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2 United States Attorney

PH 2:29  
DISTRICT COURT  
DISTRICT OF CALIFORNIA



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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

MMC

11  
12 UNITED STATES OF AMERICA,

CR

03

0095

13 Plaintiff,

14 v.

15 AMR MOHSEN and  
16 ALY MOHSEN,

17 Defendants.

VIOLATIONS: 18 U.S.C. § 371 --  
Conspiracy to Commit Perjury; 18 U.S.C.  
§ 1621(1) -- Perjury; 18 U.S.C. § 1622 --  
Subornation of Perjury; 18 U.S.C. § 1341 --  
Mail Fraud; 18 U.S.C. § 1503 -- Obstruction  
of Justice

SAN FRANCISCO VENUE

18  
19 INDICTMENT

20 The Grand Jury charges:

21 1. At all times relevant to this Indictment

22 The Defendants and Companies

23 a. Dr. Amr Mohsen ("Amr") is an engineer and the founder, chairman  
24 and chief executive officer of Aptix Corporation ("Aptix"), a California corporation  
25 headquartered in San Jose, California. Aptix owns United States Patent No. 5,544,069  
26 ("069 Patent") which covers certain hardware-emulation technology. Amr Mohsen is the

1 named inventor of the 069 Patent. The 069 patent discloses and claims "field  
2 programmable" circuit boards that permit computer programmers to reconfigure the  
3 electronic components of an integrated circuit.

4 b. Dr. Aly Mohsen ("Aly") is a medical doctor and Amr's brother. Aly  
5 resides in Springfield, Missouri and owns 15,000 shares of stock in Aptix.

6 c. QuickTurn Design Systems, Inc. ("QuickTurn"), is a Delaware  
7 corporation headquartered in San Jose, California. QuickTurn and Aptix both do  
8 business in the hardware-logic-emulation field. Hardware emulation provides solutions  
9 for designing and verifying complex electronic systems for, among other items, digital  
10 wireless cellular phones, wireless base stations, network routers, graphics and multimedia  
11 devices.

12 Aptix Sues QuickTurn for Infringement of the 069 Patent

13 2. On February 26, 1998, Aptix and another corporation to which Aptix had  
14 licensed the 069 Patent, Meta Systems, Inc. ("Meta"), sued QuickTurn in federal court in  
15 San Francisco, California in a civil suit entitled *Aptix Corporation, et al. v. QuickTurn*  
16 *Design Systems, Inc* No. C 98-00762 WHA ("Aptix case"), alleging infringement of the  
17 069 Patent. The 069 Patent was originally prosecuted by the patent law firm Skjerven,  
18 Morrill, MacPherson, Franklin & Friel ("Skjerven firm"). Aptix and Amr Mohsen  
19 retained a different law firm to represent them in the litigation against QuickTurn.

20 3. Under existing principles of patent law, the presumed date of invention is  
21 the date of the patent application. In this case, the initial application for the 069 Patent  
22 was filed September 20, 1989. In order to establish a conception date earlier than the  
23 presumed date of invention, Rule 16-7(b)(3) of the 1998 Civil Local Rules for the  
24 Northern District of California required Aptix and Meta to state an alternate date of  
25 conception and to corroborate that date.

1           4.       Engineers ordinarily document their process of invention in notebooks.  
2 Engineers' notebooks are typically witnessed by a colleague who acknowledges having  
3 read a particular entry, by signing and dating the entry. The purpose of the witnessing  
4 process is to satisfy the corroboration requirements established by patent case law for  
5 proving invention dates.

6                                   Amr Mohsen Claims July 31, 1988 Invention Date

7           5.       On or about March 29, 1998, Amr Mohsen faxed photocopies of seventeen  
8 pages from an engineering notebook Amr started in 1989 ("1989 Notebook") which  
9 purported to document the research, design and development of the 069 invention to  
10 Aptix's attorneys. On April 13, 1998, Aptix produced these seventeen pages to  
11 QuickTurn pursuant to Local Rule 16-7(c).

12           6.       On or about April 19, 1998, Amr Mohsen advised Aptix's counsel that he  
13 had found another engineering notebook, that he allegedly started in 1988 ("1988  
14 Notebook"). The 1988 Notebook supposedly documented the first conception of the 069  
15 invention.

