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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON WEDNESDAY, MARCH 13, 2002

Jury Trial

Volume 17

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APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Wednesday Session, March 13, 2002, at 8:45 A.M.

(Proceedings in the absence of the jury:)

THE COURT: We've a couple things we have to deal with before we bring the jury in. Okay. So you can go ahead and open court.

THE COURT: Congressman?

MR. TRAFICANT: Your Honor, I have two oral motions to make to the court.

THE COURT: Okay.

MR. TRAFICANT: First one is I want the notes and records pertaining to FBI Agent Speranza and his rape of one of my constituents as held in Judge O'Malley's court.

Second, I want all the notes and documents of Agent Pikunas as including 302s of intimidation of one of my staffers.

THE COURT: Okay. I notice that you filed something this morning, which is why I have before the jury comes in given you an opportunity to do something.

I have a copy of something this morning, which --

MR. TRAFICANT: It's an affidavit.

THE COURT: Yeah, an affidavit, and we will deal with that, but we won't deal with it right this minute. These other two motions you need to reduce to writing. You can't make a motion of that kind orally.

It's too casual a way to do what it is that you want the Court to pay attention to.

And we'll go forward with whatever it is that you ended up filing, just like we do with any other motion. The Government will have an opportunity to respond to it.

MR. TRAFICANT: I'll be glad to do that.

THE COURT: Thank you. Bring in the jury, please.

(Proceedings resumed in the presence of the jury:)

THE COURT: You're still under oath. Thank you. Good morning, everyone.

THE JURY: Good morning.

CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON

BY MR. TRAFICANT:

Q. Good morning, Kim.

A. Good morning.

Q. I have a couple of questions that we didn't get through, and I would like to take them up. And I hope that you weren't inconvenienced by staying over.

A. Thank you.

Q. You recall when you were first interviewed by the FBI?

A. Yes.

Q. Approximately what was that date?

A. As I said yesterday, I -- I don't remember. It was

over a year ago, prior to the Grand Jury.

THE COURT: You're going to need to speak a little louder so everyone can hear you.

Q. Did I ever call you about this case at all?

A. No.

Q. Did I ever talk to you about your testimony?

A. No.

Q. Did I ever question you about subpoenas?

A. No.

Q. Now, you testified yesterday you met with attorney -- U.S. Attorneys Mr. Morford and Mr. Kall; is that correct?

A. Yes.

Q. When did you meet with them?

A. The first time was here in Cleveland, just before the Grand Jury.

Q. And when was the second time you met with them?

A. I guess I didn't hear from them again until -- it was either January or February. So it was maybe about a month ago. I'm not sure what the date was.

Q. So you testified then before and after, correct?

A. I did what?

Q. Before the Grand Jury, they talked with you?

A. Yeah.

Q. Then after the Grand Jury testimony, they talked to you?

A. Right, about a month or two ago before.
Q. Now, when they talked with you before you went to the Grand Jury, what were the discussions about?
A. They were just asking me questions about the -- what the office had done for Mr. Bucheit and just asked me questions about the letters.
Q. And what letters were they asking you about?
A. I can't remember exactly which letters, but a number of them were an exhibit yesterday.
Q. Were any of the letters the letters that went to Vice-President Al Gore?
A. I honestly don't -- I honestly don't remember which letters for sure that they asked me about and which they didn't.
Q. After Grand Jury testimony, you said they called you back -- what? -- about a month ago?
A. They came to Washington.
Q. Who all came to Washington, D.C.?
A. Well, I don't know. Everyone in their delegation, but as far as I'm aware, Matt -- I spoke with Matt Kall.
Q. At a meeting?
A. At a meeting, and I think FBI Agent Denholm, I think, was there, present, and Mr. Morford was in Washington, but he just greeted me, and I just spoke with Matt.
Q. Was Mr. Morford present at the meeting?

A. No, he wasn't, just -- he just came over and shook my hand and then went off, and I don't know what he did.
Q. Was your husband at that meeting?
A. No, he wasn't.
Q. Did they discuss anything to do with your testimony here today?
A. They just showed me the documents, the documents that were an exhibit and just explained that they -- I think I would be a factual witness, and they would be asking me questions about these documents, and they had me just look through them.
Q. They didn't ask you those questions at the Grand Jury?
A. I'm not -- I'm not sure what questions they asked.
Q. Did they show you documents at the Grand Jury?
A. I believe so.
Q. Did they ask you to bring your documents with you?
A. No, I think they already had the documents, and I -- I think they may have sent me them before I left to Washington. I can't -- I can't remember for sure.
Q. So there were two visits in Washington, one group with FBI people from D.C. and Virginia, right?
A. Right.
Q. And you had another meeting in Washington where you had U.S. Attorneys, FBI agents from Ohio. Were there

Virginia or D.C. FBI agents at that second meeting?
A. Not that I'm aware.
Q. Did you notice any video cameras?
A. No.
Q. You notice a tape recorder?
A. No.
Q. Did they ever ask you if they could record your testimony, your visit?
A. You mean at the second meeting? Are you still talking about the second meeting or the first?
Q. At any of them.
A. Oh, okay. I don't recall any video camera or anything at either meeting. As for a tape, I don't -- I don't remember a tape at the first meeting or -- and I don't remember one at the second, but that doesn't mean that the first -- my recollection of the first meeting is a little bit fuzzy, so I honestly don't remember if there was one present.
Q. Now, isn't it a fact that after you met in the District Office with the Virginia officers, you were informed you would be subpoenaed in this case?
A. Yeah. At one point they -- they called me to -- to present the subpoena to me.
Q. Now, when they first met with you, did they ask you to, quote unquote, voluntarily give them any documents you

held in your possession?
A. Yes.
Q. You testified yesterday you had concerns; is that correct?
A. Concerns about what?
Q. The documents.
A. Yes. I was just -- I was concerned that I wasn't going to do anything wrong by either turning them over or not turning them over.
Q. Why did you have those documents in your possession?
A. I -- it had been our office policy that upon leaving, we could take writing samples and things just to support the work we had done in case an employer -- a job interview ever asked you, you know, what kind of experience you have.
Q. Did you ever call the General Counsel of the House of Representatives?
A. Yes. I believe I called the House counsel.
Q. What was the purpose of your call?
A. I wanted to know if there was anything that came up during the Grand Jury if, you know, if it was possible they could provide me any type of support.
Q. That was before the Grand Jury?
A. Yeah, I believe so.
Q. Now, when you had concerns when they voluntarily asked you for the FBI -- for the documents at the first

meeting, you didn't turn them over; is that correct?
A. No. I did not bring them to the first meeting.
Q. Did you call the General Counsel at any time between then and the call you just talked to me about before the Grand Jury?
A. I believe that's when it took place. I can't -- I'm not positive.
Q. Do you know -- or do you have knowledge who was reviewing the documents for whether or not they could be used in this trial?
MR. KALL: Objection, your Honor.
THE COURT: Well, if you have knowledge.
THE WITNESS: I -- it might have been the House counsel.
I'm not positive it was the House counsel. I know -- there was an outside entity outside the -- your office that was reviewing the documents.
Q. And you called them?
A. I don't know if it was -- I'm not positive it was the same person or entity.
Q. You mentioned the speech and debate clause yesterday.
A. Yes.
Q. Is that correct?
A. Yes.
Q. Is that the reason you made the phone call?

A. To --
Q. To that entity, that was not my office.
A. No, not exactly. I was just interested in finding out whether, as a former staffer of congressional staffer, if I could possibly get any type of, you know, advice or support for anything prior to or during the Grand Jury, just in case the question came up, and I wanted to ask somebody a question.
Q. Yesterday, you testified you had concerns about the speech and debate clause. Is that a fact?
A. Yeah. I was concerned that I wasn't going to do anything wrong.
Q. At or about the time --
THE COURT: You have to talk a little louder. Your voice is dropping at the end of your sentences. Okay? Would you repeat your answer so everybody can --
THE WITNESS: I'm sorry. Can you repeat the question?
THE COURT: Well, you said you weren't let's have the reporter read it back.
(Thereupon, the record was read back by the Court Reporter.)
THE WITNESS: That's correct.
BY MR. TRAFICANT:
Q. Could you be approximate on your first meeting, the

meeting you had in the D.C. office? Can you give us an approximate time?

A. In --

Q. When you went to the D.C. office.

A. Which?

Q. For the visit with the FBI, the first visit?

A. Oh, in Virginia, you mean the approximate date?

Q. Yes.

A. No, I'm sorry. I just -- I can't remember exactly when it was.

Q. Well -- 302, 6-22.

MR. TRAFICANT: Your Honor, mine is marked, 302, 6-22, just for the purpose of --

THE COURT: You want to get the date from her.

MR. TRAFICANT: Page 1 and Page 4, yes.

THE COURT: Okay. I didn't look at Page 4, but if you want to see if that'll refresh her recollection, then you need to ask her more questions.

BY MR. TRAFICANT:

Q. Does this refresh your recollection? Look at the bottom. Could you read the date?

MR. KALL: Objection.

THE COURT: You can read the date.

THE WITNESS: The investigation on June 22,

2000.

Q. And can you look at the top?

A. Date of transcription, June 26th, 2000.

Q. And what does that say?

A. Federal Bureau of Investigation.

THE COURT: Okay.

MR. TRAFICANT: Okay. May I look at Page 4 real quick?

THE COURT: You're going to have to ask her more questions before you -- you can decide.

MR. TRAFICANT: Thank you, your Honor.

Q. So it was June 22 of the Year 2000. And you had concerns about the speech and debate clause, correct?

A. I had concerns during that period of time. I don't know when everything arose and everything happened. I just -- I don't want to commit to a date because I'm actually not positive when everything came up.

Q. But does that date now sound like the date that you were in -- where was the building? What building was it in by the way?

