IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, Plaintiff, v. ABUL KARIM, [redacted], a.k.a. NURUL HUDA, [redacted], Defendant.	Civil Action No.

COMPLAINT TO REVOKE NATURALIZATION

Plaintiff United States of America brings this civil action against Defendant Abul Karim, a.k.a. Nurul Huda, to revoke his naturalized U.S. citizenship under 8 U.S.C. § 1451(a). Plaintiff alleges that Defendant procured his naturalization unlawfully and that he willfully misrepresented and concealed material facts in applying to naturalize.

Before he naturalized as a U.S. citizen in 2005 under the name Abul Karim, Defendant was previously ordered deported from the United States under the name Nurul Huda. In 1993, Defendant applied for an immigration benefit under the name Nurul Huda. The application was subsequently denied, and Defendant was placed into removal proceedings. On February 7, 1997, Defendant appeared with his attorney at a deportation hearing and conceded deportability. On September 24,

1998, Defendant failed to appear for a scheduled immigration hearing and was ordered deported *in absentia* to Bangladesh.

On June 26, 1997, Defendant, now using the name Abul Karim, applied for adjustment of status to lawful permanent resident. In this application, Defendant changed, *inter alia*, his name, date of birth, and place of birth and denied that he had ever used another name or had ever been ordered deported or removed. On September 11, 1997, the INS granted Defendant adjustment of status to the status of lawful permanent resident under the name Abul Karim. On April 8, 2005, Defendant naturalized under the identity and immigration history of Abul Karim. During his adjustment of status and naturalization proceedings, Defendant continued to conceal his prior immigration history and deportation under the name of Nurul Huda.

Defendant's actions and conduct statutorily barred him from becoming a U.S. citizen and render his naturalization unlawfully procured. Thus, with the attached affidavit showing good cause, Plaintiff brings this civil action to revoke and set aside the order admitting Defendant to citizenship and to cancel his certificate of naturalization.

I. JURISDICTION AND VENUE

1. This is an action under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Defendant to U.S. citizenship and to cancel Certificate of Naturalization No. [redacted], issued May 5, 2005.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 for a cause of action under 8 U.S.C. § 1451(a).

3. Venue is proper in this district pursuant to 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391, because Defendant resides in [redacted] within the jurisdiction of this Court.

II. PARTIES

4. Plaintiff is the United States of America.

5. Defendant is a naturalized U.S. citizen and native of Bangladesh. Nurul Huda and Abul Karim are one and the same person.

III. FACTUAL ALLEGATIONS

6. The affidavit of Warren Lee, Adjudication Officer with U.S. Citizenship and Immigration Services ("USCIS"), an agency within the Department of Homeland Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached as Exhibit A.[1]

A. Defendant's Immigration Proceedings Under the Identity Nurul Huda

7. On or about October 29, 1993, Defendant applied to the Immigration and Naturalization Service ("INS") for an immigration benefit under the name Nurul Huda. In connection with that application, Defendant provided signed forms on which he indicated, *inter alia*:

a. His name was Nurul Huda;

b. He was born in [redacted];

c. He had not previously used other names;

[1] Because the Lee Affidavit contains information covered by Fed. R. Civ. P. 5.2(a), as well as other information protected from disclosure 5 U.S.C. § 552a(b), it is being filed with certain personally identifying information redacted.

d. His father was [redacted];

e. His mother was [redacted]

f. He last arrived in the United States on August 17, 1993, at New York.

8. On September 25, 1996, Defendant appeared at the INS Office in Rosedale, New York, for an interview in relation to his application. He provided testimony pertaining to his application and submitted a copy of his Bangladeshi passport in the name of Nurul Huda. At the end of the interview, he signed his application and was issued a notice telling him to return on October 9, 1996, to pick up a decision.

9. On October 9, 1996, Defendant returned to the INS Office in Rosedale, New York, and was issued a Referral Notice informing him that his application was not approved and he would be referred to the Immigration Court. On the same day, INS served him in person with a Form I-221, Order to Show Cause and Notice of Hearing (the "OSC"), charging him as deportable pursuant to 8 U.S.C. § 1231(a)(1)(A), for being a nonimmigrant not in possession of nonimmigrant documents. The OSC ordered him to appear before an immigration judge for further proceedings.

10. On February 7, 1997, Defendant appeared with his attorney for his deportation hearing before an immigration judge. At the hearing, he conceded the allegations, conceded deportability, and requested various forms of relief from

removal. The immigration court notified him of the consequences of failing to appear at his next hearing, which was scheduled for September 24, 1998.

11. On September 24, 1998, neither Defendant nor his attorney appeared for the scheduled hearing. The immigration judge ordered him deported *in absentia* to Bangladesh.

