54. The current registration number is unknown.

55. Flight logs compiled for the Council of Europe confirm that the Aero-operated Boeing Business Jet, registered as N313P, was involved in the rendition of Binyam Mohamed from Rabat to Kabul on January 22, 2004 and Khaled El-Masri from Macedonia to Baghdad on January 24, 2004.⁶⁷

56. Flights logs show that Aero-operated N313P originated from Kinston, North Carolina, on the following flights:⁶⁸

- From Kinston, NC to Dulles Washington on October, 22, 2004. N313P then flew from Dulles Washington to Frankfurt Main before flying to Kabul on October 24, 2004.
- From Kinston, NC to Dulles Washington on December 11, 2004. N313P then flew from Dulles Washington to Frankfurt Main before flying to Kabul on December 13, 2004.

⁶² Grey, *supra* note 43, Appendix B, Flight logs, pp 288, 289, 292, 297

⁶³ *Id.*

⁶⁴ Amnesty Report, *supra* note 23, at 34.

⁶⁵ See Marty Report 2006, *supra* note 8, at Appendix No. 5, 7; see also Table 4, *infra*. See Fava Reports (Jan and Nov. 2006), *supra* note 24.

⁶⁶ *Id.*

⁶⁷ Marty Report 2006, *supra* note 8, at Appendix 1.

⁶⁸ Grey, *supra* note 43, Appendix C, Flight logs, pp 306, 307.

C. Servicing of “Black Sites”

57. The Aero-operated aircraft registered as N313P and N379P also serviced “black sites” in Poland and Romania from 2003 to 2005.⁶⁹

58. These secret detention facilities in Poland and Romania were run directly and exclusively by the CIA. They were set up in order to “kill, capture, and detain” terrorist suspects that were of “high value.”⁷⁰

59. Recorded flights by Aero-operated planes N313P and N379P, landing in Szymany airport in Poland, include:⁷¹

- N379P arriving from RABAT at 02h23 on 8 February 2003
- N379P arriving from KABUL at 16h00 on 7 March 2003
- N379P arriving from KABUL at 18h03 on 25 March 2003
- N379P arriving from KABUL at 01h00 on 5 June 2003
- N379P arriving from KABUL at 02h58 on 30 July 2003
- N313P arriving from KABUL at 21h00 on 22 September 2003

60. The data strings indicate that a majority of these flights to black sites were deliberately disguised through “dummy” flight plans for the purpose of concealing the actual movements and destinations of the aircraft.⁷²

D. Flight According to Dummy Plans

61. The aeronautical planning company Jeppesen filed these “dummy” flight plans in order to conceal the true destinations of the flights. The pilots in command (PIC) for these flights would then deviate from the routes and destinations stated on the dummy flight plans.⁷³

62. The pilots in command (PICs) on these N379P and N313P flights to “black sites” were Aero employees.⁷⁴

63. As a private corporation operating civil aircraft, Aero is subject to international aviation law under the Convention on Civil Aviation (“Chicago Convention”), to which the United States is a party.⁷⁵

⁶⁹ Marty Report 2006, *supra* note 8, at ¶ 7.

⁷⁰ *Id.* ¶¶ 7-8.

⁷¹ Comm. on Legal Affairs and Human Rights, *Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report*, ¶ 182 Doc. 11302 rev. (June 11, 2007) (prepared by Rapporteur Dick Marty, Switzerland, Alliance of Liberals and Democrats for Europe) [hereinafter Marty Report 2007].

⁷² *Id.* ¶ 184.

⁷³ *Id.* ¶ 185, 188.

⁷⁴ See REPRIEVE, “HUMAN CARGO”: BINYAM MOHAMED AND THE RENDITION FREQUENT FLIER PROGRAMME 22-35 (2008) (reporting about a number of Pilots who flew planes for Aero Contractors).

⁷⁵ Convention on Civil Aviation art. 3(a), Dec. 7, 1944, 15 U.N.T.S. 295 (1994) [hereinafter “Chicago Convention”] (stating that the Chicago Convention is applicable only to civil aircraft). NYU *Enabling Torture*, *supra* note 20, at 4.

64. The Chicago Convention provides principles and rules to ensure that international aviation operates in a “safe and orderly manner.”⁷⁶

65. According to the “Rules of the Air” found in the Chicago Convention, civil aircraft must file flight plans with air traffic services units for all flights that cross international borders.⁷⁷

66. The filing of flight plans ensures safe and efficient air travel. Flight plans for international flights must include, among other things, the place and time of departure, the route to be flown, and the destination and estimated time of arrival.⁷⁸

67. Dummy flight plans which concealed the route to and destination of these “black sites” violated international aviation rules and put at risk the safety of international air travel.⁷⁹

68. Aero PICs who flew rendition aircraft directly and personally deceived the international organizations responsible for regulating air safety by flying undeclared routes covered by dummy flight plans. The Aero PICs acted recklessly and dangerously by flying undeclared routes covered by dummy flight plans.

69. Thus, each Aero PIC was personally complicit in flying aircraft covered by dummy flight plans. By doing so, each Aero PIC intentionally, directly, and personally deceived international aviation authorities and violated international aviation law.

VII. The North Carolina Connection

70. Aero had substantial operations in North Carolina. North Carolina and its political subdivisions provided support and facilitated Aero in a number of ways, including by providing county resources to operate its business. North Carolina and/or its political subdivisions extended credit to Aero for the construction of a hangar at North Carolina’s Global TransPark Authority.⁸⁰

71. During the period when the known renditions occurred (September 2001–September 2006), Aero contracted with private companies for upgrades to its hangar at the Johnston County Airport and at the Global TransPark Authority in Kinston, NC. These contracts included electrical work and fire sprinkler installation.⁸¹

⁷⁶ The Chicago Convention differentiates between civil aircraft and state aircraft. Whether the Aero-operated flights are categorized as civil or state aircraft, the authors believe Aero Contractors has violated the Chicago Convention. Chicago Convention, *supra* note 75, pmb1, ¶ 3.

⁷⁷ *Id.* Annex 2 ¶ 5.

⁷⁸ *Id.*

⁷⁹ *See Id.*

⁸⁰ Charlie Kraebel, *Controversial Charter Firm No Longer Flying From GTP*, Mar. 23, 2007 <http://www.kinston.com/news/aero-37218-gtp-company.html>.

⁸¹ Fire sprinkler service, May 6, 2002 [18783, 2001 – 2002 construction and inspections, pg. 9-10]. *See North Carolina Global TransPark Development Highlights, Oct, 2004* (construction completed at GTP for 20,000 foot hangar for Aero).

72. During this period, Johnston County supported Aero's presence and facilitated the company's transactions by providing permits for the construction work⁸² and by conducting site safety inspections⁸³ of Aero's hangar, such as occupancy compliance.⁸⁴ Aero Contractors is listed as the "owner" of the premises on all the documents.

73. As described above, Johnston County provided permits for and performed inspections of the Aero premises at the Johnston County Airport, enabling Aero to continue its operations.

74. The PICs who operated the planes for flights herein described were employees of Aero Contractors and residents of North Carolina.⁸⁵

75. Flight logs indicate that the Aero-operated aircraft registered as N379P originated from Johnston County, North Carolina, on a number of occasions between 2001 and 2004.⁸⁶

76. Flight logs indicate that the Aero-operated aircraft registered as N313P departed from Kinston, North Carolina on numerous occasions during the time period in question related to extraordinary rendition flights.⁸⁷

77. At least for the five specific renditions herein described, the Aero PICs willfully violated the rules of international aviation by knowingly deviating from filed flight plans and flying on falsely declared routes covered by dummy flight plans.⁸⁸ In some cases, the flights were completely undeclared and no flight plans were filed at all.⁸⁹

78. Aero was intricately involved in the extraordinary rendition of individuals to overseas facilities and black sites, and as a North Carolina-based corporation, could not have carried out

⁸² County application/permit for construction or other work, December 11, 2001 [#20002, 2001 – 2002 construction and inspections, pg. 8-10].

County application/permit for construction or other work, December 17, 2001 [#20089, 2001 construction and inspections, pg. 2].

⁸³ County Inspection Notices, February 2001 – August 2008. [#15024 2000 – 2001 construction and permits, pp. 9 – 22].

County Inspection Notices, December 2001 – September 2002, [#18783, 2001 – 2002 construction and inspections, pg. 9-23.]

County fire inspection, August 22, 2002 [#18783, pg. 4]

County Inspection Notice, December 2001 – February 2002, [#20002, 2001 – 2002 construction and inspections, pg. 4-7]

County Inspection Notice, December 2001 – February 2002, [#20089, 2001 – 2002 construction and inspections, pg. 4-7]

⁸⁴ County occupancy compliance certificate, September 6, 2002 [#18783, 2001 construction and inspections, pg. 4]

County occupancy compliance certificate, December 19, 2001 [#20002, 2001 – 2002 construction and inspections, pg. 4]

⁸⁵ See HUMAN CARGO, *supra* note 74, at 22-35.

⁸⁶ Grey, *supra* note 43, Appendix B, Flight logs, pp 286-300.

⁸⁷ *Id.* Appendix C, Flight logs, pp 306-307.

⁸⁸ See Chicago Convention, *supra* note 75, Annex 2 ¶ 5.

⁸⁹ See Complaint, Mohamed et. at. v. Jeppesen Dataplan, C 07-2798 (2007) (including references to investigative records compiled by the Council of Europe and a European Parliamentary Inquiry).

these functions without the support and resources of the state of North Carolina and its political subdivisions.

VIII. Five Renditions Completed by Aero

A. Common Denominators

79. Aero-operated planes registered as N379P and N313P flew from North Carolina airports and were used to transfer individuals to overseas facilities for interrogation and torture as a part of the CIA program of extraordinary rendition.