A. It was just a building in Tyson's Corner. They rented office space in the building.

Q. Okay. Now, the second time you met with them -- no, is that the time your husband came in?

A. Yes.

Q. Did you get there first?
A. Yes.
Q. What time did your meeting start?
A. It was -- I think sometime after work. I don't remember what time.
Q. And how long later was it that your husband appeared?
A. I'm not sure. He appeared probably within -- I don't know, less than a half hour.
Q. Okay.
A. I don't know.
Q. Were you asked to voluntarily turn over congressional documents in your possession regarding Congressman Traficant?
A. Yes.
Q. Did the FBI say that they may subpoena them if you do not?
A. Yes.
Q. And isn't it a fact that you still did not turn over the documents to the FBI that day?
A. Yes.
Q. Did the FBI ask you about the Bucci brothers?
A. Yes.
Q. Did the FBI ask you about a company by the name of Prime Contractors?
A. That I don't remember.

Q. Ask you about a company by the name of Asphalt Specialist?
A. I don't remember that either. They might -- they may have, but I don't really have any knowledge of any of those entities. So if they did, you know, I wouldn't -- I wouldn't remember if it's not something that I'm familiar with.
Q. Did the FBI ask you about a man named David Sugar?
A. I'm not sure. That name might have come up. I can't remember.
Q. Did Paul Marcone ever tell you -- or isn't it a fact that Paul Marcone told you that House counsel was to make the decisions on the Traficant case documents?
MR. KALL: Objection.
THE COURT: The objection is sustained.
Q. Did you have a conversation with Mr. Marcone about documents?
A. Yes. I -- I called him about the documents.
Q. How many different times did you call Mr. Marcone?
A. I can't remember, maybe once.
Q. Could it be more than once?
A. It could be. I can't remember.
Q. Did you ever discuss whether or not there had been a ruling on the speech and debate clause with anyone?
A. I don't remember anything about that.

Q. When you turned over the documents ultimately to the FBI, did you have any knowledge of whether or not the documents you were turning over were subject to the speech and debate clause?

A. No. I don't know. I mean, Paul just said that I should.

MR. KALL: Objection.

THE COURT: Sustained. You can't testify as to what somebody else said to you. That person can come in and testify.

BY MR. TRAFICANT:

Q. Did Mr. Bucheit visit the office often?

A. He usually visited, you know, as he did if there was something that he was asking the office to do.

Q. Did anyone ever tell you the documentation, documents may be withheld subject to the speech and debate clause?

MR. KALL: Objection.

THE COURT: Sustained.

Q. Did you ever have conversations with the FBI regarding --

MR. KALL: Objection.

THE COURT: Okay. We'll deal with this at the next break. The speech and debate clause is something which is a matter of law and something I have to deal with in this case and have been dealing with in this case.

And so we'll work it out at noon or at the next break what kinds of questions might be proper, if any, regarding it for your consideration.

BY MR. TRAFICANT:

Q. Your parents still live in Ohio, Kim?

A. Yes.

Q. Do you have any children?

A. No.

Q. You make more money now than you made when you worked for me?

A. Yes.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. KALL: Very short redirect, your Honor.

REDIRECT EXAMINATION OF KIMBERLY HARRIS BLITON

BY MR. KALL:

Q. Ms. Bliton, you were asked questions about documents that you turned over to the FBI. Do you recall those questions?

A. I'm sorry. Yes.

Q. Do you recall the questions that you were asked on cross regarding documents that the FBI asked you to turn over?

A. The questions the Congressman just asked me?

Q. Yes.
A. Yes.
Q. How did you have those documents? How did you come to possess them?
A. At the end of my employment in the Congressman's office, I took several as writing samples and so forth as I explained earlier.
Q. Were you given permission to take these documents?
A. Yes. It was general office policy. It was a common practice.
Q. Who gave you permission or set up that policy to your knowledge?
A. Paul Marcone.
Q. Were there any restrictions on what you could do with those documents that you took?
A. Not that I'm aware.
Q. Did anyone raise any disclosure concerns when you were allowed to take those documents when you left the office?
A. I'm sorry. Can you repeat the question?
Q. Well, why did you take these documents? What did you hope to use them for?
A. Well, I had, you know, just -- I had just gotten a master's degree in international commerce and policy, and I'd been kind of changing careers or focusing on

international trade and so forth in my career, and so I thought that if I -- whoever had questions come up on what kind of experience I had or the potential lawyer needed to see a writing sample, it would be something that I could provide.

Q. Did anyone at the office ever raise any kind of concerns with you regarding you taking those documents and showing them to prospective employers as writing samples?

A. No.

MR. KALL: No further questions.

THE COURT: Thank you.

RECROSS-EXAMINATION OF KIMBERLY HARRIS BLITON

BY MR. TRAFICANT:

Q. Now, the Government was asking you questions about the policy-taking of those documents. You said it was Paul Marcone?

A. I believe it was.

Q. Who was the custodian of records in the office, do you know?

A. I don't know that we had an official custodian. I'm not sure. I know Paul was generally our supervisor.

MR. TRAFICANT: 302, 6-22, Page 6.

MR. KALL: Okay.

THE COURT: Wait a minute, Congressman.

MR. TRAFICANT: I don't have a clean copy,

your Honor.

THE COURT: I know, but I want to see -- I'll give you a clean copy, but first let me see what it is -- which part of this --

MR. TRAFICANT: At this point, I'd like her to read.

THE COURT: You want her to read it?

MR. TRAFICANT: No. I want you to read it.

THE COURT: You want me to read it?

MR. TRAFICANT: I just want to give this to her to see if it refreshes her memory.

THE COURT: Okay.

THE COURT: Which part of this specifically do you think she needs her memory refreshed on?

MR. TRAFICANT: The first two-thirds of the paragraph reference specific --

THE COURT: Right. But she has answered consistently with these things, and I don't know what -- what is it that she has not remembered?

MR. TRAFICANT: She hasn't remembered --

THE COURT: Don't say it out loud. Just show it to me. Which part has she not remembered?

MR. TRAFICANT: (Indicating.)

THE COURT: Okay. Just a minute.

MR. TRAFICANT: From here, read from here on.

(Indicating.)

THE COURT: Okay.

MR. TRAFICANT: She was advised.

THE COURT: Sh, sh, sh.

MR. TRAFICANT: And then read from here down.

(Indicating.)

THE WITNESS: I am done.

THE COURT: Okay.

MR. TRAFICANT: From there down. I want you to read that.

THE COURT: I see it. I want to count down these lines. So if one of them can come up here and show me the lines --

MR. TRAFICANT: I'll show it to them if you'd like, your Honor. But if you would rather do it in case --

THE COURT: No. If you want to use my copy. Why don't you use my copy since yours is marked up? I'm just holding on to --

MR. TRAFICANT: I may put a dot that can be erased, your Honor.

THE COURT: We could send you guys out for a break, but I don't think this is going to take very long. Okay? Just rest and relax.

MR. KALL: That section appears to be consistent with her testimony, your Honor.

THE COURT: Right. That's what I see.

MR. TRAFICANT: I object. That is not consistent, and I want to refresh the memory of the witness.

THE COURT: I understand, but she's testified at length about these things. I don't see what's inconsistent in this, in the area from here.

MR. TRAFICANT: Let's look at here.

THE COURT: So we'll make a record of this at the next break.

MR. TRAFICANT: Let's look at this.

THE COURT: Um-hum.

MR. TRAFICANT: And I want you to read that sentence. Let me mark it for you, Mr. Kall.

THE COURT: Well, this -- this is the sentence you marked, Congressman; is not inconsistent with her testimony, but more than that, she has testified to it. In other words, there's no -- there's no memory to --

MR. TRAFICANT: I object.

THE COURT: Okay.

MR. TRAFICANT: I object to the fact you're limiting my cross-examination of this witness on the speech and debate clause.

THE COURT: Okay.

MR. TRAFICANT: For the record.

THE COURT: All right. Very well. Now, will you move on to a different topic, please? Thank you.

BY MR. TRAFICANT:

Q. So Paul Marcone gave you these records, documents to take with you when you retired, when you --

A. As I stated, it was just general office policy that -- I mean, plenty of other staffers as they departed did exactly the same thing. I don't think it's an unusual practice really anywhere.

Q. That might be fine, but did you not, in fact, want to take the most impressive documents you had to influence your employers?

A. I was just trying to substantiate what I had done and tried to -- I just in terms of employers down the road, I knew that my memory would fade about this case, and I just wanted to know -- I was wanting to remind -- I wanted to use them sort of as a refresher even for myself in terms of what I had done and what the case was about.

Q. That was the Bucheit Gaza case?

A. Yes.

Q. So you took the letters that you drafted basically that were sent to Vice-President Al Gore from my office, right?

A. Generally, yes.

Q. And then you turned them over to the Government,

right?
A. They asked me to, and I complied.
Q. Were you at any time instructed that the General Counsel of the House of Representatives would be the determinate who would make decisions on what documents would be subject or not subject to the speech and debate clause?
MR. KALL: Objection.
THE COURT: Sustained.
Q. Isn't it a fact you had great concerns over the documents you had in your possession?
A. I was concerned that I wouldn't do the wrong thing and just wanted to make sure I was doing the right thing either way.
Q. But you knew there was a thing known as a speech and debate clause, and you, in fact, testified to that, correct?
A. I was familiar with it, yes.
Q. And isn't that the reason you called and made calls relative to the documents you had in your possession?
A. Calls to whom?
Q. To anyone concerning the Bucheit case or any documents you had in your possession, whether it was Bucheit or Secretary Baker or secretary of commerce or anybody you might have written to from our office?

A. Yes. I just -- I -- well, I called Paul Marcone just to confirm that I wasn't going to get myself in any trouble by turning over any documents.

Q. And it is your understanding that you were never instructed by anyone that the General Counsel of the House was reviewing the documents?

MR. KALL: Objection, your Honor.

THE COURT: The objection is sustained. If you ask another question in this line, I'll have to let the jury go so that we can stop and discuss it.

MR. TRAFICANT: I don't want to do that.

THE COURT: But I'd rather have you continue with this witness while the jury is here.

MR. TRAFICANT: I will do that.

THE COURT: Thank you.

MR. TRAFICANT: Thank you.

