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9 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,)	No. CR 02-220(B)-NM
)	
14 Plaintiff,)	<u>GOVERNMENT'S NOTICE OF INTENT</u>
)	<u>TO SEEK THE DEATH PENALTY</u>
15 v.)	<u>AGAINST DEFENDANT IOURI MIKHEL</u>
)	
16 IOURI MIKHEL,)	
)	
17 Defendant.)	
)	

18 NOTICE OF INTENT TO SEEK THE DEATH PENALTY

19 The United States of America, pursuant to 18 U.S.C.
 20 § 3593(a), notifies the Court and defendant IOURI MIKHEL
 21 ("defendant"), that the Government believes the circumstances of
 22 the offenses charged in Counts One, Two, Three, and Four of the
 23 Second Superseding Indictment are such that, in the event of a
 24 conviction, a sentence of death is justified under Chapter 228
 25 (Sections 3591 through 3598) of Title 18 of the United States
 26 Code, and that the Government will seek the sentence of death for
 27 the following offenses: (1) conspiracy to commit hostage taking
 28

1 resulting in the deaths of Meyer Muscatel, Rita Pekler, Alexander
2 Umansky, Nick Kharabadze, and George Safiev, in violation of
3 Title 18, United States Code, Section 1203 [Count One]; the
4 hostage taking resulting in the death of Alexander Umansky, in
5 violation of Title 18, United States Code, Section 1203 [Count
6 Two]; the hostage taking resulting in the death of Nick
7 Kharabadze, in violation of Title 18, United States Code, Section
8 1203 [Count Three]; and the hostage taking resulting in the death
9 of George Safiev, in violation of Title 18, United States Code,
10 Section 1203 [Count Four], each of which carries a possible
11 sentence of death.

12 The Government proposes to prove the following factors as
13 justifying a sentence of death.

14 A. Statutory Proportionality Factors Enumerated under 18
15 U.S.C. § 3591(a)(2)(A)-(D)

16 The following statutory proportionality factors apply to
17 each of Counts 1, 2, 3, and 4.

18 **1. Intentionally Killing the Victim**

19 The defendant intentionally killed Meyer Muscatel [Count 1], Rita
20 Pekler [Count 1], Alexander Umansky [Counts 1 and 2], Nick
21 Kharabadze [Counts 1 and 3], and George Safiev [Counts 1 and 4].
22 18 U.S.C. § 3591(a)(2)(A).

23 **2. Intentionally Inflicted Serious Bodily Injury that**
24 **Resulted in the Death of the Victims**

25 The defendant intentionally inflicted serious bodily injury that
26 resulted in the deaths of Meyer Muscatel [Count 1], Rita Pekler
27

1 [Count 1], Alexander Umansky [Counts 1 and 2], Nick Kharabadze
2 [Counts 1 and 3], and George Safiev [Counts 1 and 4]. 18 U.S.C.
3 § 3591(a)(2)(B).

4 **3. Intentional Acts to Take Life or Use Lethal Force**

5 The defendant intentionally participated in an act, contemplating
6 that the life of a person would be taken or intending that lethal
7 force would be used in connection with a person, other than one
8 of the participants in the offense, and Meyer Muscatel [Count 1],
9 Rita Pekler [Count 1], Alexander Umansky [Counts 1 and 2], Nick
10 Kharabadze [Counts 1 and 3], and George Safiev [Counts 1
11 and 4] died as a direct result of the act. 18 U.S.C.
12 § 3591(a)(2)(C).

13 **4. Intentionally and Specifically Engaged in an Act**
14 **of Violence Creating a Grave Risk of Death**

15 The defendant intentionally and specifically engaged in an act of
16 violence knowing that the act created a grave risk of death to a
17 person, other than one of the participants in the offense, such
18 that participation in the act constituted a reckless disregard
19 for human life and Meyer Muscatel [Count 1], Rita Pekler [Count
20 1], Alexander Umansky [Counts 1 and 2], Nick Kharabadze [Counts 1
21 and 3], and George Safiev [Counts 1 and 4] died as a direct
22 result of the act. 18 U.S.C. § 3591(a)(2)(D).