80. For purposes of this submission, this document will focus on the five specific individuals Binyam Mohamed, Abou Elkassim Britel, Khaled El-Masri, Bisher Al-Rawi and Mohamed Farag Ahmad Bashmilah, whose renditions have been well publicized and documented.

81. None of these five men were charged, sentenced or prosecuted with any criminal offense related to the imprisonments herein described.⁹⁰

82. Of the five men, four were released from U.S. custody after their renditions, detention and torture herein described.

83. These five men have sought damages for their rendition and detention by filing claims in *El-Masri v. Tenet* and *Mohamed et al. v. Jeppesen, Inc.*⁹¹ In *El-Masri*, the District Court and Court of Appeals for the Fourth Circuit dismissed El-Masri's claims based on the "states secrets privilege"; the Supreme Court denied the petitioner's request for certiorari.⁹² In *Mohamed*, the District Court originally dismissed the lawsuit after the U.S. government intervened to assert the "states secrets privilege," but the Ninth Circuit Court of Appeals reversed and reinstated the claim. The US government petitioned for the Ninth Circuit to rehear the case *en banc*. In 2010, the Ninth Circuit reversed its earlier ruling and dismissed the case. On May 16, 2011, the United States Supreme Court denied plaintiff's motion for certiorari, without comment.⁹³

84. Flight records show that all five men were rendered to overseas detention facilities on the Aero-operated aircraft of N313P and/or N379P.⁹⁴

⁹⁰ See Biography of Plaintiff Abou Elkassim, May 2007, (detailing Elkassim's imprisonment on false charges subsequent to his extraordinary rendition and torture and written before his release in April 2011). <http://www.aclu.org/national-security/biography-plaintiff-abou-elkassim-britel>

⁹¹ *El-Masri v. Tenet*, 479 F.3d 296 (2007); *Mohamed et al. v. Jeppesen*, 579 F.3d 943 (2009).

⁹² ACLU, *El-Masri v. Tenet*, <http://www.aclu.org/national-security/el-masri-v-tenet>.

⁹³ ACLU, *Mohamed et al v. Jeppesen Dataplan, Inc.* <http://www.aclu.org/national-security/mohamed-et-al-v-jeppesen-dataplan-inc>. *Mohamed et al v. Jeppesen Dataplan, Inc.*, No. 10-778 [179 L. Ed. 2d 1235]

⁹⁴ See Tables 1-5, *infra*.

85. These men were flown in “rendition circuits,” through which multiple renditions were carried out in the “same, single flight circuit” on an Aero-operated plane.⁹⁵

- For example, the renditions of Binyam Mohamed and Khaled El-Masri to Afghanistan occurred within 48 hours of each other on a rendition circuit of Aero-operated plane N313P.⁹⁶
- Flight logs confirm that the Aero aircraft registered as N313P flew from Afghanistan to Europe and back to Afghanistan as follows:
 - Kabul to Alger/Houari Boumedienne on January 22, 2004, at 12:09pm
 - Alger/Houari Boumedienne to Palma De Mallorca on January 22, 2004, at 9:36pm
 - Palma De Mallorca to Skopje airport on January 23, 2004, at 5:40pm
 - Skopje airport to Baghdad International on January 24, 2004, at 1:30am
 - Baghdad International to Kabul on January 24, 2004, at 11:14 am⁹⁷

B. Aero’s Extraordinary Rendition of Binyam Mohamed

86. Binyam Mohamed (“Mohamed”), an Ethiopian national born in 1978, sought political asylum in the United Kingdom and lived with permission in London from 1994 until his detention in 2002 in Afghanistan. He was detained and tortured for seven years without charge.⁹⁸

87. Mohamed was taken from Pakistan in early 2002 and in the years following, he was rendered twice by U.S. agents using Aero-operated planes: once to Morocco on Aero-operated N379P; and once to Afghanistan on Aero-operated N313P.⁹⁹

88. Mohamed was released without charge to the United Kingdom in early 2009.¹⁰⁰

89. The details of the transport of Mohamed are as follows:

1. First Rendition from Pakistan to Morocco

90. After being captured by U.S. agents in Pakistan in 2002, Mohamed was detained, interrogated, and tortured for several weeks in Pakistan.

91. On July 21, 2002, at 5:35 p.m., Mohamed was transported from Islamabad to Morocco in the Aero-operated N379P plane.¹⁰¹ Flight records also confirm that the N379P plane departed from Johnston County Airport in North Carolina for Washington Dulles on July 17, 2002, the same

⁹⁵ Marty Report 2006, *supra* note 8, at ¶ 52. See Tables 1-5, *infra*.

⁹⁶ *Id.* ¶ 209.

⁹⁷ *Id.* Appendix 1.

⁹⁸ *Joint Study on Global Practices*, *supra* note 3, p. 77 ¶ 151; See generally HUMAN CARGO, *supra* note 74, at 6-18.

⁹⁹ Marty Report 2006, *supra* note 8, at ¶ 200-202, 209.

¹⁰⁰ Duncan Gardham, *Binyam Mohamed released from Guantanamo Bay and on way back to Britain*, THE TELEGRAPH, Feb. 23, 2009, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/cuba/4786105/Binyam-Mohamed-released-from-Guantanamo-Bay-and-on-way-back-to-Britain.html> (last visited April 14, 2011).

¹⁰¹ *Id.*

day that N379P embarked on the course on which Mohamed was rendered.¹⁰² These flights and others on the same rendition circuit are presented in Table 1.

Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
7/17/02	KJNX	JOHNSTON COUNTY NC	KIAD	DULLES WASHINGTON	N379P	Grey
7/18/02	KIAD	DULLES WASHINGTON	EDDF	FRANKFURT MAIN	N379P	COE, Grey
7/18/02	EDDF	FRANKFURT MAIN	LTAG	ADANA / INCIRLIK (MIL)	N379P	COE, Grey
7/18/02	LTAG	ADANA-INCIRLIK/MIL	EDDF	FRANKFURT MAIN	N379P	COE, Grey
7/19/02	EDDF	FRANKFURT MAIN	OJAI	AMMAN/QUEEN ALIA	N379P	COE, Grey
7/19/02	OJAI	AMMAN/QUEEN ALIA	OAKB	KABUL	N379P	COE, Grey
7/21/02	OAKB	KABUL	OPRN	ISLAMABAD	N379P	COE
7/21/02	OPRN	ISLAMABAD	GMME	RABAT/SALE	N379P	COE, Grey
7/22/02	GMME	RABAT-SALE	EINN	SHANNON	N379P	COE, Grey
7/23/02	EINN	SHANNON	KIAD	DULLES WASHINGTON	N379P	COE, Grey
7/23/02	KIAD	DULLES WASHINGTON	KJNX	JOHNSTON COUNTY NC	N379P	Grey

* COE: Council of Europe, Addendum to Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 14 June 2006.
 * Grey: Stephen Grey, *Ghost Plane* (2006).

2. Second Rendition from Morocco to Afghanistan

92. Mohamed remained in Morocco until January 2004, where he was captured again by U.S. officials. The accompanying declaration of Mr. Mohamed details his experiences in prison in Morocco.

93. On January 22, 2004, at 2:05 a.m., Mohamed was transported from Morocco to Afghanistan in the Aero-operated N313P plane. Flight logs confirm that the Aero aircraft registered as N313P was used in the second rendition of Mohamed from Rabat, Morocco, to Kabul on January 22, 2004.¹⁰³ Flight records also confirm that the Aero-operated plane, N313P, originated from Washington Dulles airport on January 16, 2004, carrying a twelve-member crew.¹⁰⁴ These flights and others on the same rendition circuit are presented in Table 2.

Table 2. Flights Related to the Rendition of Binyam Mohamed, 2004

¹⁰² Grey, *supra* note 43, Appendix B, Flight logs, at 289.

¹⁰³ Marty Report 2006, *supra* note 8, at Appendix No. 1. *Joint Study on Global Practices*, *supra* note 3 ¶ 151.

¹⁰⁴ *Id.*

Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
1/16/04	KIAD	DULLES WASHINGTON	EINN	SHANNON	N313P	COE, Grey
1/17/04	EINN	SHANNON	LCLK	LARNACA	N313P	COE, Grey
1/21/01	LCLK	LARNACA	GMME	RABAT/SALE	N313P	COE, Grey
1/22/04	GMME	RABAT-SALE	OAKB	KABUL	N313P	COE, Grey
1/22/04	OAKB	KABUL	DAAG	ALGER/HOUARI BOUMEDIENNE	N313P	COE, Grey
1/22/04	DAAG	ALGER/HOUARI BOUMEDIENNE	LEPA	PALMA DE MALLORCA	N313P	COE, Grey
1/23/04	LEPA	PALMA DE MALLORCA	LWSK	SKOPJE EX LYSK	N313P	COE, Grey
1/24/04	LWSK	SKOPJE EX LYSK	ORBI	BAGHDAD INTL	N313P	COE, Grey
1/24/04	ORBI	BAGHDAD INTERNATIONAL	OAKB	KABUL	N313P	COE, Grey
1/25/04	OAKB	KABUL	LRBS	TIMISOARA / GIARMATA	N313P	COE, Grey
1/26/04	LRBS	TIMISOARA / GIARMATA	LEPA	PALMA DE MALLORCA	N313P	COE
1/28/04	LEPA	PALMA DE MALLORCA	KIAD	DULLES WASHINGTON	N313P	COE, Grey
10/19/04	KCAE	COLUMBIA METRO	KISO	KINSTON, NC	N313P	Grey
<p>* COE: Council of Europe, Addendum to Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 14 June 2006.</p> <p>* Grey: Stephen Grey, <i>Ghost Plane</i> (2006)</p>						

94. After arriving in Kabul, Mohamed was taken to a detention facility called “the Prison of Darkness.”¹⁰⁵

95. Mohamed remained in Afghanistan for approximately five months. The accompanying declaration of Mr. Mohamed details his experiences in Afghanistan.