BY MR. TRAFICANT:

Q. Now, when a letter is written from the Congressman and someone types it, how could you identify who typed the letter?

A. There are initials at the bottom.

Q. Do you have some letters there?

A. Yes.

Q. Do you have the letters of the vice-president there?

A. Yes.

Q. Now, down at the bottom, does it have the initials JAT?
A. Yes.
Q. Does it have a slash after it?
A. Yes.
Q. What are the initials?
A. KHB.
Q. And who did KHB stand for?
A. For me.
Q. Did you write the letters?
A. Yes, I did.
Q. And those are the documents you turned over to the Government?
MR. KALL: Your Honor, may I ask what exhibit number he's referring to for the record, please?
THE COURT: Yes.
Q. Could you please read the exhibit numbers for our --
A. The one I'm looking at right now is Exhibit 7-44.
Q. And would you explain what 7-44 was in essence just basically?
A. It's a letter to Vice-President Al Gore from the Congressman's office.
THE COURT: Keep your voice up, please.
THE WITNESS: Sorry.
Q. There was another one from the vice-president?

A. There's another one. It's Exhibit 7-45.
Q. And what -- first of all, what was the date on 7-44?
A. May 22, 1997.
Q. And was it WITH handwritten notes on it?
A. Yes.
Q. Now, when was the second one, 7-45, what was the date on that?
A. This one says June 17, 1997.
Q. 19 -- when? -- 97?
A. 1997.
Q. And who was that letter to?
A. Vice-President Gore.
Q. And who was it from?
A. It's from you.
Q. Now, the bottom left, are my initials there?
A. Yes.
Q. Is there a slash?
A. Yes.
Q. And are there initials following that?
A. Yes.
Q. What are the initials?
A. KHB.
Q. Did you draft that letter?
A. Yes.
Q. Did you turn these two letters over to the FBI

voluntarily?

A. I believe I did.

MR. TRAFICANT: No further questions.

THE COURT: All right.

MR. KALL: Nothing further, your Honor.

THE COURT: Thank you.

THE COURT: Just wait there for a second. Congressman, if you will wait a minute, I can't deal with your standing question for a reason I assume -- but let me just check something so we can move on.

MR. TRAFICANT: I thought you may need some assistance.

THE COURT: Thank you.

MR. TRAFICANT: But I'm also standing to recommend that maybe the jury can be given an early break to discuss the matter.

THE COURT: Well, it's really early, and so I want to just go back for a second. I'm going to let you stand down at this point. We'll go forward with other witnesses, but I'm going to ask you to stay available for a period of time. It won't be a long period of time. So that in the event after the break in the morning, we need to call you back for any reason, you'll be available. Okay? Thank you very much.

THE WITNESS: Okay.

MR. TRAFICANT: Your Honor, do I have the right to recall any Government witness?

THE COURT: Let's talk about this at the break. Okay?

MR. SMITH: The Government calls Robert Gatti.

ROBERT J. GATTI,

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF ROBERT J. GATTI

BY MR. SMITH:

Q. Sir, would you please state your full, and spell your last name for the Court Reporter?

A. Robert Joseph Gatti, G-A-T-T-I, Junior.

Q. And what city do you reside?

A. Hubbard, Ohio.

Q. And what county is Hubbard in?

A. Trumbull County.

Q. What specific work do you do now?

A. I work for Trumbull County Engineers, heavy equipment operator, and own my own home improvement business.

Q. Sir, do you know a person named Kurt Bucheit?

A. Yes, I do.

Q. You know a person named Bernard J. Bucheit?

A. Yes, I do.
Q. Who was Kurt Bucheit?
A. Kurt Bucheit was a school boyfriend of mine and still is a friend of mine, that I worked with his family in the Bucheit Companies.
Q. And who was Bernard J. Bucheit?
A. Kurt's father, the owner of Bucheit Companies.
Q. Have you ever had any employment relationship with the Bucheits or any of their businesses?
A. Yes, I have.
Q. And when was that?
A. Early to mid'90s.
Q. And what work did you perform for them?
A. Various tasks. I was a laborer, carpenter, foreman.
Q. And where were you working for them?
A. Various places, Washington, D.C., in Pennsylvania, various areas in Youngstown, Ohio.
Q. Did Bernard Bucheit go by any nickname that you're aware of?
A. No.
Q. Near the time that you were working in Washington, D.C., did the name David Manevich arise in connection with your relationship with the Bucheits?
A. Yes.
Q. Who was David Manevich?

A. David Manevich was a friend of Kurt's and myself's, and at the time, we were in the Bucheits' Boardman office, and Pete and Kurt asked me if I knew a carpenter that can do some work at Mr. Traficant's farm.

Q. You just referred to a person named Pete. Who was Pete?

A. Pete Bucheit.

Q. All right.

And is he any different than Bernard J. Bucheit?

A. I always known him as Pete Bucheit.

Q. Is Bernard J. Bucheit and Pete Bucheit the same person?

A. Yes.

Q. Is Pete his nickname?

A. I don't know. I've known him as Pete.

Q. Very good.

What was David Manevich's profession?

A. Dave Manevich was a carpenter.

Q. And how did Mr. Manevich's name arise between you and the Bucheit's?

A. Repeat the question, please.

Q. How did Mr. Manevich's name come to arise between you and the Bucheits?

A. Like I stated earlier, that Mr. Bucheit and Kurt asked me if I knew anybody that could do some work at

Mr. Traficant's farm, and I looked in my book and found Dave Manevich's name and called Dave Manevich and asked him if he would like to do some work at Mr. Traficant's farm, and Mr. Bucheit would pay him.

Q. All right.

And how long after you talked to the Bucheits, did you talk to Mr. Manevich about going out to do this work?

A. It was that morning or that afternoon in the office. It was just minutes, I guess, 15, 20 minutes, or less.

Q. Now, were you responsible for paying Mr. Manevich in any way for this work?

A. No, sir.

Q. Did you ever go out to the farm yourself?

A. No, sir.

Q. Do you have personal knowledge of the final scope of the project or the work that was done at the farm?

A. No, sir.

Q. Do you have any personal knowledge of the financial arrangements, if any, between the Bucheits and Congressman Traficant?

A. No, sir.

Q. Did you ever meet Congressman Traficant personally?

A. Yes, sir.

Q. And was this before or after you referred the Maneviches to the Bucheits -- or -- withdrawn.

Is that before or after you referred David Manevich to the Bucheits?

A. I believe it was after.

Q. Under what circumstances did you meet Congressman Traficant?

A. Kurt and I were going to meet Mr. Traficant on his boat because Mr. Traficant needed some work done on his boat. So we met Mr. Traficant in the afternoon and went down there to look at the boat, to see what work needed to be done.

And we got down there, and we discussed certain things with Mr. Traficant, such as there should be a special type boat carpenter that would do the work there because it was out of our league, and we discussed getting a couple estimates for him, and that's as far as it went.

Q. Okay.

What -- as you observed the boat, what kind of condition was the boat in?

A. It needed some work.

Q. All right.

Are you able to describe the type of work that appeared to you the boat needed?

A. It needed resurfacing. There was some rotted wood. Mr. Traficant pointed out there were some leaks when we went inside the boat.

Q. Did you ever go out to that boat again?
A. I think we met one of the two persons to give an estimate on the boat afterwards sometime in the next couple weeks after we met with Mr. Traficant.
Q. Did the Congressman explain why he wanted you and Kurt to get estimates as opposed to getting them himself?
A. No.
Q. Who was actually in charge of getting the estimate, you or Kurt?
A. We were told by his father, but we both went down together, but Kurt handled it after that.

MR. SMITH: May I have a moment, your Honor?

THE COURT: Yes.

MR. SMITH: Nothing further, your Honor.

CROSS-EXAMINATION OF ROBERT J. GATTI

BY MR. TRAFICANT:

Q. How are you doing, Robert?
A. Good.
Q. You drive up from Hubbard today?
A. Yes, sir.
Q. When did you start growing that beard?
A. It comes on and off during hunting season. It'll be coming off shortly, spring time.
Q. When is hunting season by the way?
A. It starts in September, turkey season starts in

April.

Q. And pardon?

A. And turkey season starts in April.

Q. What starts in September, what season?

A. Small game.

MR. SMITH: Objection, relevance, your Honor.

THE COURT: That's okay.

MR. TRAFICANT: Can he answer?

THE COURT: Yeah.

Q. Is there two different deer seasons?

THE COURT: Okay. That's a problem. I mean, it's okay to just start gently, but we have to stay with the case because we have to give them evidence they can use.

BY MR. TRAFICANT:

Q. Now, you just testified that you were asked if you knew a carpenter, correct?

A. Yes, sir.

Q. And you were asked by who you know as Pete?

A. Yes, sir.

Q. And now you understand that his real name is Bernard Pete Bucheit?

A. Yes, sir.

Q. Or Bernard J., whatever. But he is one in the same person, is he not?

A. Yes, sir.
Q. And he asked you if you knew a contractor?
A. Yes, sir.
Q. You do contracting work?
A. Yes, I do.
Q. Do you do construction work?
A. Yes, I do.
Q. Did they ask you to do it?
A. No, sir, because at the time I was working with them in Washington, D.C.
Q. Okay.
So you recommended somebody?
A. Yes, sir.
Q. Do you know if there was an agreement made between the parties?
A. A verbal agreement, I believe so.
Q. Were you ever told how much the pay would be?
A. No, sir.
Q. Did you ever have discussions with Mr. Manevich about what his pay would be at the farm?
A. No, sir.
Q. Hourly wage?
A. No, sir.
Q. I'll ask you to look at a 302 dated on the bottom 8-8-2000.

MR. TRAFICANT: 8-8-2000, your Honor, second paragraph. You might find it. I'm sure you have a clean copy. Can I use it?

THE COURT: You can use it. Let me get a clean copy.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: I don't have a clean copy.

MR. TRAFICANT: Do the prosecutors have a clean copy?

THE COURT: Of Page 2?

MR. SMITH: No. Mine is not clean either, your Honor. I'm sorry.

THE COURT: Wow. You're concerned about --

MR. TRAFICANT: Mine is.

THE COURT: Yeah. See about -- if that's the area you're talking about. Is it? It looks to me like it's the area you're talking about.

MR. TRAFICANT: Read from where it says "Gatti contacted."

THE COURT: Yeah; is that right? Is that what's underscored?

MR. TRAFICANT: Yes.

THE COURT: Fine. I'll keep this up here, and you use that one. It doesn't have as many notes as yours.