12. The United States has no record that Defendant departed the country pursuant to the deportation order.

B. Defendant's Immigration Proceedings Under the Identity Abul Karim

13. On or about June 26, 1997, Defendant, now using the name Abul Karim, filed a Form I-485, Application to Register Permanent Residence or Adjust Status, with INS, based on being a Diversity Visa Lottery Winner. On his Form I-485 and the accompanying Form G-325A Biographic Information form, both of which he signed on June 20, 1997, Defendant represented that, *inter alia*:

a. His name was Abul Karim;

b. He was born in [redacted];

c. He had not previously used other names;

d. His father was [redacted]

e. His mother was [redacted];

f. He last arrived in the United States without inspection on February 2, 1996, at Plutsburgh, New York;

g. He had never been deported from the United States, removed from the United States at government expense, or excluded within the

past year, nor was he then in exclusion or deportation proceedings; and

h. He had never sought to procure or procured a visa, other documentation, entry into the United States, or any other immigration benefit by fraud or willful misrepresentation.

14. In support of his Form I-485, Defendant submitted a Bangladeshi birth certificate and a copy of his Bangladeshi passport in the name of Abul Karim.

15. On September 11, 1997, Defendant appeared at the INS Field Office in Arlington, Virginia, for an interview in relation to his Form I-485. At the end of the interview, INS approved his Form I-485 and Defendant was accorded lawful permanent resident status.

C. Defendant's Naturalization Proceedings Under the Identity Abul Karim

16. On October 3, 2002, Defendant filed with USCIS a Form N-400, Application for Naturalization, based on having been a lawful permanent resident of the United States for at least five years. On his Form N-400, signed under penalty of perjury, he represented that:

a. His name was Abul Karim;

b. He had not previously used other names;

c. He was [redacted];

d. He had never given false or misleading information to any United States government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal;

e. Neither removal, exclusion, rescission, nor deportation proceedings were pending against him;

f. He had never been removed, excluded, or deported from the United States;

g. He had never been ordered to be removed, excluded, or deported from the United States; and

h. He had never applied for any kind of relief from removal, exclusion, or deportation.

17. On October 8, 2003, Defendant appeared for an interview at the USCIS Philadelphia Field Office in Philadelphia, Pennsylvania, to determine his eligibility for naturalization. Defendant was placed under oath after confirming his identity by reviewing identity documents. During the interview, Defendant testified to the contents of his Form N-400 and, consistent with his written answers, that:

a. His name was Abul Karim;

b. He had no removal, exclusion, rescission, or deportation proceedings pending against him;

c. He had never been removed, excluded, or deported from the United States;

d. He had never been ordered removed, excluded, or deported from the United States; and

e. He had never applied for any kind of relief from removal, exclusion, or deportation.

18. During the naturalization interview, no changes were made to the written answers initially provided on his Form N-400. At the conclusion of his interview, Defendant swore under penalty of perjury that the contents of his Form N-400 were true and correct and again signed his name on the form.

19. On the basis of his written application and the testimony he provided during his naturalization interview, Defendant's Form N-400 was approved on April 8, 2005.

20. On May 5, 2005, Defendant took the Oath of Allegiance and was admitted as a citizen of the United States. He was issued Certificate of Naturalization No. [redacted]

D. Fingerprint Analysis Confirms Nurul Huda and Abul Karim Are the Same Individual

21. On or about October 9, 1996, Defendant, using the name Nurul Huda, provided fingerprints in connection with his ongoing immigration proceedings.

22. On or about October 26, 1997, Defendant, using the name Nurul Huda, again provided fingerprints in connection with his ongoing immigration proceedings.

23. On or about March 9, 2005, Defendant, now using the name Abul Karim, provided fingerprints in connection with his N-400 application for naturalization.

24. Analysis and comparison of the fingerprint submissions described in paragraphs 21–23 above confirm that the same individual provided all three fingerprint impressions.

IV. GOVERNING LAW

A. Congressionally Imposed Prerequisites to the Acquisition of Citizenship

25. No alien has a right to naturalization "unless all statutory requirements are complied with." *United States v. Ginsberg*, 243 U.S. 472, 474-75 (1917). The Supreme Court has underscored that "[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship." *Fedorenko v. United States*, 449 U.S. 490, 506 (1981); *see also id.* ("An alien who seeks political rights as a member of this Nation can rightfully obtain them only upon the terms and conditions specified by Congress[.]" (quoting *Ginsberg*, 243 U.S. at 474)).

26. Congress has mandated that an individual may not naturalize unless, *inter alia*, that person "has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years" and, during that period, "has been and still is a person of good moral character." 8 U.S.C. § 1427(a)(1), (3). The required statutory period for good moral character begins five years before the date the applicant files the application for naturalization, and it continues until the applicant takes the oath of allegiance and becomes a U.S. citizen. *Id.*

27. Congress has defined the term "lawfully admitted for permanent residence" to mean "the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws." *See* 8 U.S.C. § 1101(a)(20).