96. In May 2004, Mohamed was taken to Bagram Air Base and held for approximately four months.¹⁰⁶

97. In September 2004, Mohamed was transferred to Guantánamo and charged under Military Order (later ruled unconstitutional).¹⁰⁷

¹⁰⁵ *HUMAN CARGO*, *supra* note 74.

¹⁰⁶ ACLU, Biography of Plaintiff Binyam Mohamed, <http://www.aclu.org/national-security/biography-plaintiff-binyam-mohamed>.

¹⁰⁷ David Rose, *How MI5 Colluded in My Torture: Binyam Mohamed Claims British Agents Fed Moroccan Torturers their Questions*, *DAILY MAIL*, March 8, 2009.

98. Mohamed was returned to the United Kingdom in February 2009.

C. Aero's Transport of Abou ElKassim Britel

99. Abou Elkassim Britel ("Britel"), born in Casablanca, Morocco, on April 18, 1967, became a naturalized citizen of Italy in 1999.¹⁰⁸

100. On March 10, 2002, while traveling for business in Pakistan, Britel was apprehended by Pakistani officials and detained and interrogated at a facility in Lahore.¹⁰⁹

101. After suffering weeks of physical and psychological torture in Pakistani custody, Britel was transferred from Lahore to the Pakistani intelligence services headquarters in Islamabad on May 5, 2002, where he was interrogated by U.S. intelligence agents.¹¹⁰

102. On the night of May 24, 2002, Britel was handcuffed, blindfolded, and taken by car to an airport.¹¹¹

103. On May 24, 2002, Britel was transported in the Aero-operated aircraft registered as N379P, departing from Islamabad at 9:05pm and arriving in Rabat, Morocco at 7:03 am.¹¹² Flight records confirm that the N379P plane departed from Johnston County Airport in North Carolina for Washington Dulles on May 22, 2002, the day before N379P embarked on the course on which Britel was rendered.¹¹³ These flights and others on the same rendition circuit are presented in Table 3.

¹⁰⁸ Britel Declaration, *supra* note 55, ¶1.

¹⁰⁹ *Id.* ¶¶ 3-4.

¹¹⁰ *Id.* ¶¶ 5-9.

¹¹¹ *Id.* ¶ 11.

¹¹² *Id.* ¶ 14. *Joint Study on Global Practices*, *supra* note 3, ¶ 151.

¹¹³ Grey, *supra* note 43, Appendix B, Flight logs, at 288.

Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
5/22/02	KJNX	JOHNSTON COUNTY NC	KIAD	DULLES WASHINGTON	N379P	Grey
5/23/02	KIAD	DULLES WASHINGTON	EDDF	FRANKFURT MAIN	N379P	Grey
5/23/02	EDDF	FRANKFURT MAIN	KIAD	DUBAI INT	N379P	Grey
5/23/02	KIAD	DULLES WASHINGTON	OPRN	FRANKFURT MAIN	N379P	Grey
5/24/02	OPRN	ISLAMABAD	GMME	RABAT/SALE	N379P	Grey
5/25/02	GMME	RABAT-SALE	LPPR	PORTO	N379P	Grey
5/26/02	LPPR	PORTO	KIAD	DULLES WASHINGTON	N379P	Grey
6/5/02	KJNX	JOHNSTON COUNTY NC	KIAD	DULLES WASHINGTON	N379P	Grey

* Grey: Stephen Grey, *Ghost Plane* (2006)

104. When Britel arrived in Morocco on the Aero-operated plane on May 24, 2002, he was taken to Temara prison.¹¹⁴ The accompanying declaration of Mr. Britel details his experiences in this prison.

105. Britel was transferred to the Ain Bourja prison in Casablanca, Oukasha prison in Casablanca, and then on October 9, 2010, to the prison in Kenitra, Morocco. He was freed on April 14, 2011.¹¹⁵

D. Aero's Transport of Khaled El-Masri

106. The rendition of Khaled El-Masri ("El-Masri") on Aero-operated N313P occurred on the same rendition circuit as the rendition of Binyam Mohamed to Afghanistan in January of 2004.¹¹⁶

107. El-Masri is a German citizen born in 1963 in Kuwait to Lebanese parents. He became a citizen of Germany in 1995.

108. On December 31, 2003, El-Masri left Ulm, Germany, to holiday in Skopje, Macedonia. He was arrested by Macedonian law enforcement officials and transported to a hotel in Skopje, where he was detained and interrogated for 23 days.¹¹⁷

¹¹⁴ Britel Declaration, *supra* note 55 ¶13.

¹¹⁵ See *supra* note 90. *Justice for Kassim*, http://www.gjustiziaperkassim.net/?page_id=105

¹¹⁶ Marty Report 2006, *supra* note 8, at ¶ 209. *Joint Study on Global Practices*, *supra* note 3, ¶ 166, 167.

¹¹⁷ Marty Report 2006, *supra* note 8, at ¶ 94.

109. On January 23, 2004, El-Masri was taken from the hotel to the airport; he was handcuffed and blindfolded and taken forcibly onto a plane.¹¹⁸

110. On January 24, 2004, El-Masri was transported in the Aero-operated aircraft registered as N313P, departing from Skopje airport at 1:30am and arriving in Baghdad at 5:53am.¹¹⁹ These flights and others on the same rendition circuit are presented in Table 4.

Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
1/16/04	KIAD	DULLES WASHINGTON	EINN	SHANNON	N313P	COE, Grey
1/17/04	EINN	SHANNON	LCLK	LARNACA	N313P	COE, Grey
1/21/01	LCLK	LARNACA	GMME	RABAT/SALE	N313P	COE, Grey
1/22/04	GMME	RABAT-SALE	OAKB	KABUL	N313P	COE, Grey
1/22/04	OAKB	KABUL	DAAG	ALGER/HOUARI BOUMEDIENNE	N313P	COE, Grey
1/22/04	DAAG	ALGER/HOUARI BOUMEDIENNE	LEPA	PALMA DE MALLORCA	N313P	COE, Grey
1/23/04	LEPA	PALMA DE MALLORCA	LWSK	SKOPJE EX LYSK	N313P	COE, Grey
1/24/04	LWSK	SKOPJE EX LYSK	ORBI	BAGHDAD INTL	N313P	COE, Grey
1/24/04	ORBI	BAGHDAD INTERNATIONAL	OAKB	KABUL	N313P	COE, Grey
1/25/04	OAKB	KABUL	LRBS	TIMISOARA / GIARMATA	N313P	COE, Grey
1/26/04	LRBS	TIMISOARA / GIARMATA	LEPA	PALMA DE MALLORCA	N313P	COE
1/28/04	LEPA	PALMA DE MALLORCA	KIAD	DULLES WASHINGTON	N313P	COE, Grey
10/19/04	KCAE	COLUMBIA METRO	KISO	KINSTON, NC	N313P	Grey

* COE: Council of Europe, Addendum to Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 14 June 2006.

* Grey: Stephen Grey, *Ghost Plane* (2006)

NOTE: This is the same flight circuit on which Binyam Mohamed was rendered; see Table 2.

111. The plane, N313P, landed once, and took off again. When it landed for the final time, El-Masri was unchained and taken off the plane in Kabul, Afghanistan.¹²⁰ His experiences are detailed in a statement.¹²¹

¹¹⁸ *Id.* ¶ 95.

¹¹⁹ *Id.* at Appendix 1.

¹²⁰ *Id.* ¶ 95.

¹²¹ See *Statement: Khaled El-Masri*, www.aclu.org/human-rights_national-security/statement-khaled-el-masri#statement

E. Aero's Transport of Bisher Al-Rawi

111. Bisher Al-Rawi ("Al-Rawi") is an Iraqi citizen who became a resident of the United Kingdom in the 1980s.

113. On November 8, 2002, Al-Rawi travelled with some companions to visit his brother in Gambia.¹²²

114. Al-Rawi was arrested by Gambian officials as soon he and his companions arrived in Gambia. They were taken to the Gambian National Intelligence Agency headquarters and were first interrogated by Gambian officials and then by U.S. officials.¹²³

115. On December 9, 2002, Al-Rawi was transported on the Aero-operated aircraft registered as N379P, departing from Banjul, Gambia and arriving in Kabul, Afghanistan. Flight logs confirm that the Aero aircraft registered as N379P was used in the rendition of Al-Rawi from Banjul, Gambia, to Cairo, Egypt, on December 8, 2002, and then to Kabul, Afghanistan, on December 9, 2002.¹²⁴ Flight logs confirm that the N379P plane departed from Johnston County Airport in North Carolina for Washington Dulles Airport on December 8, 2002, the same day that N379P embarked on the course on which Al-Rawi was rendered.¹²⁵ These flights and others on the same rendition circuit are presented in Table 5.

¹²² Marty Report, 2006, ¶ 165.

¹²³ See *Id.* ¶¶ 169-171. *Joint Study on Global Practices*, *supra* note 3, ¶ 157-158.

¹²⁴ Marty Report, 2006, Appendix 5.

¹²⁵ Grey, *supra* note 43, Appendix B, Flight logs, at 292.

Table 5. Flights Related to the Transport of Bisher Al-Rawi, 2002

Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
12/8/02	KJNX	JOHNSTON COUNTY NC	KIAD	DULLES WASHINGTON	N379P	Grey
12/8/02	KIAD	DULLES WASHINGTON	GBYD	BANJUL	N379P	COE, Grey
12/8/02	GBYD	BANJUL	HECA	CAIRO	N379P	COE, Grey
12/9/02	HECA	CAIRO	OAKB	KABUL	N379P	COE, Grey
	OAKB	KABUL	UTTT	TASHKENT	N379P	COE
12/10/02	UTTT	TASHKENT	EDDF	FRANKFURT MAIN	N379P	COE, Grey
12/10/02	EDDF	FRANKFURT MAIN	GMME	RABAT SALE	N379P	COE, Grey
12/12/02	GMME	RABAT SALE	OAKB	KABUL	N379P	COE, Grey
12/15/02	PGSN	SAIPAN IS.	KHNL	HONOLULU	N379P	Grey
12/16/02	KHNL	HONOLULU	KIAD	DULLES WASHINGTON	N379P	Grey
12/17/02	KIAD	DULLES WASHINGTON	KJNX	JOHNSTON COUNTY NC	N379P	Grey
<p>* COE: Council of Europe, Addendum to Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 14 June 2006.</p> <p>* Grey: Stephen Grey, <i>Ghost Plane</i> (2006)</p>						

F. Aero's Transport of Mohamed Farag Ahmad Bashmilah

116. Mohamed Farag Ahmad Bashmilah ("Bashmilah") is a Yemeni citizen born in 1968 who, in 2003, was living in Indonesia with his wife. Bashmilah travelled to Jordan with his wife on September 26, 2003 in order to be with his mother who was about to undergo medical treatment.