MR. TRAFICANT: But he can't read it.

THE COURT: He can use it to refresh his recollection. Don't read it out loud, just to yourself.

Q. I want you to read now just this second -- this paragraph right here to yourself.

First of all, would you identify this for the jury on the first page, what is it?

A. Federal Bureau of Investigation.

Q. And what is the date here?

A. 8-8-2000.

Q. And what agent interviewed you?

A. Peter Proach.

Q. And do you remember that interview?

A. Yes, I do.

Q. Where did it take place?

A. On the porch at my house.

Q. Okay.

And I want you to read Paragraph 2, starting with Gatti advised. Read the whole thing to yourself. Then I want you to give it back to me.

Does that refresh your memory?

A. Yes, sir.

THE COURT: Let's trade back, Congressman. These are your notes.

MR. TRAFICANT: You mean yours was dirtier

than mine?

THE COURT: You know, that's not the case. This just has a few lines on it.

MR. TRAFICANT: Okay. Thank you, your Honor.

Q. Did you find out what the agreement was between Mr. Bucheit and Mr. Manevich, per hourly wage?

A. From reading it, it said $10 an hour.

Q. Do you know if Mr. Manevich, in fact, did the job?

A. Yes, he did.

Q. Were you aware of a job between Mr. Bucheit and Mr. Passewitz?

A. Of the Bucheit Company you're speaking of?

Q. Yes.

A. Yes, sir.

Q. Do you know if, in fact, they that went to arbitration?

A. Yes, it did.

Q. Do you know who won the arbitration?

A. Mr. Birkett.

Q. Now, you were asked about the boat?

A. Yes, sir.

Q. Was it a big boat?

A. It was a closed in cabinet.

Q. Did it have a -- could you drive it from up on top?

A. I don't recall.

Q. You know how many engines it had?
A. I don't recall.
Q. Your skill was in wood, would you say?
A. Yes, sir.
Q. And your testimony was it needed woodwork?
A. Yes, sir.
Q. Now, you said -- and you brought up the term estimate?
A. Yes, sir.
Q. Who asked for the estimate?
A. I believe it was you.
Q. Did I ask you for an estimate of how much it would cost you to prepare my boat, Bob? Yes or no.
A. Not directly. You said to get an estimate, to see how much it would cost to fix the boat.
Q. But did I, in fact, not ask you and Kurt who were there to do that?
A. Yes, sir.
Q. Did I ask you to do anything free on that boat?
A. No, sir.
Q. Now, wasn't it a fact at the time you were working down in D.C.?
A. Yes, sir.
Q. Did you do carpentry work?
A. Yes, sir.

Q. Would that not have been a pain in the butt for you to do that job?
A. It was out of my classification.
Q. It would have been a pretty tough job, wouldn't it?
A. Yes, sir.
Q. You would have had to be a skilled boatsman, a skilled repairman who did wooden boats. Is that a correct statement?
A. Yes, sir.
Q. Could any layman who did not have skilled knowledge of boat building repair that boat?
A. I do not believe so, sir.
Q. You consider yourself to be a skilled carpenter?
A. Yes, sir.
Q. Could you build a building?
A. Yes, sir.
Q. Could you resurface that desk?
A. Yes, sir.
Q. And you couldn't do the job that was needed on that boat, right?
A. No, sir.
Q. Were you afraid of me?
A. No, sir.
Q. Was Mr. Bucheit afraid of me?
A. You'd have to ask Mr. Bucheit.

Q. That's a good question. Coming from my district, do people fear me?
A. You have to ask the people, sir.
Q. To the best of your knowledge, am I feared back home?
A. Not from what I've heard, sir.
Q. Am I liked back home?
A. From what I've heard, yes.
Q. Was I a touchy-feely guy with you?
A. Just a normal guy thing. I mean, you gave me a pat on the back, shook my hand, how you doing, stuff like that, normal, nothing out of the ordinary.
Q. Did I ever touch you on parts of your body to see if maybe you were wearing a body recorder?
A. I don't think so, sir.
Q. When was the first time you met with the Government? Well, I believe you already said that it was August 8 of 2000, right?
A. Yes, sir.
Q. Did you notice if there was a recorder?
A. Recorder where, sir?
Q. Tape recorder in view?
A. No, sir.
Q. Did they ask you about the Saudi Arabia deal?
A. Yes, they did.
Q. Did you ever work overseas for Mr. Bucheit?

A. No, sir.
Q. Did you know that he had extensive overseas investments?
MR. SMITH: Objection. Personal knowledge.
THE COURT: Did you have personal knowledge?
BY MR. TRAFICANT:
Q. Did you have personal knowledge that he had done work overseas?
A. Yes, sir.
Q. Did I ever ask you to come to my farm?
A. Not that I can remember, sir.
Q. Could you have repaired my barns if I needed it?
A. Yes, sir.
Q. Were you very close friends with Kurt Bucheit?
A. Yes, I was, or yes, I am.
Q. Are you still?
A. Yes, sir.
Q. Did the FBI ask you if anybody else other than Manevich did work at the farm?
A. I believe they did.
Q. Were you truthful when you talked with the FBI?
A. Yes, I was.
Q. Were you truthful when you testified before the Grand Jury?
A. Yes, I was.

Q. Now, did the Government talk to you before you went in to talk to the Grand Jury?
A. Mr. Morford just explained what was going on when you went into the Grand Jury. You're going sit there. You're going to be sworn in, and I'm going ask you some questions. You're going to answer them.
Q. Did he tell you what those questions were?
A. No, sir.
Q. Could a plumber have fixed the woodwork on my boat?
A. I don't think so, sir.
Q. Could a social worker have performed work on my boat?
MR. SMITH: I'll object to that, your Honor.
THE COURT: The objection is well taken unless he has some reason to know a particular social worker who could or couldn't have done it.
BY MR. TRAFICANT:
Q. Could an office worker with no carpenter skills have done work on that boat?
A. I don't believe so, sir.
MR. TRAFICANT: No further questions.
THE COURT: Okay.
MR. SMITH: No redirect.
THE COURT: Thank you, sir. You're excused.
MR. SMITH: The Government calls Thomas Passewitz.

THE COURT: Would you raise your right hand, please?

THOMAS R. PASSEWITZ

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF THOMAS R. PASSEWITZ

BY MR. SMITH:

Q. Sir, could you please state your full name, and spell your last name for the court reporter?

A. Thomas Ray Passewitz, P-A-S-S-E-W-I-T-Z.

Q. What do you do for a living, sir?

A. I'm an electrician.

Q. And where do you work now?

A. Now, I'm presently employed by IBEW, Local 64 in Youngstown.

Q. And how long have you been an electrician?

A. About 26 years.

Q. Do you have any kind of certification or training as an electrician?

A. Yes. I'm classified as a journey man.

Q. From 1978 to 1994, where did you work?

A. I was employed by Aey Electric in Youngstown.

Q. For the court reporter's benefit, could you spell Aey?

A. A-E-Y.
Q. And what was the nature of the business in which Aey Electric was located or engaged?
A. They are a residential, commercial, industrial electrical contractor.
Q. Who were the proprietors of Aey Electric?
A. At the time of my employment was Mr. Richard Aey.
Q. During your employment with Aey Electric, were you assigned to do work on a farm located at Route 165 in Greenford?
A. Yes, I was.
Q. Who directed you to go out to that farm to do that work?
A. Mr. Aey.
Q. Did you ever meet the person who occupied the premises?
A. It would be more specific. There was a housekeeper there, Sandra Ferrante. I met the Congressman several times there, also.
Q. About what year did this occur that you went out to do this work?
A. Summer and fall of 1993.
Q. Approximately how many days did you spend working out at the farm?
A. I can't be certain, but I spent quite a few days out

there.
Q. At what hourly rate was your time billed out during 1993?
A. I believe the company's rate at that time was $35 per hour, plus material.
Q. And did you work consecutive days at the farm, or was your time spread out over a period?
A. Depending on how the progress of the job went, sometimes it was consecutive days. Sometimes it would be a break between me showing up again on the job location, depending how the progress went.
Q. All right.
And what job was being done?
A. I was mainly there for the addition of a two-story on the back side of the house.
Q. And would you describe for the jury what work that you did to the addition on the back of the house?
A. Well, as an electrician, I was there to install convenience outlets, switching, and any specific power requirements needed for the addition.
Q. Did you meet any of the workers who were building the addition?
A. Yes. I met fellow craftsmen, you know, carpenters, dry wallers, anybody that was on the job site as I was there.

Q. What was the approximate value of the electrical work that you did out at that farm over the entire course of your work there?
A. I have no idea.
Q. Do you -- can you give any -- even a ball park estimate, roughly?
A. Several thousand at least.
Q. Did you personally have any responsibility for billing the customer?
A. No, I did not.
Q. Who did the billing at Aey Electric company?
A. Mr. Richard Aey.
Q. Did you ever discuss any of the work that you were doing with the Congressman as you were doing it?
A. Normal communication between a customer and a tradesman. You know what location you would want your outlets, what location you would want your switches, any particular type of fixture you would want installed, the normal talk you would have with a customer.
Q. How were you paid for your work?
A. I received a weekly check.
Q. From?
A. At that time Aey Electric.
Q. Did Congressman Traficant pay you any money in connection with your work?

A. No.
Q. Do you know -- do you have any personal knowledge as to what, if any, financial arrangements Aey Electric Company had to be reimbursed for your services out at the farm?
A. I have no knowledge.
MR. SMITH: May I have a moment, your Honor?
BY MR. SMITH:
Q. Did the size of the project from an electrical viewpoint ever change as time went on, or was it the same the whole time?
A. Besides wiring the addition, I also had a little bit of rewiring in the main -- main structure of the house, the cellar, some of the garage.
Q. Did you work on any structure other than the house and the addition?
A. Just the attached garage.
Q. All right.
MR. SMITH: Very well. Thank you. No further questions.
THE COURT: Congressman.

CROSS-EXAMINATION OF THOMAS PASSEWITZ

BY MR. TRAFICANT:
Q. Good morning, Tom.
A. Good morning, Congressman.