28. The term "lawfully" requires compliance with substantive legal requirements for admission, and not mere procedural regularity. *See* 8 U.S.C. § 1101(a)(20); *Gallimore v. Att'y Gen. of U.S.*, 619 F.3d 216, 223 (3d Cir. 2010) (quoting *In re Longstaff*, 716 F.2d 1439, 1441 (5th Cir. 1983)).

29. An individual who, by fraud or by willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided for in the Immigration and Nationality Act ("INA") is inadmissible. *See* 8 U.S.C. § 1182(a)(6)(C)(i).

B. The Denaturalization Statute

30. Recognizing that there are situations where an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or misrepresenting facts that are material to the decision on whether to grant his or her naturalization application, Congress enacted 8 U.S.C. § 1451.

31. Under 8 U.S.C. § 1451(a), a Court must revoke a U.S. citizen's naturalization and cancel his Certificate of Naturalization if naturalization was either:

a. Illegally procured; or

b. Procured by concealment of a material fact or by willful misrepresentation.

32. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship renders the citizenship "illegally procured." *Fedorenko*, 449 U.S. at 506.

33. Naturalization was procured by concealment of a material fact or by willful misrepresentation, where: (i) the naturalized citizen misrepresented or concealed some fact during the naturalization process; (ii) the misrepresentation or concealment was willful; (iii) the fact was material; and (iv) the naturalized citizen procured citizenship as a result of the misrepresentation or concealment. *Kungys v. United States*, 485 U.S. 759, 767 (1988).

34. Where the government establishes that a defendant's citizenship was procured illegally or by concealment of a material fact or by willful misrepresentation, "district courts lack equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

COUNT ONE

PROCUREMENT OF NATURALIZATION BY CONCEALMENT OF A MATERIAL FACT OR WILLFUL MISREPRESENTATION

35. The United States realleges and incorporates by reference the allegations in paragraphs 1–34 of this Complaint.

36. Under 8 U.S.C. § 1451(a), this Court must revoke Defendant's citizenship and cancel his Certificate of Naturalization because he procured his naturalization by concealment of a material fact or by willful misrepresentation

37. As set forth herein, throughout the naturalization process, Defendant willfully misrepresented and concealed, among other things: (i) his use of another

identity, including a different date of birth; (ii) his prior order of exclusion and deportation; (iii) his prior application for an immigration benefit; (iv) that he had given false or misleading information to a U.S. Government official while applying for an immigration benefit or to prevent deportation, exclusion, or removal; (v) that removal, exclusion, rescission, or deportation proceedings were pending against him; (vi) that he had been ordered to be removed, excluded, or deported from the United States; and (vii) that he had previously applied for relief from removal, exclusion, or deportation.

38. Defendant made such misrepresentations voluntarily and deliberately, despite knowing that such representations were false and misleading. Accordingly, Defendant made these misrepresentations willfully.

39. Defendant's misrepresentations were material to his naturalization because the disclosure of his multiple identities, multiple claimed dates of birth, prior application for an immigration benefit, prior order of exclusion and deportation, ongoing deportation proceedings, and prior representations to U.S. Government officials while applying for an immigration benefit would have had a natural tendency to influence USCIS's decision whether to approve Defendant's application for naturalization. Indeed, had USCIS been aware of this information, it would have denied his naturalization application.

40. Defendant thus procured his naturalization by willful misrepresentation and concealment of material facts, and this Court must revoke his citizenship pursuant to 8 U.S.C. § 1451(a).

COUNT TWO

ILLEGAL PROCUREMENT OF NATURALIZATION NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE (Inadmissible Based on Fraud or Misrepresentation)

41. The United States realleges and incorporates by reference the allegations in paragraphs 1–34 of this Complaint.

42. To qualify for naturalization, an applicant must have been "lawfully admitted" to the United States for permanent residence. *See* 8 U.S.C. §§ 1427(a)(1), 1429.

43. As noted above, the term "lawfully" includes compliance with substantive legal requirements, not mere procedural regularity. *See* 8 U.S.C. § 1101(a)(20); *Gallimore*, 619 F.3d at 223 (quoting *Longstaff*, 716 F.2d at 1441).

44. Among the applicable provisions in the INA at the time of Defendant's adjustment of status to permanent resident was the requirement that he be admissible to the United States. *See* 8 U.S.C. § 1255(a).

45. Under the law then in effect, as today, an individual who was seeking to procure (or had sought to procure or had procured) a visa, other documentation, admission into the United States, or other benefit provided under the INA by fraud or willfully misrepresenting a material fact was inadmissible. 8 U.S.C. § 1182(a)(6)(C)(i).