117. His passport was seized by Jordanian immigration officials upon his arrival, and on October 21, 2003, after repeated attempts to recover the passport, Bashmilah was taken into Jordanian custody. He was detained, beaten and interrogated in Jordan for five days before being handed to US authorities at the airport in Amman on October 26, 2003.¹²⁶

118. Bashmilah has described being beaten and anally probed at the airport by men clothed head to toe in black. He was dressed in a diaper, blue shirt and pants. Blindfolded and wearing headphones, he was then chained and hooded and strapped to a gurney in an airplane.¹²⁷

119. Flight logs document N379P leaving Washington, D.C., on October 24, 2003, for Prague. The aircraft then departed Prague for Constanta, Romania, on October 25, 2003 (Constanta 12 airport has since been renamed Mihail Kogalniceanu, and was host, from 2003-2005, to a CIA black site¹²⁸ which held at least 20 'ghost prisoners.') Having departed Constanta, N379P then appears to have flown to Amman, Jordan, arriving there on October 25, 2003, for the rendition of Bashmilah to Kabul the following day, as detailed in Table 6.

120. At approximately 4:15am on October 26, 2003, Bashmilah was flown out of Amman on N379P, arriving in Kabul, Afghanistan approximately four hours later.¹²⁹ Bashmilah was held in solitary confinement in a detention facility in Afghanistan for nearly seven months.

121. On or about April 24, 2004, Bashmilah was taken from the detention facility where he was confined in Afghanistan, stripped, forced by people in black masks to wear a diaper, a cotton shirt, and pants, blindfolded, shackled, hooded and made to wear headphones. He was then loaded onto a plane that flew for several hours to an unidentified site in Eastern Europe.¹³⁰ He was detained there for over one year.

122. On May 5, 2005, Bashmilah was again loaded onto an aircraft and transported for seven hours to Yemen. After a brief stop, he was transported to yet another detention center in Aden, Yemen. Nine months later, he was brought to trial in Yemen and sentenced to two years in prison for using a false identity document in Indonesia, but ordered released because the time he spent in

¹²⁶ Bashmilah Declaration, ¶¶ 7-35, Mohamed et al. v. Jeppesen Dataplan, Inc., 539 F. Supp.2d 1128 (2008) (No. C 07-02798 JW).

¹²⁷ *Id.*, at ¶¶ 38-41.

¹²⁸ Reprieve, Submission to Portuguese Inquiry on Rendition, 2 April 2008, <www.statewatch.org/news/2008/oct/eu-cia-portugal-reprieve.pdf> citing Amnesty International's "Below the Radar."

¹²⁹ Bashmilah Declaration, at ¶42.

¹³⁰ *Id.* at ¶¶ 84-92.

detention, inside and outside of Yemen, exceeded his sentence. On March 27, 2006 Bashmilah was released from custody in Yemen.¹³¹

Table 6. Flights related to the Rendition of Mohamed Bashmilah						
Date	Airport of Departure (ADEP)	ADEP Name	Airport of Destination (ADES)	ADES Name	Registration Identifier	Source*
10/24/03	KIAD	DULLES WASHINGTON	LKPR	PRAHA RUZYNE	N379P	COE
10/25/03	LKPR	PRAHA RUZYNE	LRCK	CONSTANTA	N379P	COE
10/25/03	LRBS	BANEASA BUCURESTI	OJAM	AMMAN/MARKA CIV	N379P	COE
10/26/03	OJAM	AMMAN/MARKA CIV	OAKB	KABUL/KHWADJA	N379P	COE

* COE: Council of Europe, Addendum to Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states, 14 June 2006, as at: Exhibit E of Bashmilah Declaration.

IX. Conclusion

116. A review of public documents, including analyses of flight records, shows that Aero Contractors of Smithfield, North Carolina, was involved in the U.S. practice of extraordinary rendition through its operation of two planes registered as N379P and N313P.

117. These Aero-operated planes were used to transfer Binyam Mohamed, Abou Elkassim Britel, Khaled El-Masri, Bisher Al-Rawi and Mohamed Bashmilah to overseas detention facilities where they were interrogated and tortured.

118. The Aero Contractors pilots-in-command (PICs) who flew these rendition flights were complicit in filing dummy flight plans which violated international aviation rules under the Convention on International Civil Aviation, also known as the Chicago Convention.

119. Aero Contractors, as a North Carolina-based corporation whose officeholders, executives and employees are residents of Johnston County or North Carolina, could not have carried out its role in extraordinary rendition without the support of the state and its political subdivisions, as well as private businesses in North Carolina.

¹³¹ *Id.* at ¶¶ 166, 169, 178, 182.

Appendix A: Methodology

Given the seriousness of the allegations, the authors recognize that the methodology used to create this report is as important as the substance of sources cited herein. In the spirit of transparency, this appendix will describe the process used by the authors to develop this report and comment on the quality of sources used. First, the authors reviewed the literature on Aero Contractors and the US program of extraordinary rendition. The authors collaborated with international organizations, including the Council of Europe, as well as other advocacy groups, including Human Rights Watch, Amnesty International, Reprieve, Shannon Watch, the International Center for Transitional Justice, the ACLU Human Rights Program, and the NYU School of Law. The authors collected documents about Aero Contractors' business practices in North Carolina. Finally, the authors organized the material to highlight the role of Aero Contractors in extraordinary rendition in the early 2000s.

The authors presume that much of the material connecting Aero Contractors to extraordinary rendition likely remains classified. In that light, the authors take advantage of those documents that have been declassified, such as the *Background Paper on CIA's Combined Use of Interrogation Techniques*, first cited in footnote 10. The authors have tried to rely as much as possible on primary sources like the background paper, since they are likely to contain publicly verifiable information from governmental sources.

Given the dearth of primary source material on the subject, the authors have also relied on credible secondary source material. The authors rely first and foremost on reports and articles written by parties deemed to be neutral, including international organizations and reputable journalists. For example, the authors rely heavily on *Alleged secret detentions and unlawful interstate transfers involving Council of Europe member states*—first cited in footnote 1—a report authored by the Legal Affairs and Human Rights Committee of the Council of Europe, an impartial fact-finding body. Similarly, the authors rely on work by Jane Mayer, a journalist for the *New Yorker*, who has conducted a number of interviews with senior government officials and has written extensively on the subject of torture.

The authors also rely—for lack of other available information—on sources that undoubtedly contain some inaccuracies, as acknowledged for example, with regard to the light data collected by journalist Stephen Grey, who has catalogued over 3,500 flights related to extraordinary rendition in a database at his website, ghostplane.net. Even with his acknowledgement, Grey's database remains the most comprehensive, publicly available source of flight information related to extraordinary rendition. The authors cite this information, not to avow its complete accuracy, but to illustrate that it is reasonable for ordinary citizens to question the role of Aero Contractors in extraordinary rendition.

Given the vast amount of information written about Aero Contractors and extraordinary rendition, the authors believe it is appropriate to establish a Commission of Inquiry to examine the role of a North Carolina business in torture.

Appendix B: Explanation of Sources Used

The following appendix is included to give the reader more information about the sources used in this report. The authors have divided the sources into three categories: primary sources, secondary institution and journalist sources, and secondary advocate sources.

Primary sources are those that demonstrate the closest link to Aero Contractors. Because of their reliability, the authors strove to use primary sources as much as possible. These sources include declassified US government documents, leases granting the right for Aero Contractors to use NC airport facilities, business records collected by the NC Secretary of State, county inspection reports, and legal documents.

Secondary sources are further removed from Aero Contractors and extraordinary rendition because these documents discuss information that was originally presented elsewhere. Many of these documents contain generalizations, analysis, interpretation, or evaluation of the original material. The authors have labeled the first category of secondary sources *secondary institution and journalist sources*. Some of these sources are written by the Council of Europe and the International Committee of the Red Cross, two organizations who value accuracy and neutrality in their work. Other sources are written by journalists who have had access to primary materials and who value objectivity in writing. These documents are all available on the internet.

The second group contains secondary advocate sources. These sources are written by advocacy groups, such as the American Civil Liberties Union and Amnesty International. The authors of this report recognize that these advocacy organizations exist to present a certain viewpoint. These sources are also available on the internet.

Primary Sources

Declassified and other US Government Documents

Memorandum from Bill Clinton, President of the United States, to the Vice President of the United States et.al. [Presidential Decision Directive 39] (June 21, 1995) <http://www.highbeam.com/doc/1P2-13224433.html>.

CIA, Background Paper on CIA's Combined Use of Interrogation Techniques (Dec. 30, 2004) [hereinafter "CIA Background Paper"]. <http://www.aclu.org/torturefoia/released/082409/olcremand/2004olc97.pdf>

Memorandum from the Office of Legal Counsel to the CIA 5 (May 30, 2005).

These second two documents were declassified on August 24, 2009 pursuant to two lawsuits filed by the ACLU against the US Department of Justice under the Freedom of Information Act, 5 U.S.C. § 551 *et. seq.* For more information, see ACLU, ACLU Obtains Detailed Official Record of the Torture Program, http://www.aclu.org/human-rights_national-security/aclu-obtains-detailed-official-record-cia-torture-program.