Q. People back home fear me?
A. I'm sure they have mixed emotions about it.
Q. Do you fear me?
A. I don't believe I'm here to express an opinion.
Q. Did I ever threaten you?
A. Excuse me?
Q. Did I ever threaten you?
A. No, you have not.
Q. Did you ever see me threaten anybody?
A. I have not personally seen it, no.
Q. Now, you said you met fellow workers out there, right?
A. Correct.
Q. Craftsmen?
A. Correct.
Q. In the house?
A. On your addition.
Q. On the addition.
Now, when you got there, was the addition about done?
A. No. It was just in the beginning process.
Q. And you did the wiring?
A. Correct.
Q. Did you put up any light fixtures?
A. Towards the end of the job, yes.
Q. Which ones?

A. I believe on the first floor of the addition, you have a ceiling fan, and I'm not sure what you had on the second floor of the addition.
Q. A ceiling fan?
A. Yes, because that -- one time we were discussing the location of the switch board. If I recall, the switch is located between the two bay windows you have.
Q. Now, when Mr. Aey sent you on a job, did you bill the customer, or did Mr. Aey bill the customer?
A. At the end of each day I was there, I would turn in a time sheet, stating the number of hours and brief job description of that day to Mr. Aey.
Q. Would you give that to the customer?
A. No.
Q. Did you ever give me any of that?
A. No. That is company paperwork.
Q. Now, you say you're a journeyman now?
A. Yes.
Q. And you're -- you're employed by local?
A. 64.
Q. And that is a labor union?
A. Yes, it is.
Q. And so isn't it a fact they assign you to the job when someone needs it?
A. Yes.

Q. So are there many times when you're unemployed?
A. There are periods of time I am unemployed, yes.
Q. Now, you said when you worked on the Traficant farm, you got paid $35 an hour?
A. No. That was what the company charges. That was the service rate at that time.
Q. I see.
How much did you get paid per hour for that job?
A. I believe my hourly rate at that time was either $15 or $16 per hour.
Q. Did Mr. Aey ever tell you this was a favor for Mr. Traficant?
A. No, he did not.
Q. Did you ever discuss it with him?
A. It was not my place to discuss billing with the company. I was there to perform a certain task, and that was it.
Q. Now, when you went to any property, Mr. Jones' property, assigned by Mr. Aeyd, would you inquire as to the agreement between Mr. Jones and Mr. Aey?
A. Well, if I was going to Mr. Jones' house, Mr. Jones would be billed two ways: One way would be already have a written contract, which Mr. Aey would have went out and estimated the work and wrote him up a proposal, or I would have went to Mr. Jones' house and did what they call T and

M, time and material.

At that time, Mr. Jones would be billed an hourly rate of $35 per hour plus labor and material I would use.

Q. And was this a $35 per hour job as understood it?

A. I have no -- I wouldn't know what arrangements were made, whether it was a proposal or whether it was a time and material.

Q. How many times did you meet with me out there?

A. I believe three times.

Q. Did we greet each other?

A. Yeah. We -- we greeted each other, yes.

Q. How would we greet each other?

A. How are you doing, Tom? I'd say fine, Congressman, how about yourself?

Q. Did we ever shake hands?

A. I believe initially we did.

Q. Now, when Mr. Aey would send you out to a customer, would the customer pay you, or would Mr. Aey pay you?

A. Sometimes the customer would pay me. If the customer wished to pay me instead of being billed, I would either call the shop and ask him what the amount was on the proposal, or I would call the shop and relay whatever material plus my time, and I would get a price back, and I would convey that to the customer and wait for him to pay or her to pay.

Q. And you estimated the amount of work done at the Traficant farm at several thousand dollars?
A. I'm only estimating by what their hourly rate was and the time I spent there. I have no -- I have no exact figure what it would be.
Q. About $35 an hour, three hours would be $100, right?
A. Correct.
Q. And you worked off and on depending upon the process and the project?
A. Correct.
Q. Did Sandy ever ask you to do anything?
A. I cannot recall.
Q. When you were there, did you always see Sandy?
A. Majority of the time I was there.
Q. When you showed up, what was the usual time that you showed up in the morning?
A. Well, I would start for work at 8:00. By the time I would travel from west side of Youngstown to the farm in Greenford, I would say a good half hour travel time, 8:30 or so.
Q. Say 8:30 approximately?
A. Approximately.
Q. Would you know my father if my father walked in that door?
A. I would not.

Q. Were you ever told who built the deck?
A. I understand Bucheit Construction was doing the general contractor on it.
Q. The deck itself and all the additions?
A. Correct.
Q. And who told you that?
A. Mr. Aey.
Q. Did you ever ask the carpenters who built the deck?
A. Well, yeah. We would talk, and I would ask who they were employed by and, they would tell me by Bucheit Construction, plus I also believe on some of the tools might have been labeled Bucheit Construction.
Q. Some of the --
A. The tools, ladders, saws.
Q. Did Mr. Aey tell you that Mr. Bucheit and he had an agreement?
A. No. Mr. Aey did not ever tell me Mr. Bucheit and Aey had an agreement. Mr. Aey did tell me that Mr. Bucheit called him up and asked for him to send an electrician out.
Q. And that's -- that's how you got the job that got you on the witness stand today, right?
A. Yes.
Q. Now, you said you went and worked in the basement. Did you have to put in some breakers?
A. Yes, I did.

Q. Why?
A. As I recall, I replaced the whole breaker panel because the existing one was quite overloaded, and then you were adding the addition to it, and we thought it would be wise to change and put a larger breaker panel in.
Q. And did you say I asked you to do that?
A. I can't recall how it came about it being replaced. Maybe it was a recommendation to you. I'm not sure.
Q. Would you say the wiring in that place was unsafe?
A. I'd say the wiring was typical for an old farmhouse, the way it was. There were certain sections of it were very questionable, it being unsafe. It's how you want to classify unsafe. If we have a fire tomorrow, possibly. If not, who knows, could last another 50 years.
Q. Was the basement very fancy?
A. No, it was quite cluttered.
Q. I didn't ask you if it was cluttered or dirty. I asked if it was fancy.
A. No.
Q. Was the basement door secure?
A. I know you had -- you had an entrance to the basement from the rear ground level, but I can't recall the type of door, whether it was wooden, steel, secured, or not.
Q. Is that where you entered the basement?
A. Majority of the time.

Q. Did I ever grab you or hug you?
A. No, I don't believe so. You did shake my hand once.
Q. Did you consider the times that we were together to be friendly?
A. Yes.
Q. And did Mr. Aey pay you for the job?
A. I got paid a weekly salary, whether your job lasted that entire week or I was on various jobs through the course that have week, I received a weekly paycheck.
Q. Would your paycheck itemize what jobs you did and how much was for each job?
A. No. My paycheck was not itemized.
Q. Was there any payment in cash to you?
A. I don't believe I ever received a payment.
Q. No. I mean, was there any payment in cash?
A. From Mr. Aey?
Q. Yes.
A. No.
Q. When you left, were you still concerned about the wiring problems at the house?
A. When I finished the job, I was quite certain the wire was in satisfactory order.
Q. Yours or the house?
A. I was quite certain the house wiring was -- met code at that time.

Q. Where did the FBI meet with you?
A. Initial visit of when the FBI was in my residence --
Q. And what street was that again?
A. Birch Trail, Austintown.
Q. Birch?
A. Birch Trail, Austintown.
Q. How many came to see you?
A. Well, when I -- the initial visit, there was two agents. I wasn't home at the time, so when they came back, there was only one.
Q. Did they call you before they come?
A. According to my wife, yes, they did.
Q. On the first visit, did they call your wife and tell her that the FBI was coming out?
A. I don't believe so.
Q. In other words, they made a cold visit to your house. Would that be a fair statement?
A. That would be a fair statement.
Q. Now, when they found out you weren't home, did you have conversations with your wife?
A. I believe they asked my wife where I was, and she replied that I was at work and what time I would be coming home.
Q. You know what time they visited your house that day when you weren't home?

A. I can't be certain, but I would say late afternoon.
Q. How late?
A. 3:00, 4:00.
Q. What time did you quit work?
A. I normally quit work at 3:30, but I might have been working over that day.
Q. Do you know if your wife told them that?
A. No. I can't -- I have no -- I have no idea what the conversation was between my wife and the agents.
Q. How long after that was the second visit?
A. I believe the next day.
Q. Where did that take place?
A. At my residence, also.
Q. Did the agent call you in advance?
A. I'm not sure. I believe he did, but I can't be certain.
Q. How many were there?
A. One.
Q. Did you know if he recorded your conversations?
A. At the time, I'm not really sure. I'm sure -- yeah, I know he made notes.
Q. Did he show you those notes?
A. Not at that time, no.
Q. Did you ask to see the notes?
A. No, I did not.

Q. Was your wife present?
A. No, she wasn't.
Q. What time of the day was it?
A. I would have to say afternoon again, but I can't be certain the exact hour.
Q. Roughly.
A. Between 2:00 and 4:00.
Q. Didn't you quit work at 3:30?
A. Yes, I did, but again, I am not certain what I was doing that day. I might have been home early. I might have been home late. All I know is it was late afternoon.
Q. Was he waiting on you, or did you call him?
A. I was home, and the FBI agent came. I wasn't waiting particularly for him.
Q. Who were you waiting for?
A. I just happened to be home.
Q. How soon after you got home did the agent show up?
A. I can't recall.
Q. Shortly thereafter or a couple hours later?
A. I would say shortly thereafter.
Q. Now, when you met -- when they came the first time, did your wife tell them where the job site was?
A. I don't believe so because my job sites vary. Sometimes I don't know where I'm working until that particular morning.

Q. Did you have any knowledge of Dave's bookkeeping?
A. No, I do not.
Q. Do you know if Aey ever billed me?
A. No, I do not.
THE COURT: Congressman, it's a quarter of a 11:00. We need to give the jury a break. Is this a good time?
MR. TRAFICANT: I'm sorry.
THE COURT: That's okay.
MR. TRAFICANT: I'll suspend for now. Thank you.
THE COURT: Thank you very much. We'll have a break. It'll be a 20-minute break. Sir, you'll have to come back. Okay?
(Proceedings in the absence of the jury:)
THE COURT: I'd like to handle at least two things. You asked a question, Congressman, about whether or not you could recall Government witnesses whenever -- ask the question again, and I'll hear it.
MR. TRAFICANT: Am I allowed to recall Government witnesses?
THE COURT: Well, you can call a witness in your own case. Once a witness is released, though, here, you can't -- you can't recall that witness for cross-examination in the Government's case, but you can

call a witness. You can call witnesses in your own case.