16           7.       On May 4, 1998, Aptix served QuickTurn with a supplemental initial  
17 disclosure which listed July 31, 1988 as the date of conception of the 069 invention.  
18 Aptix also produced a photocopy of the 1988 Notebook. The only person who  
19 witnessed the entries in the 1988 Notebook was Aly Mohsen.

20           8.       On May 28, 1998, QuickTurn received a photocopy of the 1989 Notebook  
21 from the Skjerven firm, Amr Mohsen's patent counsel when he originally applied for the  
22 069 patent on September 20, 1989 ("Skjerven Copy"), which was significantly different  
23 from and more abbreviated than the portion of the 1989 Notebook that Aptix produced to  
24 QuickTurn on April 13, 1998. The Skjerven firm did not have a copy of the 1988  
25 Notebook.

1           9.     On June 4, 1998, QuickTurn deposed Amr Mohsen. Amr Mohsen brought  
2 the "originals" of both the 1988 and 1989 Notebooks to his deposition. QuickTurn made  
3 a photocopy of the 1989 Notebook. On August 19, 1998, QuickTurn made color copies  
4 of the "originals" of both the 1988 and 1989 Notebooks. Amr Mohsen always retained  
5 custody of the "originals" of both Notebooks.

6           10.    On November 24, 1998, QuickTurn moved to compel production of the  
7 "original" 1988 and 1989 Notebooks for forensic testing by a questioned document  
8 expert. QuickTurn's motion to compel was scheduled to be heard on December 29, 1998.

9                           Amr Mohsen Retains a Forensic Document Examiner

10          11.    Between about August 25, 1998 and March 1, 1999, Amr Mohsen, without  
11 the knowledge of Aptix's attorneys, contacted a forensic document examiner and an ink  
12 expert to determine what forensic testing of the "original" 1988 and 1989 Notebooks  
13 would reveal.

14          12.    After examining the original Notebooks, the forensic document examiner  
15 found numerous indicators that raised concerns about the creation of the 1988 Notebook.  
16 These findings were reported to Amr Mohsen in September 1998.

17          13.    On December 14, 1998, Amr Mohsen reported that the "original"  
18 Notebooks had been stolen from his car.

19          14.    On or about February 25, 1999, in response to an earlier inquiry from  
20 Amr Mohsen, the forensic document examiner advised Amr Mohsen that it was not  
21 possible to determine dating on photocopies of documents created by an office copy  
22 machine.

23                           Amr and Aly Mohsen's Efforts To Corroborate the Authenticity of the 1988 Notebook

24          15.    Between January 1999 and February 10, 2000, Amr and Aly Mohsen  
25 produced fabricated documents to QuickTurn in an effort to demonstrate the authenticity  
26

1 of the stolen 1988 Notebook and to persuade the district court to allow Aptix to introduce  
2 photocopies of both Notebooks at the patent infringement trial in lieu of the originals.

3 16. Between June 4, 1998 and February 18, 2000, Amr Mohsen made numerous  
4 material false statements under oath regarding the 1988 and 1989 Notebooks during his  
5 deposition testimony.

6 17. On May 25, 1999, Aly Mohsen made numerous material false statements  
7 under oath regarding the 1988 Notebook during his deposition testimony.

8 COUNT ONE: (18 U.S.C. § 371 – Conspiracy)

9 18. Paragraphs 1 through 17 of this Indictment are realleged and incorporated  
10 as if fully set forth here.

11 19. Beginning on or about March 29, 1998 and continuing to on or about  
12 February 18, 2000, both dates being approximate and inclusive, in the Northern District  
13 of California, and elsewhere, the defendants

14 AMR MOHSEN and  
15 ALY MOHSEN

16 and others, did knowingly and intentionally conspire to obstruct justice by fabricating  
17 evidence relating to the priority of the 069 Patent and to commit perjury in testimony  
18 given in connection with the Aptix case, in violation of 18 U.S.C. §§ 1503 and 1621.