Extraordinary Rendition in US Counterterrorism Policy: The Impact on Transatlantic Relations, Joint Hearing Before the Subcommittee on International Organizations, Human Rights, and Oversight and the Subcommittee on Europe of the Committee on Foreign Affairs of House of Representatives, April 17, 2007.

The White House, Office of the Press Secretary, Remarks by the President on the Global War on Terror, speech delivered in the East Room of the White House, 06.09.2006.

Smithfield and Kinston, NC Airport Documents

1993 Jim Rhyne Lease.

1999 Kovalesky Lease.

North Carolina Global Transpark Authority Development Highlights 3, *available at* [http://www.ncleg.net/documentsites/committees/JointAppropriationsTransportation2011/2011-03-23%20Meeting/GTP%20Strategic%20Plan/Appendix%20B%20\(1\).pdf](http://www.ncleg.net/documentsites/committees/JointAppropriationsTransportation2011/2011-03-23%20Meeting/GTP%20Strategic%20Plan/Appendix%20B%20(1).pdf) ("October 2004: Construction completed on 20,000 square foot hangar for GTP tenant Aero Contractors Ltd.")

The authors obtained these documents through a public records request.

Aero Contractors Reports to the NC Secretary of State

"Annual Reports for: Aero Contractors Limited," North Carolina Department of the Secretary of State, <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307>.

"Business Corporation Annual Report: Aero Contractors Limited," North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

"Business Corporation Annual Report: Aero Contractors Limited," North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

"Business Corporation Annual Report: Aero Contractors Limited," North Carolina Department of the Secretary of State, Corporations Division, *available at* http://www.secretary.state.nc.us/imaging/Dime/PPAR_4621307.pdf.

1991 Business Corporation North Carolina Annual Report, Document 912950166, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PItemId=4621307> (As filed on 10/22/1991).

1992 Business Corporation North Carolina Annual Report, Document 923450131, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PitemId=4621307> (As filed on 12/10/1992).

1996 Business Corporation North Carolina Annual Report, Document 963100005, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PitemId=4621307> (As filed on 11/5/1996).

1997 Business Corporation North Carolina Annual Report, Document 973080524, North Carolina Department of State, *available at* <http://www.secretary.state.nc.us/corporations/AnnualReportCount.aspx?PitemId=4621307> (As filed on 11/4/1997).

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***IN RE* ABOU ELKASSIM BRITEL
DECLARATION OF ABOU ELKASSIM BRITEL**

I, **ABOU ELKASSIM BRITEL**, of Bergamo, Italy under penalty of perjury declare as follows:

1. I was born in Casablanca, Morocco on April 18, 1967. I immigrated to Italy from Morocco in 1989. I married my wife, an Italian citizen, in 1995. In 1999 I became a naturalized Italian Citizen.
2. Upon my arrival in Italy, I worked at a poultry shop and in January 1996 qualified as an electrician. In 2000 my wife and I began translating Islamic books and texts from Arabic into Italian. We set up a webpage “Islamiqra” where we published these translations as well as topical commentaries aimed at supporting the understanding and spread of Islam.
3. I traveled to Iran on June 17, 2001 to seek financing to support our work and to conduct further research. From there I traveled around the Middle East and Pakistan for the same professional reasons.
4. On March 10, 2002 I was apprehended by agents of the Pakistani police on immigration charges and was detained and interrogated by them at a facility in Lahore, Pakistan. I repeatedly asserted my Italian citizenship and asked to be afforded legal representation and assistance from the Italian Embassy. I was denied those most basic requests.
5. Throughout my time in Pakistani custody I was physically and psychologically tortured. I was beaten severely, sometimes with a cricket bat, deprived of sleep, and accused of being a “terrorist fighter.” My hands and feet were bound and I was hung from the walls or ceiling of my cell for extensive periods of time, I was denied access to a toilet, my interrogators told me they would rape the women in my family, and I was told that worse torture and death were to come.

6. By April 2002, following weeks of torture including continued beatings and extreme sleep deprivation, I gave in to my interrogators and falsely confessed that I was a terrorist. I hoped this would end my pain.
7. Soon after my “confession” I was brought before U.S. officials who fingerprinted and photographed me. I was told that if I did not cooperate, my Pakistani interrogators would kill me.
8. On May 5, 2002, I was transferred from Lahore to the Pakistani intelligence services headquarters in Islamabad. On four separate occasions, I was blindfolded and taken from this facility to a house where I was interrogated by U.S. intelligence agents. These agents repeatedly asked me about my alleged association with Osama Bin Laden and promised me money if I would give them information about him. I again asked if I could contact the Italian Embassy but was again denied this request.
9. During my final interrogation in Pakistan I was questioned by a U.S. official named “David Morgan.” Mr. Morgan told me that he was charged with writing a profile of me for “Washington.” Mr. Morgan asked me a number of questions about my life. I asked Mr. Morgan if I could speak with the Italian Embassy, but he refused. Mr. Morgan did tell me, however, that I could meet with the Moroccan ambassador, but this meeting never occurred.
10. Shortly after this last interrogation I was told by one of my captors that I would soon be released and returned to Italy.
11. Instead, on the night of May 24, 2002, I was handcuffed, blindfolded, and taken by car to an airport. About one half hour thereafter, I was grabbed around the neck from behind so tightly I thought I would suffocate. I was forced into what seemed to me to be a small bathroom where my clothes were sliced off me. My blindfold was then removed and I saw four or five men dressed in black from head to toe, with only their eyes showing. I was photographed, had a diaper put on me, and was dressed in a torn t-shirt. I was again blindfolded and placed in a metallic slip and chained to the shackles that bound my hands and feet.
12. I was then dragged on board a small aircraft and forced onto my back. I later learned this aircraft was registered with the FAA as N379P and was operated by

- North Carolina-based Aero Contractors, Inc. (“Aero”). I refer also to the affidavit of the expert witness in this matter.
13. Shortly thereafter, I heard a second prisoner being brought on board. I could tell by his accent that he was not Moroccan. I believe that he was a prisoner because he sounded wounded or ill and expressed pain and discomfort throughout the duration of the flight.
 14. During the flight my captors instructed me not to move; when I did and they hit or kicked me. My back began to hurt during the flight and I asked for permission to change positions. My request was refused and instead I had my mouth taped shut. I was also denied use of the bathroom for the duration of the nine hour flight. Upon landing, my handcuffs were removed and were replaced with tight plastic bands.
 15. The aircraft landed in Rabat, Morocco. Upon arrival, my American captors transferred me to the custody of the Moroccan intelligence services and I was taken by them to the notorious Témara prison.
 16. According to experts who have investigated my case the aircraft used to render me from Pakistan to Morocco was owned and operated by U.S.-based corporations, including Aero.
 17. Flight records show that on May 23, 2002 a Gulfstream V aircraft, registered with the Federal Aviation Administration as N379P and operated by Aero, departed Washington, D.C. at 12:45 a.m. and arrived at Frankfurt, Germany at 7:39 a.m. before taking off at 10:08 a.m. that same morning for Dubai, United Arab Emirates, arriving there at 4:10 p.m. At 9.05 a.m. the next day, May 24, the same aircraft departed from Islamabad and arrived in Rabat, Morocco at 7.03 a.m. the following day, May 25. Less than an hour later, at 7.58 a.m. the aircraft departed Rabat for Porto, Portugal, where it remained overnight before departing Porto at 8 a.m. the next morning for Washington D.C., arriving back there at 3.09 p.m. on May 26, 2002. I refer to Exhibit A attached, a true and correct copy of the relevant flight records. I also refer to the affidavit of the expert witness in this matter.

18. After arriving in Morocco I would spend the next eight and one half months at the Témara prison in a tiny cell completely cut off from the outside world. I was denied access to my family, friends, counsel, and the Italian consulate, and not once did I leave the prison. I was held in complete isolation and deprived of sleep and adequate food. I was interrogated about my private life, the people I associated with in Italy, and pressured to act an informant for Moroccan intelligence.
19. During these interrogations I was subjected to torture and other forms of cruel, inhuman or degrading treatment. I was handcuffed, blindfolded, and severely beaten on all parts of my body. I was threatened with even worse forms of torture, including having my genitals cut off and “bottle torture” (a torture technique whereby a bottle is forced into the victim’s anus). Additionally, my interrogators threatened to harm my wife in Italy and my sisters who lived in Morocco.
20. On February 11, 2003, I was released from Témara, without explanation or charges having been brought against me. I was blindfolded, driven from the facility to my family’s house in Kenitra, Morocco, and immediately released.
21. On February 26, 2003 my wife flew to Morocco and I met with her for the first time in twenty months. As a result of my torture, I was suffering from dizziness and chronic diarrhea. My left eye and ear had also been permanently damaged. Large portions of my skin had turned black and blue and no hair grew in these areas.
22. After my release I was continually harassed and threatened by agents of the Moroccan intelligence service. They insisted that I tell nobody about my time at Témara. Additionally, an officer would visit me a least once a week and pressured me into cooperating with Moroccan intelligence upon my eventual return to Italy and act as an informant for them. As a result of this constant pressure, I remained in a fragile psychological state.
23. Fearing for my own safety and that of my family I immediately attempted to return home to Italy. However, I was unable to do so at first because my passport

- had been confiscated in Pakistan and I was unable to freely leave Morocco and enter Italy.
24. After several months, on May 12, 2003 I finally received travel documentation from the Italian embassy in Rabat which permitted me to return home to Italy. I did not want to fly home without an escort, so I decided instead to travel over-land through Melilla, a town on the border between Morocco and Spain. My wife had already purchased her plane ticket home to Italy so we decided that she would begin her flight home only once she had heard that I had safely made it out of Morocco.
 25. On May 16, 2003, at approximately 10 p.m., bombs exploded in Casablanca. Moroccan authorities blamed “terrorists” for the attack. Earlier that same day at around 1.30 p.m. before the bombings occurred. I was arrested and detained at the Moroccan border for six hours without any explanation. I was handcuffed, forced into a car, and returned once more to the secret prison, Témara.
 26. In Témara I was again held incommunicado, this time for four months. I was held under atrocious conditions and was forced to sign a confession I was never permitted to read.
 27. On September 16, 2003, I was transferred to the Salè prison.
 28. On October 3, 2003, after a hastily arranged trial, I stood trial on the charge of “gathering an armed band aimed at planning and carrying out terrorist acts” in Morocco. I was convicted and sentenced to 15 years imprisonment for this offense. My conviction was based in part on the confession I had signed while being tortured at Témara. On appeal, my sentence was subsequently reduced to 9 years. An observer from the Italian embassy who attended my trial reported that the procedures followed were fundamentally flawed and failed to comport with universally accepted fair trial standards.
 29. On September 29, 2006, following a six-year investigation in Italy into my alleged involvement in terrorist activities, the examining judge there dismissed my case. He cited a complete lack of evidence linking me with *any* criminal, let alone terrorist-related, activity.