23 **B. Statutory Aggravating Factors Enumerated under 18**
24 **U.S.C. § 3592(c)**

25 The following statutory aggravating factors apply to each of
26 Counts 1, 2, 3, and 4.

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1 **1. Death During the Commission of Another Crime**

2 The deaths of Meyer Muscatel [Count 1], Rita Pekler [Count 1],
3 Alexander Umansky [Counts 1 and 2], Nick Kharabadze [Counts 1 and
4 3], and George Safiev [Counts 1 and 4] occurred during the
5 commission and attempted commission of an offense under 18 U.S.C.
6 § 1203 (conspiracy to commit hostage taking and hostage taking).
7 18 U.S.C. § 3592(c)(1).

8 **2. Procurement of the Offense by Payment**

9 The defendant procured the commission of the homicide offenses
10 charged in Counts 1, 2, 3, and 4 by payment, and promise of
11 payment, of anything of pecuniary value. 18 U.S.C. § 3592(c)(7).

12 **3. Substantial Planning and Premeditation**

13 The defendant committed the offenses charged in Counts 1, 2, 3,
14 and 4 after substantial planning and premeditation to cause the
15 death of a person. 18 U.S.C. § 3592(c)(9).

16 **4. Multiple Killings**

17 The defendant intentionally killed more than one person in a
18 single criminal episode. 18 U.S.C. § 3592(c)(16).

19 **C. Other, Non-Statutory, Aggravating Factors Identified**
20 **under 18 U.S.C. § 3593(a)(2)**

21 The following non-statutory aggravating factors apply to
22 each of Counts 1, 2, 3, and 4.

23 **1. Future Dangerousness of the Defendant**

24 The defendant is likely to commit criminal acts of violence in
25 the future that would constitute a continuing and serious threat
26 to the lives and safety of others, as evidenced by, at least, one
27 or more of the following:

1 a. Continuing Pattern of Violence

2 The defendant has engaged in a continuing pattern of violence,
3 attempted violence, and threatened violence, including, at least,
4 the crimes alleged against defendant in the Second Superseding
5 Indictment.

6 b. Escape Risk and Institutional Misconduct

7 The defendant poses a future danger to the lives and safety of
8 other persons, as demonstrated by institutional misconduct,
9 including at least: (1) defendant's participation in a
10 conspiracy to escape from the Metropolitan Detention Center - Los
11 Angeles, California, which was detected by the government on or
12 about March 7, 2003; and (2) defendant's attempt to escape from
13 the San Bernardino County Jail, which was detected by the
14 government on or about January 19, 2004.

15 c. Lack of Remorse

16 The defendant has demonstrated a lack of remorse for the capital
17 offenses committed in this case, as indicated by defendant's
18 statements and actions during the course of and following the
19 offenses alleged in the Second Superseding Indictment.

20 2. **Uncharged Murders, Attempted Murders, and Other**
21 **Serious Acts of Violence**

22 Apart from the offenses charged in the Second Superseding
23 Indictment, the defendant has been involved in other murders and
24 serious acts of violence which are not reflected in his criminal
25 record. Specifically:

26 i. Between on or about November 5, 2000 and on or about
27

1 November 17, 2000, in Istanbul, Turkey, defendant participated in
2 the hostage taking, resulting in death, of Anton Popsuy-Shapko;

3 ii. Between on or about May 29, 2001 and on or about
4 June 16, 2001, in Pathos, Cyprus and elsewhere, defendant
5 participated in the hostage taking, resulting in death, of Valery
6 Papou; and

7 iii. Between on or about November 14, 2001 and on or about
8 November 17, 2001, in Los Angeles County, within the Central
9 District of California, defendant participated in the hostage
10 taking of Armen Gyurdzhiyants.