MR. TRAFICANT: I want to let it be known to the court in the record that I've had a difficult time subpoenaing Mr. Tony Bucci.

Now, the Government has attempted to cooperate and gave me the name of the attorney. I left the information I wanted with the attorney for some time. I have yet to get a return call. It is my intention that I have called several times, left several messages, and I want to know if I can subpoena Mr. Bucci through his attorney.

THE COURT: I'm sorry. We need to let the jurors out who are going to smoke. We'll just take a moment.

(Pause.)

MR. TRAFICANT: I --

THE COURT: You want to respond?

MR. TRAFICANT: I would like to continue, your Honor, and explain further.

THE COURT: Okay.

MR. TRAFICANT: Since the witness would not give his address because he feared I might hurt him, because of his so-called murder of an associate of mine that you've heard about, would it be appropriate to subpoena his client through the attorney?

THE COURT: Just subpoena the person.

MR. TRAFICANT: I can't find him. He gave no address. The Court required no address.

MR. MORFORD: Your Honor, it's my understanding and in my conversations earlier with Mr. Rotatori that he wanted us to go through him. We served a subpoena on him on behalf of his client, and I don't know what attempts have been made or not been made by Congressman Traficant. He said he called him, and Mr. Rotatori hasn't returned his call. He can send him a letter. He can send him a subpoena; ask him to do something. I don't know.

MR. TRAFICANT: Did you subpoena Mr. Bucci, or did you subpoena Mr. Bucci through Mr. Rotatori?

MR. MORFORD: I believe we subpoenaed Mr. Bucci through Mr. Rotatori by sending the subpoena, which is the usual way you do it when someone is represented.

THE COURT: Yeah.

MR. TRAFICANT: Was the subpoena served on Rotatori or on Bucci?

MR. MORFORD: My understanding is -- I didn't serve it, but my understanding we went through Mr. Rotatori, that's my understanding.

THE COURT: Whether someone has a lawyer and they're representing him, I guess -- I don't know -- I

think Robert Rotatori -- is that the Rotatori you're talking about?

MR. TRAFICANT: That sounds familiar.

THE COURT: Okay. Well, then, you can follow the same process, but I can't do the subpoena for you. You're just going to have to --

MR. TRAFICANT: I know that. What I was trying to ascertain from the Prosecution since they were successful and I'm not able to meet Mr. Bucci, if, in fact, they served the subpoena for Mr. Bucci on Mr. Rotatori or if it was served -- if they could notify the Court directly on Mr. Bucci pursuant to the address given to them by Mr. Rotatori.

THE COURT: Why don't you explain exactly what the address situation was? Was it in care of Rotatori, whatever worked for you. I think if you would explain it to the Congressman, you don't have to do it on the record.

MR. TRAFICANT: Can I see a copy of the subpoena?

MR. MORFORD: First of all, I don't have a copy of the subpoena here.

Second of all, we've subpoenaed -- I don't know, 60 or so witnesses. My understanding is we went through Mr. Rotatori, and Mr. Rotatori accepted the subpoena on

behalf of his client. And I believe that if Congressman -- and I said this to Congressman Traficant at least two weeks ago: If he sends a copy of the subpoena to Mr. Rotatori, my understanding it would get to Mr. Bucci or Mr. Rotatori would have to step forward and say I'm not going to accept it on behalf of my client --

THE COURT: But it's Bucci you're subpoenaing. You just do it through his attorney.

MR. TRAFICANT: Yes, yes. Might I respond?

THE COURT: I don't think a response is needed.

MR. TRAFICANT: No. I think it is for the record.

THE COURT: Please, put your response on the record. Go ahead.

MR. TRAFICANT: The Prosecution gave me the phone number of Mr. Rotatori. They never said they sent the subpoena to Mr. Rotatori.

THE COURT: It's not their job to teach you.

MR. TRAFICANT: I know that, but he just said he did. He said they gave him a phone call. I did call Mr. Rotatori. He's yet to return my call.

THE COURT: Congressman, subpoena him.

MR. TRAFICANT: I'm going do that today.

THE COURT: Send it to the lawyer. Thank

you.

MR. TRAFICANT: I'm going to do that expeditiously.

THE COURT: Okay. Let's move --

MR. TRAFICANT: There are other issues.

THE COURT: Yes, there are. You've been asking some questions of this witness who we are still holding here, Ms. Bliton. I think that's how you say her name.

MR. TRAFICANT: Yes.

THE COURT: And there was an objection. These are questions regarding the speech or debate clause, and so I didn't rule on one objection. I reserved that ruling until I could inquire of you, not in front of the jury, but in their absence. What was the purpose behind your asking the questions, so I know how to rule on the objection that was posed?

MR. TRAFICANT: My question was very clear, that she was made known that the General Counsel was, in fact, determining which documents were subject to, in fact, the speech and debate clause, and I believe I am looking now for the specific page and number, where she had stated that and where the 302 has, in fact, documented it.

THE COURT: But, were you trying -- what were you trying to do? What were you trying to impeach her?

MR. TRAFICANT: No. I wasn't trying to impeach her.

THE COURT: Okay.

MR. TRAFICANT: I was trying to determine and recollect and refresh her memory, that this woman had testified that she had some understanding of speech and debate clause, and that there was contact made, and that it was pointed out to Bliton that -- I have the file. I showed it to you, and I'll read it to you.

THE COURT: Well, I just needed to know the purpose of your question.

MR. TRAFICANT: The purpose of it was -- was that she did get information that the General Counsel had the documents and was going to determine the status of the speech and debate issue.

Now, the purpose of this, for the Prosecution here right now, when was the rule on speech and debate ordered, and when did she turn over documents?

THE COURT: Well, I don't know what that's all about, but we're trying to talk about a witness we have kept here so that we can determine whether or not there was or was not a valid objection to a question that you put to her, and I'm going to go back and read you the question if you want me to.

MR. TRAFICANT: You don't need to do that.

THE COURT: But, I need to know from you why you're asking the question so I can rule on it properly.

MR. TRAFICANT: All right. Here's the reason I'm asking the question.

At some point, there was a motion that was granted in an order from this Court to have a Magistrate look at all the documents.

THE COURT: Well, she doesn't know anything about it.

MR. TRAFICANT: I am not talking to her about that. I'm talking to you about what happened here. She turned over documents that were letters from the Congressman to the vice-president.

THE COURT: All right.

MR. TRAFICANT: What I want to know is if those documents were turned over before the Court ruled that they were allowed to be turned over.

THE COURT: So you're trying to find out from this witness --

MR. TRAFICANT: Trying to find out just exactly when, in fact, she checked with the General Counsel.

THE COURT: She said she did call the General Counsel's office.

MR. TRAFICANT: But, she did not say that the

General Counsel was told that they were ruling on the documents, and they were the sole rulers on the documents at that time. You can release her, but here's the issue. If this -- here's what I'm saying to the court for the record. If this woman voluntarily turned over, why would she have called? And if she turned over a letter from the Congressman to the vice-president before the Court had ordered or made a final decision on the speech and debate clause, then in my opinion, the Court is in violation of the speech and debate clause.

THE COURT: Okay. Well, that's not an issue for the jury. You have that issue up in the Sixth Circuit, I think, on whether or not the Court is correct on the speech or debate clause.

MR. TRAFICANT: Naturally, but I was trying to --

THE COURT: Right. But, I mean this jury is here. They're the ones listening to testimony. I need to know whether or not the objection that they made to this line of questioning -- I can go back and read it so you know what it is --

MR. TRAFICANT: Yes.

THE COURT: -- is appropriate or not. Otherwise, we'll call her back on the stand after the break, what's left of it.

MR. TRAFICANT: Let's find first the language and see if we want to have her back, and then I'll leave it up to you.

THE COURT: Well, I --

MR. TRAFICANT: I told you exactly what I'm looking at.

THE COURT: Yeah.

MR. TRAFICANT: I expect I have as much chance on appeal as a minnow in a bass contest, and that's why I'm doing this for the record. I want to know exactly when and, in fact, what she knew relative to the -- and I'm finding it and looking for it.

THE COURT: All right. Bliton stated she had copies of -- Page 6.

MR. TRAFICANT: Now you're reading out of the report.

THE COURT: I'm reading the transcript so I can see the question you asked.

MR. TRAFICANT: Okay. While you're doing that, you want me to cease and desist?

THE COURT: Yes, because I can't do two things at once. Sorry.

MR. TRAFICANT: I can't either. I'm sorry.

THE COURT: Well, that's all right. Okay. Okay.

MR. TRAFICANT: Now, I'm turning to Page 6 of the 302, signed by Agents DeVault and White, evidently of D.C. or Virginia. I'm looking at the middle of page 6 where it starts "Bliton then stated she understood the House counsel's office for the House of Representatives was reviewing all the Bucheit related files from Congressman Traficant's office. She further stated she had telephonically contacted Congressman Traficant's office after arranging an interview with the FBI. In relation to whether the -- she should turn over copies of the Bucheit documentation she had in her possession, Bliton advised at that time she was advised the House counsel's office was not going to give any documentation regarding legislative matters to the FBI in response to requests for production of same.

"When questioned as to whether the documentation was to be withheld under speech and debate, Bliton stated she was not sure the specific term was used but reiterated she heard documentation may be withheld in relation to legislative matters."

THE COURT: Okay.

MR. TRAFICANT: When questioned as to who in Congressman Traficant's office provided her this information, she said Paul Marcone told her that. Now, at a later meeting Marcone said go ahead and give it to them.

Now, it is clear that this witness had knowledge of not only a Government entity, that it was the General Counsel of the House of Representatives, this thing was completed 18 months ago. Now, I am not trying to impeach her. You don't need to bring her back, but here's the purpose of my inquiry and where I was going.