30. Eighty-seven members of the Italian Parliament have petitioned the King of Morocco to have me pardoned, released from prison, and returned to my home, Italy. Despite this, I remain incarcerated in Ain Bourja prison in Casablanca.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of October 2010.

_____/S_____
Abou Elkassim Britel

(Original signature on Italian-translated version)

IN RE ABOU ELKASSIM BRITEL
DICHIARAZIONE DI ABOU ELKASSIM BRITEL

Io, **ABOU ELKASSIM BRITEL**, di Bergamo, Italia, sotto pena di spergiuro dichiaro ciò che segue:

1. Sono nato a Casablanca, Marocco, il 18 aprile 1967. Sono immigrato in Italia dal Marocco nel 1989. Mi sono sposato con mia moglie, una cittadina italiana, nel 1995. Nel 1999 mi sono naturalizzato cittadino Italiano.
2. Al mio arrivo in Italia ho lavorato in un'azienda di pollame e nel 1996 mi sono qualificato come elettricista. Nel 2000 mia moglie ed io abbiamo cominciato a tradurre libri e testi islamici dall'arabo all'italiano. Abbiamo fondato un sito web "Islamiqra" dove abbiamo pubblicizzato queste traduzioni insieme a commenti d'attualità rivolti a sostenere la comprensione e la diffusione dell'Islam.
3. Ho viaggiato in Iran il 17 giugno 2001 in cerca di finanziamenti per appoggiare il nostro lavoro e condurre ulteriore ricerca. Da lì ho viaggiato in Medio Oriente e in Pakistan per le stesse ragioni professionali.
4. Il 10 marzo 2002 sono stato arrestato da agenti della polizia pakistana accusato di immigrazione illegale e da loro sono stato detenuto e interrogato in un edificio a Lahore, Pakistan. Ho affermato ripetutamente la mia cittadinanza italiana e ho chiesto di essere fornito di supporto legale e assistenza dall'ambasciata italiana. Queste richieste di base mi sono state negate.
5. Durante il mio periodo di detenzione pakistana, sono stato torturato fisicamente e psicologicamente. Sono stato picchiato duramente, a volte con una mazza da cricket, privato del sonno, e accusato di essere un "combattente terrorista." Le mie mani e i miei piedi sono stati legati e sono stato appeso ai muri o al soffitto della mia cella per lunghi periodi, mi è stato negato accesso al gabinetto, i miei interrogatori mi hanno detto che avrebbero stuprato le donne della mia famiglia, e mi hanno detto che tortura e morte sarebbero seguite.
6. Nell'aprile del 2002, dopo settimane di tortura, incluse botte continue e privazione del sonno estrema, mi sono arreso ai miei interrogatori e ho falsamente confessato che ero un terrorista. Speravo che questo avrebbe posto fine al mio dolore.

7. Poco dopo la mia “confessione” sono stato portato davanti a ufficiali degli Stati Uniti, che mi hanno preso le impronte digitali e fotografato. Mi veniva detto che se non cooperavo, i miei interrogatori pakistani mi avrebbero ucciso.

8. Il 5 maggio 2002 sono stato trasferito da Lahore alla sede centrale dei servizi segreti pakistani a Islamabad. In quattro occasioni separate, i miei occhi sono stati bendati e sono stato interrogato da agenti dell’intelligence degli Stati Uniti. Questi agenti mi hanno chiesto ripetutamente della mia presunta associazione con Osama Bin Laden e mi hanno promesso soldi se gli avessi fornito informazioni su di lui. Ho chiesto di nuovo se potevo contattare l’ambasciata italiana, ma tale richiesta mi è stata negata un’altra volta.

9. Durante il mio ultimo interrogatorio in Pakistan, sono stato interrogato da un ufficiale degli Stati Uniti chiamato “David Morgan.” Il signor Morgan mi ha detto che il suo incarico era di scrivere il mio profilo per “Washington.” Il signor Morgan mi ha fatto varie domande sulla mia vita. Ho chiesto al signor Morgan se potevo parlare con l’ambasciata italiana, ma ha rifiutato. Tuttavia, il signor Morgan mi ha detto che potevo incontrarmi con l’ambasciatore marocchino, ma questo incontro non è mai avvenuto.

10. Poco dopo quest’ultimo interrogatorio uno dei miei rapitori mi ha detto che entro poco tempo sarei stato liberato e riportato in Italia.

11. Invece, la notte del 24 maggio 2002, sono stato ammanettato, i miei occhi sono stati bendati e sono stato portato in un aeroporto in macchina. Circa mezz’ora dopo, sono stato afferrato intorno al collo da dietro così forte che pensavo sarei soffocato. Sono stato costretto ad entrare dentro un vano che a me sembrava una stanza da bagno piccola, dove i miei vestiti sono stati tagliati via. Allora la mia benda per gli occhi è stata tolta e ho visto quattro o cinque uomini vestiti completamente in nero, con solo i loro occhi visibili. Sono stato fotografato, mi è stato messo un pannolino, e sono stato vestito con una maglietta strappata. I miei occhi sono stati bendati un’altra volta e sono stato messo in una veste metallica e incatenato con ganci che legavano le mie mani e i miei piedi.

12. Poi sono stato trascinato a bordo di un piccolo aeromobile e obbligato a sdraiarmi supino. Più tardi ho saputo che quest’aeromobile era registrato con la FAA (l’amministrazione federale dell’aviazione) come N379P e operava per conto dell’Aero Contractors, Inc. (“Aero”), la cui sede si trova in North Carolina. Mi riferisco anche all’affidavit del perito esperto di questo materia.

13. Poco dopo ho sentito che un secondo prigioniero veniva portato a bordo. Ho capito dal suo accento che non era marocchino. Credo che fosse un prigioniero perché ha fatto

rumori che sembravano da ferito o malato ed ha espresso dolore e disagio per tutta la durata del volo.

14. I miei rapitori mi hanno istruito di non muovermi durante il volo; quando mi sono mosso, mi hanno dato botte o calci. La schiena ha cominciato a farmi male ed ho chiesto il permesso di cambiare posizione. La mia richiesta è stata rifiutata e invece la mia bocca è stata legata con un nastro. Mi è anche stato negato l'uso del bagno durante il volo di nove ore. All'atterraggio mi sono state tolte le manette e sostituite con bande strette di plastica.

15. L'aeromobile è atterrato a Rabat, Marocco. All'arrivo, i miei rapitori americani mi hanno trasferito in custodia dei servizi di intelligence marocchini e da loro sono stato portato nella famigerata prigione Témara.

16. Secondo gli esperti che hanno investigato sul mio caso, l'aeromobile usato per trasportarmi dal Pakistan al Marocco era di proprietà e vi operavano società le cui sedi si trovano negli Stati Uniti, incluso Aero.

17. I registri dei voli mostrano che il 23 maggio 2002 un aeromobile Gulfstream V, registrato alla FAA come N379P e operato da Aero, è partito da Washington, D. C. alle 12:45 ed è arrivato a Frankfurt, Germania alle 7:39 prima di decollare alle 10:08 quella stessa mattina per Dubai, Emirati Arabi Uniti, arrivando lì alle 16:10. Alle 9:05 del giorno dopo, il 24 maggio, la stessa aeromobile è partita da Islamabad ed è arrivata a Rabat, Marocco, alle 7:03 il giorno seguente, il 25 Maggio. Meno di un'ora dopo, alle 7:58, l'aeromobile è partita da Rabat per Porto, Portogallo, dove è rimasta durante la notte prima di partire da Porto alle 8 il giorno dopo per Washington, D.C., arrivando lì alle 15:09 il 26 Maggio, 2002. Mi riferisco all'accluso **Exhibit A**, una copia vera e corretta dei registri di volo relativi. Mi riferisco anche all'affidavit del perito esperto di questo materia.

18. Dopo l'arrivo in Marocco ho trascorso i seguenti nove mesi e mezzo nella prigione Témara in una piccola cella completamente isolato dal mondo esterno. Mi è stato negato l'accesso alla mia famiglia, agli amici, agli avvocati, e al consolato italiano, e neanche una volta sono uscito da questo prigione. Sono stato trattenuto in isolamento completo e privato di sonno e di cibo sufficiente. Sono stato interrogato sulla mia vita privata, le persone che frequentavo in Italia, e costretto a funzionare come un informatore per l'intelligence marocchina.

19. Durante questi interrogatori ero sottoposto a tortura e altre forme di trattamento crudele, inumano, o degradante. Sono stato ammanettato, i miei occhi sono stati bendati, e sono stato picchiato su tutte le parti del mio corpo. Sono stato minacciato con forme di

tortura ancora peggiori, incluso il taglio dei genitali e la “tortura della bottiglia: (una tecnica di tortura con la quale una bottiglia è forzata nell’ano della vittima).” Inoltre, i miei interrogatori hanno minacciato di fare male a mia moglie in Italia e alle mie sorelle che vivevano in Marocco.