11 3. Contemporaneous Convictions

12 Defendant faces contemporaneous convictions for multiple murders
13 and other serious acts of violence.

14 4. Witness Elimination

15 Defendant killed the victims of his crimes, including Meyer
16 Muscatel, Rita Pekler, Alexander Umansky, Nick Kharabadze, and
17 George Safiev, in order to eliminate these victims as possible
18 witnesses to defendant's crimes.

19 5. Emotional Suffering of the Victims

20 Defendant displayed an indifference to the emotional suffering of
21 the victims of his crimes, including Meyer Muscatel, Rita Pekler,
22 Alexander Umansky, Nick Kharabadze, and George Safiev, as
23 demonstrated by the extended period of time between the time
24 defendant initially seized his victims and the time he ultimately
25 killed them.

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1 6. **Victim Impact Evidence**

2 i. The defendant caused injury, harm, and loss to the
3 family, friends, and co-workers of Rita Pekler as evidenced by
4 her personal characteristics as a human being and the impact of
5 her death on her family, her friends, and her co-workers.

6 ii. The defendant caused injury, harm, and loss to the
7 family, friends, and co-workers of Meyer Muscatel as evidenced by
8 his personal characteristics as a human being and the impact of
9 his death on his family, his friends, and his co-workers.

10 iii. The defendant caused injury, harm, and loss to the
11 family, friends, and co-workers of Alexander Umansky as evidenced
12 by his personal characteristics as a human being and the impact
13 of his death on his family, his friends, and his co-workers.

14 iv. The defendant caused injury, harm, and loss to the
15 family, friends, and co-workers of Nick Kharabadze as evidenced
16 by his personal characteristics as a human being and the impact
17 of his death on his family, his friends, and his co-workers.

18 v. The defendant caused injury, harm, and loss to the
19 family, friends, and co-workers of George Safiev as evidenced by
20 his personal characteristics as a human being and the impact of
21 his death on his family, his friends, and his co-workers.

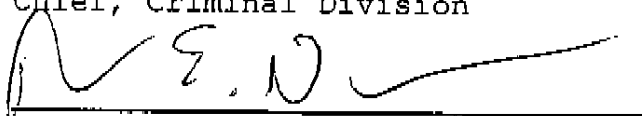
22 The Government further gives notice that in support of
23 imposition of the death penalty it intends to rely upon all the
24 evidence admitted by the Court at the guilt phase of the trial
25 and the offenses of conviction as described in the Second
26 Superseding Indictment as they relate to the background and
27 character of the defendant, IOURI MIKHEL, his moral culpability,
28

1 and the nature and circumstances of the offenses charged in the
2 Second Superseding Indictment.

3 DATE: August 3, 2004 Respectfully submitted,

4 DEBRA W. YANG
5 United States Attorney

6 STEVEN D. CLYMER
7 Special Assistant United States Attorney
8 Chief, Criminal Division



9 ROBERT E. DUGDALE
10 SUSAN J. DEWITT
11 KAREN I. MEYER
12 Assistant United States Attorneys
13 Organized Crime and Terrorism Section

14 Attorneys for Plaintiff
15 United States of America

CERTIFICATE OF SERVICE

I, SUSAN M. CRUZ, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: **GOVERNMENT'S NOTICE OF INTENT TO SEEK THE DEATH PENALTY AGAINST DEFENDANT IOURI MIKHEL**

service was:

Placed in a closed envelope, for collection and interoffice delivery addressed as follows:

Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

By hand delivery addressed as follows:

By facsimile as follows:

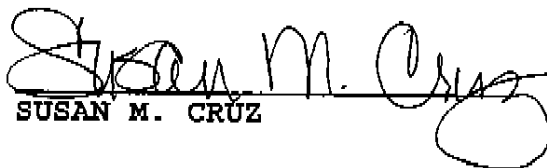
By messenger as follows:

By federal express as follows:

SEE ATTACHMENT

This Certificate is executed on August 3, 2004, at Los Angeles, California.

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


SUSAN M. CRUZ