46. Defendant was never lawfully admitted to the United States as a permanent resident and cannot satisfy the requirements of 8 U.S.C. §§ 1427(a)(1) and 1429, because he was inadmissible at the time of his adjustment to permanent resident status.

47. Defendant sought to procure admission into the United States and other benefits provided for in the INA by fraud or willfully misrepresenting a material fact. Specifically, at the time Defendant adjusted his status to permanent resident using the name Abul Karim, he had previously sought to procure and had been denied an immigration benefit using the name Nurul Huda. In the course of his adjustment to permanent resident status, Defendant willfully misrepresented material facts, including his alternate identity and immigration history.

48. Defendant was inadmissible to the United States at the time of his adjustment of status and was not lawfully admitted for permanent residence. Accordingly, he illegally procured his naturalization, and this Court must revoke his citizenship pursuant to 8 U.S.C. § 1451(a).

COUNT THREE

ILLEGAL PROCUREMENT OF NATURALIZATION
LACK OF GOOD MORAL CHARACTER
(False Testimony)

49. The United States realleges and incorporates by reference the allegations in paragraphs 1–34 of this Complaint.

50. Defendant illegally procured his naturalization, because he was statutorily precluded from establishing the good moral character necessary to naturalize on account of his providing false testimony for the purpose of obtaining an immigration benefit.

51. As discussed above, an applicant for naturalization must satisfy the statutory requirement of demonstrating that he is a person of good moral character for the five-year statutory period before he filed his naturalization application, and

until the time he becomes a naturalized United States citizen. 8 U.S.C. § 1427(a)(3); 8 C.F.R. § 316.10(a)(1).

52. Defendant was thus required to establish that he was a person of good moral character from October 3, 1997, until he became a U.S. citizen on May 5, 2005.

53. Defendant was statutorily barred from establishing the good moral character necessary to naturalize because, during the statutory period, he provided false testimony, orally and under oath, for the purpose of obtaining an immigration benefit, including naturalization. *See* 8 U.S.C. § 1101(f)(6).

54. Specifically, as set forth above, Defendant provided false testimony for the purpose of obtaining an immigration benefit when he testified, orally and under oath, during his October 8, 2003 naturalization interview, that:

a. He had no removal, exclusion, rescission or deportation proceedings pending against him;

b. He had never been removed, excluded, or deported from the United States;

c. He had never been ordered removed, excluded, or deported from the United States; and

d. He had never applied for any kind of relief from removal, exclusion, or deportation.

55. Defendant's testimony on each of the questions discussed above was oral, under oath, knowingly false, and for the purpose of obtaining an immigration benefit, namely naturalization.

56. Because he provided false testimony orally and under oath for the purpose of obtaining his naturalization, Defendant was barred under 8 U.S.C. § 1101(f)(6) from showing that he had the good moral character necessary to become a naturalized United States citizen.

57. Because Defendant was not a person of good moral character, he was ineligible for naturalization under 8 U.S.C. § 1427(a)(3).

58. Because he was ineligible to naturalize, Defendant procured his citizenship illegally and the Court must revoke his citizenship pursuant to 8 U.S.C. § 1451(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests:

(1) A declaration that Defendant illegally procured his citizenship;

(2) A declaration that Defendant procured his citizenship by concealment of material fact and by willful misrepresentation;

(3) Judgment revoking and setting aside the order admitting Defendant to citizenship and canceling Certificate of Naturalization No. [redacted], effective as of the original date of the certificate, May 5, 2005;

(4) Judgment forever restraining and enjoining Defendant from claiming any rights, privileges, benefits, or advantages under any document which evidences United States citizenship obtained as a result of his May 5, 2005 naturalization;

(5) Judgment requiring the Defendant, within ten days of the entry of judgment against him, to surrender and deliver his Certificate of Naturalization No. [redacted] and any copies thereof in his possession or control—and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others—to the Acting Attorney General, or his designated representative, including undersigned counsel;

(6) Judgment requiring the Defendant, within ten days of the entry of judgment, to surrender and deliver any other indicia of U.S. citizenship (including, but not limited to, United States passports and passport cards, Enhanced Drivers License, and other relevant documents), whether current or expired, and any copies thereof in his possession or control—and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others—to the Acting Attorney General, or his representative, including undersigned counsel; and

(7) Judgment granting the United States any other relief that may be lawful and proper in this case.

Respectfully submitted,

Benjamin L. Wallace
United States Attorney

/s/ Dylan J. Steinberg
Dylan J. Steinberg
Assistant United States Attorney
1313 N. Market Street
P.O. Box 2046
Wilmington, DE 19899-2046
(302) 573-6277