THE COURT: Okay.

MR. TRAFICANT: I want to know -- at the end I don't know -- if the Magistrate that you ordered to look at it and if you, in fact, decided on the speech and debate material before it was turned over to the Government since the Government asked for it on 6-22-00.

THE COURT: Okay.

If you look at the docket in your case here, you'll be able to know exactly when I made the referral to the Magistrate, and the docket is available to you.

You'll also be able to know when we ordered various things. It was in the fall of this year, I think, but to make sure, we should look at the docket, and I think I can give you a copy of the docket.

MR. TRAFICANT: Could you please do that?

THE COURT: Yeah, I think.

MR. TRAFICANT: It was in the fall of 2001?

THE COURT: Let's look.

MR. KALL: Your Honor, may I respond?

THE COURT: Just a minute. I want to read the question you asked the witness to which they posed an objection so we have that. Okay.

MR. TRAFICANT: I withdraw the question.

THE COURT: So you don't want me --

MR. TRAFICANT: Go ahead and rule on it --

THE COURT: Okay.

MR. TRAFICANT: -- for the record.

THE COURT: All right. It says "Did anyone ever tell you the documentation -- documents may be withheld subject to the speech and debate clause?

"Mr. Kall: Objection.

"Court: Sustained."

Then you asked, "Did you ever have conversations with the FBI regarding" --

And Mr. Kall said: Objection.

So I said: "Okay. We'll deal with this at the next break."

So now we're dealing with it. And --

MR. TRAFICANT: Are you going to sustain your objection or overrule it?

THE COURT: Hold on a minute.

MR. KALL: Your Honor, I objected to this question and the line of questions for several reasons. Number one, it's not a matter relevant to the jury. The

issue whether something is a legislative act protected by the speech and debate clause, as you know, is an issue for the Court to determine, and the Court has determined that. Well, I believe that question was improper.

Number two, the question of whether Ms. Bliton may have given documents to the FBI is also irrelevant. The speech or debate clause privilege is not one of disclosure. It's one of use. The documents may not be used against Congressman Traficant, but the fact that certain documents may have been disclosed is nothing that violates that privilege.

Finally, these are all documents shown. He did not object to these documents, the letters to the vice-president, at the time they were used with the witness, and I believe he did not even object to those in his motion to suppress based on the speech or debate clause privilege. He's attempting to raise a legal issue in front of the jury that is improper.

MR. TRAFICANT: Now, let me respond.

THE COURT: Okay.

MR. TRAFICANT: I was attempting to elicit from the witness the exact date she turned over documents. I certainly have admitted these joint exhibits, but they are in violation of the speech and debate clause. Once they were ruled as being open, why should I look defensive?

I have nothing to be ashamed of doing, but you already ruled they could be used. Their argument is moot.

My question is: Did she give documents that were clearly subject to the speech and debate clause before the Court had ordered that such documents were, in fact, allowable under the speech and debate clause? This is a constitutional issue now that I raise.

THE COURT: Right, and not something for this jury.

MR. TRAFICANT: No. It's not, but I had to determine the dates.

THE COURT: Okay.

MR. KALL: Your Honor, Congressman Traficant is, I believe, trying to have it both ways, trying to object to the admission of documents and stipulating to them as joint exhibits. It's our position he should pick one or the other.

MR. TRAFICANT: Now, let me respond.

Did the Court rule that those exhibits were eligible? Yes or no.

THE COURT: Which exhibits?

MR. TRAFICANT: The letters to Vice-President Al Gore.

THE COURT: I don't know what's been admitted and what hasn't in all these documents we looked at. You

asked it be a joint exhibit.

MR. TRAFICANT: Yes. Did you order, though, that they were allowed to be used, and did you rule on the speech and debate clause?

THE COURT: Well, I did rule.

MR. TRAFICANT: When did you rule on the --

THE COURT: Before we started this trial.

MR. TRAFICANT: Okay. Had you -- these were done before you ordered --

THE COURT: Okay. Why don't I give you a copy of the docket and take a break because you can read it like everyone else, and it'll tell you exactly when I referred it to the Magistrate Judge and when I ruled on it. Okay?

MR. TRAFICANT: Fine. That's all I was doing. You can release the witness.

THE COURT: Okay. We'll release the witness, Congressman. That'll be fine. Thank you very much. We have --

MR. TRAFICANT: Can I have some time to look at this, please?

THE COURT: Okay. We'll take a five-minute break. Thanks.

MR. TRAFICANT: Five minutes?

THE COURT: Sir, the jury -- the jury is

working, too. Okay? Five minutes.

(Thereupon, a recess was taken.)

THE COURT: Sir, you're still under oath. Be seated, please.

BY MR. TRAFICANT:

Q. How are you doing, Tom?

A. I'm doing fine.

Q. Were you paid minimum wages on the job?

A. Excuse me.

Q. Were you paid union wages for that job?

A. At the time Aey Electric was not a union contractor. So I can't be certain if I was paid per billing wage or not.

Q. Who handed you your paycheck?

A. Paychecks were on the desk, and they came in every Wednesday. They were not personally handed to you. They were in a pile, and you would pick the paycheck up.

Q. The paychecks did memorialize the respective work that you had done that week. Is that a fact?

A. That's a fact.

Q. Did the company ever send out an inspector to see if you were on the job?

A. Not on your job. Occasionally, Mr. Wray would come out just to make sure everything was going fine or if you had any particular questions on what would be done or how

to do it. I believe on your job, on the Greenford farm, no.

Q. So no one ever come and check that you were there from 8:30 to 4:30. Is that your testimony?

A. No one personally ever came out, no.

Q. You just submitted your time slips for out there, right?

A. I submitted my time sheets.

Q. On other jobs, they did send some inspectors out?

A. I wouldn't classify them as inspectors. They were representatives of the company. Again, they would come out just to make sure you knew what -- what to do, and how to do it on that phase of the job. They didn't actually come out to see if you were present, just that you knew how to do the -- do the job.

Q. All right.

Then let me rephrase this. You're a non-union worker. You're assigned to work at a job, and no one came out and checked to see if you showed up at the job, right?

A. I'm a nonunion worker. I was sent to a job. No one ever came out and in person to see if I was there, no.

Q. They relied on your word?

A. They relied on my word.

Q. Okay. Thank you. Did anyone other than the carpenters that worked there introduce themselves to you?

A. I cannot recall. Can you be more specific? Like whom?
Q. Were there any other people there other than the workers?
A. I believe Mrs. Ferrante was there. You had a -- I don't want to say a hired hand, someone that would take care of the horse stables. He was there. I saw him.
Q. Did you know the name?
A. I can't recall the name.
Q. Could you describe what he looked like?
A. Young man, dark hair. That's all I could recall.
Q. Is that the only man you saw other than the Manevich's crew?
A. I believe so. I can't -- I can't recollect.
Q. Would you know if that individual was related to Sandy or not?
A. I believe Mrs. Ferrante did mention one time it was her nephew or cousin.
Q. How long did you work did you say for the Aeys?
A. I was employed by the Aeys for little over 16 years.
Q. Did they ever have a union contract?
A. Not while I was there.
Q. Were there different Aey electricians on their payroll?
A. You mean by different grades or ability of skill?

Q. Yes.
A. Yes.
Q. What were some of the lower skilled electricians paid, would you know?
A. I could not tell you. I have no idea.
Q. Do you know if there was a different wage scale of any kind?
A. I'm sure there was a different wage scale according to your ability.
Q. Were you considered one of their better workers?
A. I hope so. I believe I was.
Q. You believe you were their best worker?
A. I believe I was one of the top ones.
Q. Did they have some workers you felt weren't so good or in the same class as you and some of your other colleagues?
A. I wouldn't say they weren't as good. I would say they were just a little inexperienced. They didn't have as much time in their trade as myself.
Q. Isn't it a fact that you told the FBI that you worked out there approximately two weeks?
A. Initially, I probably did say that until the FBI showed me a copy of my time sheet, which had the particular dates on it. And that's how I revised my story of summer to fall of '93.

Q. Now, isn't it a fact they met with you in late 2000?
A. Yes, I believe October. That was the initial visit.
Q. So they reminded you that your time sheets were different than what you told them. Is that your testimony?
A. No, the initial -- the initial visit from the FBI was in October of 2000. At that time, I told them my story. I did not know of the time sheets until we had the pre-trial conference several months ago. At that time, I was presented copies of my time sheets.
Q. Who gave you a copy of your pre -- at the pre-trial conference?
A. I'm not sure which lawyer or which Prosecutor it was.
Q. Would you know him if he was sitting in this room?
A. Yes. I -- I'm not certain which one it is. I know it wasn't lead counsel. I believe it was one of his two assistants.
Q. Would the prosecutors direct their faces directly to the witness?
A. I believe that was Mr. -- the gentleman right there then.
Q. Which gentleman?
A. The one straight in front of me raising his hand.
Q. Now, so you did have a pre-trial conference. Where was that held?
A. Youngstown office of the FBI.

Q. So you met a second time then?
A. Yes.
Q. Who was present at the second meeting?
A. The Prosecutor that just raised his hand.
Q. Mr. Smith?
A. Mr. Smith and another local FBI agent.
Q. One?
A. One.
Q. Would you remember the name?
A. No, I do not.
Q. Do you know if they took notes at that meeting?
A. I can't recall, but I'm certain they did.
Q. Why are you certain they did?
A. Well, they seem to take notes every time we had a meeting.
Q. Did they give you a copy of that one?
A. No.
Q. Now, at that meeting, what did they discuss, the second meeting?
A. We went over what the agent, the interview we had with the initial agent of October of 2000, and we went over the transcript of my Grand Jury testimony.
Q. Did they go over your Grand Jury testimony, was it different --
MR. SMITH: Objection; speculation as to

Government reasons.

Q. What was the difference between your Grand Jury testimony and what you had told the agents at your first meeting?

A. I don't believe there was any difference.

Q. What else did they talk to you about then?

A. Courtroom procedure here.

Q. Attorney Smith drove from Cleveland to Youngstown to tell you courtroom procedure, is that your testimony?

A. No. We went over what was said at the interview in October of 2000, the transcript of my Grand Jury testimony.

Q. More or less, just an honest going over of what you remembered to be truthful, right?

A. More or less a refresher, yes.

Q. Um-hum.

And there were no differences between your Grand Jury testimony and what you told the FBI agents; is that correct?