20. L’11 febbraio 2003 sono stato liberato da Témara, senza una spiegazione o accuse formalizzate contro di me. Sono stato bendato, condotto dalla prigione alla casa della mia famiglia a Kenitra, Marocco, e immediatamente liberato.

21. Il 26 febbraio 2003 mia moglie ha preso un volo per il Marocco e mi sono incontrato con lei per la prima volta in venti mesi. Come risultato della mia tortura, soffrivo di giramenti della testa e diarrea cronica. Il mio occhio sinistro e la mia orecchia sinistra sono anche stati danneggiati per sempre. Ampie porzioni della mia pelle erano diventate nere e azzurre e i peli non crescevano in quelle parti.

22. Dopo la mia liberazione sono stato perseguitato e minacciato continuamente da agenti dell’intelligence marocchina. Hanno insistito che non dicessi a nessuno del tempo trascorso a Témara. Inoltre, un ufficiale mi visitava almeno una volta alla settimana e cercava di costringermi a cooperare con l’intelligence marocchina dopo il mio eventuale ritorno in Italia e a lavorare come informatore per loro. Come risultato di questa pressione costante sono rimasto in uno stato psicologico delicato.

23. Avendo paura per la mia propria sicurezza e quella della mia famiglia, ho tentato immediatamente di tornare a casa in Italia. In ogni caso, in un primo momento non ho potuto tornare perché il mio passaporto era stato confiscato in Pakistan e non mi era possibile di uscire dal Marocco liberamente ed entrare in Italia.

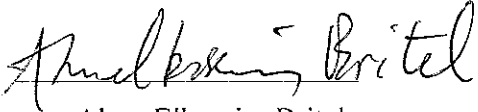
24. Dopo vari mesi, il 12 maggio 2003, ho finalmente ricevuto la documentazione di viaggio dall’ambasciata italiana a Rabat che mi permetteva di tornare a casa in Italia. Non volevo volare a casa senza una scorta, perciò ho deciso di viaggiare invece via terra da Melilla, una città al confine tra il Marocco e la Spagna. Mia moglie aveva già comprato il suo biglietto per casa in Italia per questo abbiamo deciso che lei avrebbe iniziato il suo volo verso casa solo dopo aver saputo che io ero uscito dal Marocco in modo sicuro.

25. Il 16 maggio 2003, alle 22:00 circa, delle bombe sono esplose a Casablanca. Le autorità marocchine hanno accusato i “terroristi” per l’attacco. In precedenza, quello stesso giorno verso le 13:30, prima che succedessero gli attentati, sono stato arrestato e trattenuto al confine marocchino per sei ore senza una spiegazione. Sono stato ammanettato, costretto ad entrare in una macchina, e portato un’altra volta nella prigione segreta, Témara.

26. A Témara sono stato tenuto di nuovo segregato, ma questa volta per quattro mesi. Sono stato tenuto in condizioni atroci e sono stato costretto a firmare una confessione che non mi è mai stato permesso di leggere.
27. Il 16 settembre 2003 sono stato trasferito alla prigione Salè.
28. Il 3 ottobre 2003, dopo un processo svolto in fretta, sono stato giudicato con l'accusa di "tenuta di riunioni non autorizzate nel quadro di un'associazione sovversiva con l'intenzione di pianificare e realizzare attacchi terroristi" in Marocco. Sono stato dichiarato colpevole e condannato a 15 anni di prigione per questa imputazione. La mia condanna si basava sulla confessione che avevo firmato mentre venivo torturato a Témara. In appello la mia condanna è stata ridotta a nove anni. Un osservatore dall'ambasciata italiana che era presente al mio processo ha riportato che le procedure erano fondamentalmente imperfette e non corrispondevano agli standard universalmente accettati per processi imparziali.
29. Il 29 settembre 2006, a seguito di un'inchiesta di sei anni in Italia sul mio presunto coinvolgimento in attività terroriste, il giudice esaminatore ha archiviato il mio caso. Ha citato una completa mancanza di evidenze che mi collegassero a *qualsiasi* attività criminale o relativa al terrorismo.
30. Ottantasette membri del parlamento italiano hanno richiesto al re del Marocco di darmi la grazia, liberarmi dalla prigione, e riportarmi alla mia patria, l'Italia. A dispetto di questo rimango incarcerato nella prigione Oukasha a Casablanca.

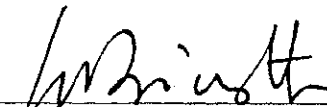
Con la presente dichiaro sotto pena di spergiuro che quanto sopra è vero e corretto.

Reso esecutivo il 16 settembre 2010.


Abou Elkassim Britel

Translator Certification

I, Lucia Binotti, certify that I am fluent in the English and Italian languages, and that the above/attached document is an accurate translation of the document attached entitled In re Abou Elkassim Britel, Declaration of Abou Elkassim Britel.

Signature: 

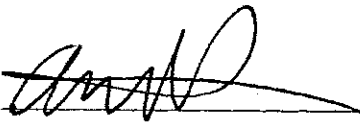
Date: 8 / 20 / 10

Printed Name: LUCIA BINOTTI

Address: 201 Oak Glen Pl
Chapel Hill, NC 27516
USA

Translator Certification

I, Amelia Riely, certify that I am fluent in the English and Italian languages, and that the above/attached document is an accurate translation of the document attached entitled In re Abou Elkassim Britel, Declaration of Abou Elkassim Britel.

Signature:  _____

Date: 8 / 19 / 10

Printed Name: AMELIA RIELY

Address: 201 Oak Glen Pl
Chapel Hill, NC 27516
USA

IN RE MOHAMED FARAG AHMAD BASHMILAH
DECLARATION OF MOHAMED FARAG AHMAD BASHMILAH

I, **MOHAMED FARAG AHMAD BASHMILAH**, under penalty of perjury declare as follows:

1. I am forty-two years old and a citizen of Yemen. I live in Yemen with my wife.
2. A few years before 2003, I moved to Indonesia, where I began working in a clothing factory that belonged to my cousins. During my time in Indonesia, I lost my passport. I was issued a replacement passport from the Embassy of the Republic of Yemen in Jakarta.
3. In late 2003, my father made arrangements for my mother to go to Jordan for heart surgery. On September 26, 2003 my wife and I went to Jordan to meet my mother, so I could assist her in obtaining the surgery.
4. When my wife and I arrived in Jordan, officials at the airport asked me questions about my passport. I explained that I had lost my passport in Indonesia and had been given a replacement passport there. Despite this explanation, Jordanian officials took my passport and gave me a receipt that told me to report to the Jordanian General Intelligence Department ("GID") for return of my passport.
5. Over the next month, I visited the GID repeatedly. On one such visit, on October 21, 2003, I attempted to explain that I needed my passport to sign for my mother's heart surgery, and offered the paperwork concerning the procedure. I asked why my passport had been taken but instead of getting an answer, I was escorted to another section of the building.
6. My escort took me into another office and began hurling accusations at me. When I denied the accusations, the official struck me so hard that he knocked me off the chair to the floor. He gave me a kick after which I could not get up.

7. After beating me, the Jordanian intelligence official called in three guards. Without another word I was handcuffed, chained, and blindfolded and then taken outside of the GID building to a car. As the car sped away, the officials removed my blindfold and told me to show them the way to the place of residence I was renting with my wife and mother, which I did, as I had nothing to hide.
8. When we reached the residence, GID officials began to search our apartment from top to bottom. When my mother and wife began to cry, the officials locked them in another room. My mother and wife were screaming and crying in the room. Once the search was complete and nothing had been found, I was again blindfolded and taken out of the apartment while my wife and sick mother continued to scream. My mother and wife later told me that once I left, my mother began protesting my detention and was painfully slapped. When my wife tried to defend her, she was slapped as well.
9. As I was being taken away I heard the GID officials tell the landlord that if he wished, he could just throw my wife and mother out of the apartment. Indeed, he replied affirmatively and this horrified me because my mother had a serious heart disease and my wife could not speak Arabic well.
10. After the Jordanians returned me to the GID facility, they forced me to strip, roughed me up and took pictures. I was held in Jordan until October 26. During the course of my detention I endured extensive abuse from my Jordanian captors – slappings, beatings with a cane, being forced to imitate a donkey and a dog, being suspended upside down from the ceiling. The Jordanians also threatened to rape my wife and mother.
11. To end this abuse, I told the guards to take me to the interrogator, and said that I would answer all their questions and make a confession, without knowing what to confess. After two hours of questioning, slaps, and kicks, with no answers from me, they asked me to

sign a statement. I signed under threat and without seeing the crimes to which I was confessing.

12. A few hours after signing the false confession, on October 26, 2003, a guard came and gave me the good news that I was being released. I was then taken blindfolded and with my hands tied behind me to the airport. Several people surrounded me. My clothing was rapidly cut off until I was entirely naked. One person held me from behind, as others – whom I could see because they had removed my blindfold – dressed head to toe in black, with black masks covering their faces and surgical gloves on their hands, beat me and kicked me. Another person took pictures of me, and then one of them forcefully stuck his finger into my anus. I was in severe pain and began to faint.
13. After this ordeal I was put in a diaper like a baby and dressed in a shirt and pants. They put headphones on and blindfolded me. They chained my legs and hands and hooded me. I was in a lot of pain at this time, but I was mostly worried about my mother and wife because I did not know what was happening to them.
14. After this I was taken on a plane trip of about 4 hours. I have learned through the investigation that my attorneys conducted that I was flown out of Amman at 4.15 a.m. on October 26, 2003 on a Gulfstream V aircraft, registered with the Federal Aviation Administration (FAA) as N379P. This flight arrived in Kabul, Afghanistan at 8.25 a.m. the same day.
15. I have learned through the investigation that my attorneys conducted that flight records show that on October 24, 2003 this aircraft departed from Washington D.C., at 6:03 p.m. and arrived at Prague, Czech Republic at 1:46 a.m. on October 25, 2003 before taking off again at 8:48 p.m. that same evening for Bucharest, Romania, arriving there at 10:16 p.m. Less than an hour later, at 11:12 p.m., the same aircraft departed Bucharest for Amman,

Jordan, from where it then transported me to Kabul, Afghanistan. At 8:45 a.m. on October 29, 2003 the same aircraft departed from Kabul arriving in Baghdad, Iraq at 12:55 p.m. before taking off again at 1:33 p.m. that same afternoon for Porto, Portugal, arriving there at 8:04 p.m. At 1:00 p.m. on October 30, 2003 the same aircraft departed Porto for Washington D.C., arriving there at 7:53 p.m. I refer to Exhibit A attached, a true and correct copy of the relevant flight records. I also refer to the affidavit of the expert witness in this matter.