19 Overt Acts Committed in Furtherance of the Conspiracy

20 20. During the course of the conspiracy, and in order to further the objects  
21 thereof, the defendants and their co-conspirators knowingly committed the following  
22 overt acts, among others, in the Northern District of California, and elsewhere:

- 23 a. Between March 29, 1998 and May 4, 1998, Amr Mohsen fabricated  
24 the 1988 Notebook;
- 25 b. Between March 29, 1998 and May 4, 1998, Amr Mohsen directed  
26 Aly Mohsen to sign and back date various entries in the fabricated  
1988 Notebook;

INDICTMENT  
[Amr and Aly Mohsen]

- 1 c. On or about May 4, 1998, at the direction of Amr Mohsen, Aptix  
2 listed July 31, 1988 as the date of conception of the 069 invention;
- 3 d. On or about August 25, 1998, Amr Mohsen, without the knowledge  
4 of his attorneys or QuickTurn, contacted a private forensic document  
5 examiner;
- 6 e. On or about September 9, 1998, Amr Mohsen brought the "original"  
7 1988 Notebook to an expert ink chemist;
- 8 g. On or about September 26, 1998, Amr Mohsen received a briefing  
9 from the forensic document examiner which described the results of  
10 the examiner's tests on the "original" 1988 notebook;
- 11 h. On or about December 14, 1998, Amr Mohsen staged a theft of the  
12 1988 and 1989 Notebooks;
- 13 i. In January, 1999, Aly Mohsen "found" photocopies of pages 2-15 of  
14 the 1988 Notebook;
- 15 j. On or about January 30, 1999, Amr Mohsen asked the forensic  
16 document examiner whether it was possible to determine dating on  
17 photocopies of documents made from an office copy machine;
- 18 k. On or about March 1, 1999, Amr Mohsen sent his original 1989  
19 Daytimer to the forensic document examiner;
- 20 l. On or about April 29, 1999, Amr Mohsen produced his 1989  
21 Daytimer to QuickTurn;
- 22 m. On or about January 3, 2000, Amr Mohsen arranged for fragments of  
23 the "stolen" original 1988 and 1989 Notebooks to be anonymously  
24 mailed back to himself;
- 25 n. On or about February 18, 2000, Amr Mohsen falsely testified under  
26 oath at his deposition concerning the entries in the fabricated 1988  
Notebook;
- o. On May 25, 1999, Aly Mohsen made material false statements under  
oath at his deposition concerning the dates on which he witnessed  
the 1988 Notebook, each material false statement constituting a  
separate and distinct act.

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

1 COUNT TWO: (18 U.S.C. §1621(1) -Perjury)

2 21. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 22. On or about April 29, 1999, in the Northern District of California, the  
5 defendant

6 AMR MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was specifically asked whether he had ever  
10 shown the original notebooks to any independent expert and he gave the following  
11 testimony:

12 Q: Did you ever deliver the original notebooks to  
13 [Aptix's attorneys] or an independent expert so that  
14 they could do an independent test on those notebooks  
15 to see what the tests would show?

16 A: No.

17 Q: You never did that yourself?

18 A: No.

19 Q: So no tests, as far as you know, had been done on your notebooks  
20 at the time of their disappearance?

21 A: No.

22 when in truth, as the defendant well knew, he had given the original 1988 Notebook to an  
23 ink chemist and a forensic document examiner before December 14, 1998; in violation of  
24 Title 18, United States Code, Section 1621(1).  
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1 COUNT THREE: (18 U.S.C. § 1621 – Perjury)

2 23. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 24. On or about April 29, 1999, in the Northern District of California, the  
5 defendant

6 AMR MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked whether the original Notebooks were  
10 ever out of his possession other than for the purpose of having the patent infringement  
11 attorneys make copies, and he gave the following testimony:

12 Q: Other than the limited periods of time  
13 necessary to make copies by both your lawyers  
14 and [QuickTurn's lawyers], were the original  
notebooks ever out of your possession?

15 A: No.

16 when in truth, as the defendant well knew, on September 19, 1998 he had provided the  
17 original 1988 Notebook to a forensic document examiner for the purpose of having that  
18 person conduct forensic testing; in violation of Title 18, United States Code, Section  
19 1621(1).  
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1 COUNT FOUR: (18 U.S.C. § 1621 – Perjury)

2 25. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 26. On or about February 18, 2000 in the Northern District of California, the  
5 defendant

6 AMR MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked when he made the last entry in the  
10 1988 Notebook and gave the following testimony:

11 Q: When is the last time you made an entry into  
12 any page of the [1988 Notebook], that is the  
13 original of the [1988 Notebook]. When did you  
last put pen to paper in that notebook?

14 A: June of '89.

15 when in truth, as the defendant well knew, the 1988 Notebook was created after June  
16 1989; in violation of Title 18, United States Code, Section 1621(1).