16. I later learned that N379P was operated by North Carolina-registered Aero Contractors and is based at Smithfield, North Carolina. I refer also to the affidavit of the expert witness in this matter.
17. After arrival in Afghanistan, I was tightly bound and placed in the back of a truck, while someone sat on my back so I couldn't raise my head. I was then taken to a detention facility, where I remained from October 26, 2003 until about April 24, 2004.
18. I came to understand that I had been handed by the Jordanians to U.S. intelligence personnel. During my time at the detention facility I was interrogated by persons speaking English, who used an Arabic interpreter.
19. For the first fifteen days or so, my hands were cuffed together, and my legs were shackled together, severely restricting my movement and causing me great pain. The entire time I was in this cell I was also shackled to the wall by a chain attached to my leg. Because my hands and legs were tied, I could not take off the diaper in which I had arrived. Instead, for the first fifteen days in Afghanistan, I was kept in the same diaper that had been put on me at the airport in Jordan.
20. I was kept in this cell for about three months. Excruciatingly loud western rap and Arabic music was played twenty-four hours a day, seven days a week for approximately the first

month. After that they would pipe in the sound of waves or birds chirping. The guards would not let me sleep, and routinely woke me every half hour, requiring me to raise my hands to show that I was still alive. I was subject to constant surveillance by the camera that sat above the cell door. There was no heating in the cell and it was very cold.

21. The maltreatment I suffered during my first three months in Afghanistan had a serious impact on my mental state, which was already extremely bad following my torture in Jordan and rendition to Afghanistan. I was in such a bad state for the first three months that I ate little food. I became so depressed that I tried to take my life three separate times during the first few months that I was in detention there.
22. I think that once it became clear that my mental state was very bad, I was transferred to another cell. Here there was still constant noise twenty-four hours a day, seven days a week but it was not as loud as it had been in the first cell. In this second cell the bare light bulb was kept on all the time except when guards entered the cell. My hands and feet were constantly shackled. In addition to my hands being chained, there was a chain attached to an iron post in the wall that attached to my right hand. The chain that held me was just long enough to allow me to reach the bucket I used for a toilet. It was very heavy, which made it hard to move. The chain was so heavy that I could not even lift my right hand to my chest during prayer. I was kept under constant surveillance by the camera above the cell door.
23. Shortly afterwards I was moved from this second cell to a cell right across the corridor. Once I left the second cell they began to use it as a torture and interrogation room. While I myself was not beaten in the torture and interrogation room, after a while I began to hear the screams of detainees being tortured there. On their way to the torture and interrogation room, American officials would first stop by my cell and tell me that when I

hear people screaming that I should not be afraid because this treatment was just for people who did not cooperate. They told me that they had a way of dealing with people who did not cooperate.

24. During the entire period of my detention here, I was held in solitary confinement and saw no one other than my guards, interrogators, and other prison personnel. The only time I was taken out of my cell was for interrogations, for washing once a week, for medical and psychiatric visits when they were needed, and to be exposed to the sun once a week.
25. On or about April 24, 2004, I was taken from my cell, stripped, forced by people in black masks to wear a diaper, a cotton shirt, and pants, blindfolded, shackled, and hooded. I was then taken by a jeep along with four or five others. We were taken to an airport and loaded onto a plane that flew for several hours.
26. After exiting the plane, I was carried onto a helicopter, which flew for a couple hours, and then transported by vehicle to another detention facility. Upon arrival I was stripped, photographed and examined by a doctor. I was then taken to a cell, where I was left completely naked for the first two to three days with only a blanket to protect myself from the cold before the guards finally brought me some clothes.
27. In this cell white noise like the sound of radio interference was blasted in twenty-four hours a day, except for when the guards came in. Being by myself all the time, not being told where I was, and thinking that I might never leave, caused me to suffer enormous stress and psychological torment. One time I used a piece of metal to slash my wrists. After cutting myself, I used my blood to write "I am innocent" and "this is unjust" on the walls of my cell. Someone must have seen me cutting myself on the camera because after I cut myself deafening music was blasted into my cell and the guards rushed in.

28. Out of desperation and a sense of injustice I also went on hunger strike for ten days about three or four weeks after I slashed my wrists. To end the strike, prison personnel first tried to oblige me to eat but I refused. A doctor came to my cell on about three different occasions to tell me that I had to eat or else they would try different measures to force me to eat. When I continued to refuse they took me with my hands tied to the interrogation room. In the interrogation room I was weighed and the scale showed that I was about ninety pounds. Then the guards untied my hands and sat me in a chair and strapped my arms to the arms of the chair. After I was strapped to the chair and chained to the floor they shoved a tube up into my nose and I began screaming because of the pain. I resisted because I was beginning to choke and the guards held my head back. In this way they forced the tube all the way into my stomach. They then inserted material into my stomach.
29. After they emptied this material into my stomach, I told them my stomach was bloated and they took the tube out. When they pulled the tube out my nose started to bleed. Then the doctor told me that this was the way that it would be, once in the morning and once at night, until I started eating again. The force-feeding lasted about 3 days, after which I was given tranquilizers, which I took because I was in such a poor mental state.
30. Around September 2004, I was cuffed and blindfolded and walked to a run-down cell with a filthy mattress where I stayed until I was transferred to Yemen in May 2005.
31. Although I had surmised that there were other detainees, I was kept in constant isolation and this gave me a lot of time to worry and despair. The thing that occupied my mind the most was thinking about the condition of my mother and wife. The other thought that constantly occupied my mind was simply: I am innocent, why are they doing this to me? Even though I was alone, I never had any privacy because of the constant monitoring by

video cameras, including the video camera in my cell that followed every little movement I made, and because my cell was regularly searched. In both cells, the ceiling and floor were all painted the same drab grey color and I was not once allowed to see the sun or the sky for the more than twelve months I was in this facility.

32. The sealed in nature of this facility and the claustrophobia that I experienced contributed to my feeling that this detention facility and the facility in Afghanistan were essentially coffins. It especially felt that way to me because I was innocent. You die a little every day you are in prison because you are in a coffin for the living where you don't see, you don't hear, and there is nothing.
33. About a month before my release, I was told that I would be returned to Yemen, where I would be held in prison for a short time, and then released. I was told that I would never be released if I told anyone about what had happened to me in secret detention, however, and made to promise not to say anything. For a long time I didn't tell anyone about this visit since I had promised to keep it a secret, but the prison director broke his word because I was not held in Yemen for a short period at all. It was many months after I got back to Yemen before I was released, and because the prison director broke his word I broke mine in order to seek justice for what the Americans did to me.
34. On May 5, 2005, approximately one year and seven months after being detained in Jordan, I was dressed, cuffed, hooded, and otherwise prepared in the usual way and bundled onto a plane that flew non-stop for about seven hours, arriving in Sana'a, Yemen in the late evening, along with two other detainees.
35. We were then taken to the Central Organization for Political Security in Sana'a, Yemen, where we were held in a Political Security detention facility until the early morning hours

the next day, after which we were returned to the airport, flown to Aden and placed in detention in the Political Security prison (Fateh Prison) in Aden.

36. While I was detained in Aden I was constantly dizzy, suffered nose bleeds, and often felt like I was floating on water. I believe these things happened because I had not been exposed to the sun for such a long time and was now suddenly in a place with abundant sunlight.

37. With my family's persistence, my mother and sisters were allowed to visit me about a month to a month and a half after my arrival in Yemen. The joy of seeing them was indescribable and the experience was overwhelming. My mother tried to comfort me to show that she was strong but I later learned that she collapsed after leaving the prison.

38. I was detained by the government of Yemen, apparently at the behest of the U.S. government, from May 5, 2005 until March 27, 2006.

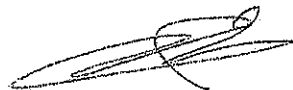
39. After pressure from Amnesty International and various UN officials, I was brought to trial in Yemen on February 13, 2006, at the Special Penal Court. I was not allowed to meet with a lawyer or obtain advice. There were no terrorism related charges brought against me, however, but rather I was convicted on a forgery charge and sentenced to two years in prison, but ordered released since the time I had already spent in detention inside and outside Yemen exceeded this sentence. At about midnight on the evening of March 27, 2006, I was released from custody, never once having faced any formal charges relating to terrorism.

40. During the time I was held in secret detention, my father died, leaving my mother without financial support. The knowledge that my father died without ever knowing where I was, why I was detained, and whether I was dead or alive causes me immeasurable pain that continues until today. In addition, my health deteriorated

significantly while I was in detention. To this day I suffer the mental and physical scars of prolonged uncharged detention, torture, and cruel treatment with tremendous consequences for my emotional, psychological, and physical health. These impacts, which my family and I continue to suffer, are augmented by the suffering we endure from not having received an acknowledgement from the U.S. government that they illegally detained and tortured me.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of 11 2010.



Mohamed Farag Ahmad Bashmilah