1 COUNT FIVE: (18 U.S.C. § 1621 – Perjury)

2 27. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 27. On or about August 19, 1998 in the Northern District of California, the  
5 defendant

6 AMR MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked when he made the last entry on page  
10 36 of the 1989 Notebook and gave the following testimony:

11 Q: I noticed [one witness] dated page 36 of the  
12 [1989 Notebook] on June 21, 1990. Does that  
13 mean the additional material now found in the  
[1989 Notebook] was added somewhere  
between August 6, 1989 and June 21, 1990?

14 A: That's you know, it's certainly before the  
15 dates of the first signature and when exactly in  
16 between, I can't remember. Because as I  
17 mentioned before, once it is witnessed, my  
approach is not to add anything to the original  
material.

18 when in truth, as the defendant well knew, additional material was added to page 36 after  
19 June 21, 1990; in violation of Title 18, United States Code, Section 1621(1).

1 COUNT SIX: (18 U.S.C. § 1621-Perjury)

2 29. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 29. On or about May 25, 1999, in the Northern District of California, the  
5 defendant

6 ALY MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did wilfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked whether the date December 30, 1988  
10 following his signature under the words "Read and Understood" was the true date on  
11 which he signed as a witness to pages 40 and 41 of the 1988 Notebook and gave the  
12 following testimony:

13  
14 Q. Pages 40 and 41, [of the 1988 Notebook],  
15 Could you look at those please?

16 A. Yes, Sir.

17 Q. Do those pages bear your signature?

18 A. Yes, Sir.

19 Q: And on what day did you sign those pages?

20 A: Again, its December 30<sup>th</sup>, '88, for both 40  
and 41.

21 when in truth, as the defendant well knew, he did not sign pages 40 and 41 on December  
22 30, 1988, but signed pages 40 and 41 sometime after December 30, 1988 in violation of  
23 Title 18, United States Code, Section 1621.

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INDICTMENT  
[Amr and Aly Mohsen]

1 COUNT SEVEN: (18 U.S.C. § 1621 – Perjury)

2 31. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 32. On or about May 25, 1999, in the Northern District of California, the  
5 defendant

6 ALY MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did wilfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked whether the date March 26, 1989  
10 following his signature under the words “Read and Understood” was the true date on  
11 which he signed as a witness to page 42 of the 1988 Notebook and gave the following  
12 testimony:

13  
14 Q: Is that your signature on page 42 sir?

15 A: That is correct.

16 Q: And what is the date on which you signed  
17 page 42 of the Notebook?

18 A: March 26, '89.

19 when in truth, as the defendant well knew, he did not sign pages 42 on March 26, 1989,  
20 but signed page 42 sometime after March 26, 1989; in violation of Title 18, United States  
21 Code, Section 1621.

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INDICTMENT  
[Amr and Aly Mohsen]

1 COUNT EIGHT: (18 U.S.C. § 1621 -Perjury)

2 33. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 33. On or about May 25, 1999, in the Northern District of California, the  
5 defendant

6 ALY MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did wilfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked when Amr first showed him the 1988  
10 Notebook and gave the following testimony:

11  
12 Q: When did Amr first show you the [1988] Notebook?

13 A: Amr show me this notebook sometimes in August 1988, when he  
14 visited me.

15 when in truth, as the defendant well knew, he did not see the 1988 Notebook in August,  
16 1988 because it was created well after that date; in violation of Title 18, United States  
17 Code, Section 1621.

1 COUNT NINE: (18 U.S.C. § 1621-Perjury)

2 35. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 36. On or about May 25, 1999, in the Northern District of California, the  
5 defendant

6 ALY MOHSEN,

7 having taken an oath before a competent person that he would testify truthfully at an oral  
8 proceeding in connection with the Aptix case, did wilfully and contrary to his oath testify  
9 falsely as to a material matter, in that he was asked when the photocopies of pages 2-15 of  
10 the 1988 Notebook were made by him and he gave the following testimony:

11  
12 Q: When exactly was that copy that's Mohsen Exhibit 1 [photocopies  
13 of pages 2-15 of the 1988 Notebook] made?

14 A: September the 5<sup>th</sup>, 1988.

15 when in truth, as the defendant well knew, the photocopies of pages 2-15 of the 1988  
16 Notebook were not made on September 5, 1988, but were made after September 5, 1988;  
17 in violation of Title 18, United States Code, Section 1621.

1 COUNT TEN: (18 U.S.C. § 1622-Subornation of Perjury)

2 37. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as  
3 if fully set forth here.

4 38. Beginning on or about March 29, 1998 and continuing through May 25, 1999,  
5 in the Northern District of California, the defendant

6 AMR MOHSEN,

7 procured another person, to wit, Aly Mohsen, to commit perjury in that he directed Aly  
8 Mohsen to falsely backdate and witness certain entries in the 1988 Notebook and to  
9 thereafter falsely testify under oath that he actually witnessed the entries on the dates  
10 reflected in the fabricated 1988 Notebook, when in truth, as the defendant well knew, Aly  
11 Mohsen did not witness any entries in the 1988 Notebook in 1988 in violation of Title 18,  
12 United States Code, Section 1622.

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1 COUNTS ELEVEN THROUGH EIGHTEEN (18 U.S.C. § 1341-Mail Fraud)

2 39. The allegations contained in paragraphs 1 through 17 above are realleged  
3 as though fully set forth herein.

4 40. From at least March 29, 1998 and continuing through at least June 1, 2000,  
5 both dates being approximate and inclusive, in the Northern District of California and  
6 elsewhere, the defendant

7 AMR MOHSEN,

8 and others, known and unknown to the grand jury, having devised and intending to devise  
9 a scheme and artifice to defraud QuickTurn, as more fully described in paragraphs 5  
10 through 17 above, and to obtain money and property by means of false and fraudulent  
11 pretenses and representations, knowingly caused to be placed in the United States mail  
12 and delivered by the United States Postal Service and knowingly caused to be delivered  
13 by a private or commercial interstate carrier the items described below:

14 <u>Count</u>	<u>Approximate</u> <u>Date of Mailing</u>	<u>Sender</u>	<u>Addressee</u>	<u>Item Mailed</u>
15 Eleven	9/25/98	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Copy of 1988 Notebook Cover (Via UPS)
18 Twelve	3/1/99	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen 1989 Daytimer (Via Fed Ex)
21 Thirteen	3/4/99	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Amr Mohsen 1989 Daytimer (Via Fed Ex)

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INDICTMENT  
[Amr and Aly Mohsen]



Count	Approximate Date of Mailing	Sender	Addressee	Item Mailed
Fourteen	6/4/99	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Check in Amount of \$919.85 (U.S. Mail)
Fifteen	1/3/00	FL Address Unknown	Amr Mohsen 16348 Aztec Ridge Los Gatos, CA 95030	Fragments of Original 1988 Notebook (U.S. Mail)
Sixteen	3/1/00	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Copies of Notebook Pages (Via Fed Ex)
Seventeen	3/2/00	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Test Results on Notebook Copies (Via Fed Ex)
Eighteen	6/1/00	Amr Mohsen, 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Check in Amount of \$131.00 (U.S. Mail)

All in violation of Title 18, United States Code, Section 1341.

COUNT NINETEEN (18 U.S.C. § 1503—Obstruction of Justice)

41. Paragraphs 1 through 17 of this Indictment are realleged and incorporated as if fully set forth here.

42. Beginning on or about March 29, 1998 and continuing through on or about May 23, 2000, in the Northern District of California, the defendants

AMR MOHSEN and  
ALY MOHSEN,

did corruptly endeavor to influence, obstruct and impede the due administration of justice

INDICTMENT  
[Amr and Aly Mohsen]

1 by creating a fraudulent 1988 Notebook and falsely backdating and witnessing certain  
2 entries in the 1988 Notebook and thereafter falsely testifying under oath that they actually  
3 created and witnessed the entries on the dates reflected in the fabricated 1988 Notebook,  
4 all in effort to influence, obstruct and impede the district court in the Aptix case; in  
5 violation of Title 18, United States Code, Section 1503.

6  
7 DATED

8 MARCH 25, 2003

A TRUE BILL.

Wilson S. Hodge  
FOREPERSON

9  
10 KEVIN V. RYAN  
United States Attorney

11 Charles B Burch

12 CHARLES B. BURCH  
Chief, Criminal Division

13  
14 (Approved as to form: Harris)  
AUSA Harris

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INDICTMENT  
[Amr and Aly Mohsen]