A. I cannot recall any differences.

Q. Did you ever ask for a copy of their notes at the second meeting?

A. No. I did not.

Q. Did they offer you a copy?

A. No, they did not.

Q. Who interviewed you before the Grand Jury?

A. If you're referring to the October 2000 interview at my house --

Q. No. I'm talking about when you came to Cleveland and went before a group of people such as this who were the Grand Jurors, where you were under oath to testify what happened in relation to this case.

A. Who actually interviewed me?

Q. In front of the Grand Jury, who questioned you?

A. I can't recall his name.

Q. Well, how many U.S. attorneys were present, would you know?

A. I can't recall.

Q. Were there more than one?

A. I cannot recall.

Q. Were you asked to do anything at the barns at the farm?

A. No.

MR. TRAFICANT: No further questions at this time.

THE COURT: Okay.

MR. SMITH: Briefly, your Honor.

REDIRECT EXAMINATION OF THOMAS PASSEWITZ

BY MR. SMITH:

Q. Mr. Passewitz, during your cross-examination, Congressman Traficant asked you a series of questions about whether anyone from Aey Electric Company came out to monitor or inspect your time that you were spending out at the farm. You recall that series of questions and answers?

A. Yes.

Q. At any time, did you ever lie to your employer about the amount of time that you were spending at the farm?

A. No.

Q. When you were out at the farm, who was telling you what work to do at the farm?

A. Really, no one. I was a journeyman electrician. I was sent to do a job. The reason I was sent there alone, I was expected to be able to do it without asking a lot of questions.

Q. Did you consult with anyone on the premise at any time as to what you should do or where things should go?

A. Yes. I consulted with, you know, carpenters. I needed to know what type of finish, the walls would have, the ceiling would have. I needed to know what location of convenience outlets, where they would be most convenient. You know, so I'm not in position of a doorway or a window, information like that.

Q. So were there other people on the site who were available to know whether you were showing up to do work or not?

A. Yes. There were some people there.

MR. SMITH: No further questions, your Honor.

THE COURT: Thank you.

RECROSS-EXAMINATION OF THOMAS PASSEWITZ

BY MR. TRAFICANT:

Q. You submitted the records for your time at the farm, right?

A. Correct.

Q. And it's your testimony you didn't lie?

A. No.

Q. And no one ever questioned you did you lie, did they?

A. No.

Q. Did I ask you if you lied?

A. No.

Q. You also testified now, the Government asked you if anyone told you what to do out there. Remember that question?

A. Yes.

Q. And what, in fact, did you say?

A. I said I was a journeyman electrician. I should be able to do the job myself.

Q. But isn't it a fact then you said that you did

consult with the carpenters?
A. Well, yes. I needed to know particular layouts of the room. I wouldn't want to put a location of a switch or outlet in the middle of -- where a door would be or a window would be.
Q. So now, did the carpenters live at the house?
A. No. The carpenters do not live in the house.
Q. Did you ask anyone at the house where they may want some outlets?
A. Yes.
Q. Who did you ask?
A. I believe I might have asked you.
Q. You believe, or you know you asked me?
A. Well, I may not have asked you in person. I may have asked Sandra Ferrante to ask you to relay the information.
Q. I see. So you had conversations with Sandra Ferrante; isn't that correct?
A. Yes, I did.
Q. Isn't it a fact that she asked you to do certain things certain ways?
A. I don't know if she did that or not.
Q. Well, isn't it a fact she said I'd like to have this here or this here or this here? What made you put them there?
A. Well, if they're convenient to put there, I did.

Q. At whose request?
A. I'm not sure.
Q. But did you not say you just talked with Sandra Ferrante?
A. Yes. But Sandra Ferrante was just a person there taking care of the horses.
Q. Did you know if she lived in that apartment?
A. Yes, she did live there. I knew that.
Q. Was that addition a part of her apartment?
A. I guess you would consider that an addition to her apartment.
Q. Did she show an interest in this addition?
A. I guess you could say that.
Q. And as a -- an electrician, when you're working in someone's home, do you not inquire of the homeowners what might be the convenient thing for them?
A. Oh, yes. You ask a homeowner's input about it if it's feasible.
Q. So you had discussions with Sandra Ferrante with relevance to convenience or what might be convenient to her in the location of outlets and/or electrical wiring at the farm; is that correct?
A. You could say that.

MR. TRAFICANT: No further questions.

MR. SMITH: No questions.

THE COURT: Thanks. You can step down. You're excused.

MR. SMITH: The Government calls Leisel Bucheit.

THE COURT: Okay.

THE COURT: Good morning. Would you raise your right hand?

LEISEL M. BUCHEIT,

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF LEISEL M. BUCHEIT

BY MR. SMITH:

Q. Would you please state your full name, and spell your last name -- first and last name for the Court Reporter?

A. Leisel M. Bucheit, L-E-I-S-E-L, middle initial M., last name B-U-C-H-E-I-T.

Q. What city do you currently reside, ma'am?

A. Washington, D.C.

Q. And what is your present occupation?

A. I'm a web designer.

Q. And what is the name of your father?

A. Bernard Joseph Bucheit, Junior.

Q. If you could speak, up I'm having a hard time.

A. Bernard Joseph Bucheit, Junior.

THE COURT: Just take it out of the stand. Okay? Can you hold it and talk into it. There you go. Just keep it about here. It'll make it easier.

Q. Where did you go to college, Ms. Bucheit?

A. I went to Marywood College in Scranton, Pennsylvania.

Q. What degree did you achieve there?

A. I have a bachelor of fine arts.

Q. After college, what type of work did you do?

A. I worked for a publisher.

Q. And after that, what job did you take?

A. After that, I took a job with my family's company.

Q. Okay. And what company was that?

A. It was Bucheit International, Limited.

Q. And approximately when did you start working for Bucheit International?

A. I think it was like end of January, beginning of February. I'm sorry. I can't remember the year specifically. It was like '92 or '91. I don't know.

Q. Early '90s?

A. Yeah.

Q. Okay.

And what was the nature of Bucheit International's business?

A. Construction.

Q. What type of construction?

A. I am not following with --
Q. Commercial, residential?
A. Commercial.
Q. And what were your duties when you took the job at Bucheit International?
A. I basically did some office work and office management, as I guess you would say, and marketing, and answering the phone, a little bit of everything.
Q. Did you have any responsibilities for sending out invoices?
A. Yes.
Q. Writing checks?
A. I handled most of the mail, in and out, and wrote checks for bills coming in.
THE COURT: Put the microphone up. They're having trouble hearing you. Okay.
Q. Was there any other person who was a bookkeeper on the payroll of Bucheit International at that time?
A. No, no.
Q. Basically how many employees of Bucheit International were there at this time?
A. There was just me and my father, and my brother was working, and we had a couple men that were out in the field doing work.
Q. Your brother's name was?

A. Kurt.
Q. While you were working at Bucheit International, did you ever have contact with a man named David Manevich?
A. Pardon me?
Q. While you were working at Bucheit International, did you have contact with a man by the name of David Manevich?
A. Yes.
Q. And what was the nature of your dealings with David Manevich?
A. Dave was working in the field, and he would come into the office every once in an awhile and submit some material bills and labor bills.
Q. Where was he working when he did this?
A. He was working both at my brother's house and at Congressman -- or the Traficant farm shall I say.
Q. And what type of work was Mr. Manevich doing?
A. He was a carpenter.
Q. Do you know whether or not Bucheit International had any written contact with Manevich?
A. Not that I'm aware of.
Q. Since there was no written contract, how was Mr. Manevich assigned what he was supposed to do out at the farm?
A. I assume that my dad would tell him what needed to be done as far as scope of work.

Q. Do you know how Mr. Manevich got paid for his work?
A. As I said, he would come in and submit a bill that would have materials and time, hours on it.
Q. All right. And when the bill was submitted or the invoice, whatever it was, what did you do?
A. I would write him a check for it.
Q. At this point, do you have personal knowledge of what the scope of the work done out at the farm was?
A. None whatsoever.
Q. How often would you pay Mr. Manevich?
A. I really can't recall if it was on a regular weekly, bi-weekly. It was kind of -- whenever he stopped by, and I was traveling and -- so usually, he would call and say that he was going to stop by and --
Q. Ma'am, if you could direct your attention to Government's Exhibits 7-39(1), 7-39(2), 7-39(3) 7-39(4) and 7-39(5) on the counter before you, and look up when you've had a chance to examine those documents.
Do you recognize those five documents?
A. Yes. They're checks that were written on the Bucheit account.
Q. And do you recognize who signed those documents on behalf of the Bucheit account?
A. It appears to be my father's signature.
Q. All right.

And how is it that you recognize your father's signature?
A. Just from seeing it before previously.
Q. Throughout the years?
A. Yeah.
Q. Is each of those items a check?
A. Yes.
Q. Are they all made payable to the same company?
A. Yes.
Q. What company are they made payable to?
A. Aey Electric.
Q. And what work did Aey Electric do in order to obtain those checks from the Bucheit Company?
A. I really can't say offhand. I don't know.
Q. Would looking at any documents perhaps refresh your recollection on that point?
A. Possibly.
Q. All right. Showing you Government's Exhibit 7-38(1) and 7-38(2), if you'll just look at those silently to yourself.
MR. TRAFICANT: I ask that the four 7-39s be made joint exhibits.
MR. SMITH: Actually, there's five of them, your Honor.
MR. TRAFICANT: 2, 3, 4 and 5.

MR. SMITH: There's 1, 2, 3, 4, and 5, your Honor.

MR. TRAFICANT: I ask all be made joint exhibits.

THE COURT: Certainly.

MR. SMITH: No objection, your Honor.

THE WITNESS: I don't recognize these, and it doesn't really strike up anything in my memory.

Q. All right.

Are those five checks, Government's Exhibit 7-39(1), (2), (3), (4) and (5) all checks made payable on an account of one of the Bucheit Companies?

MR. TRAFICANT: Objection. Asked and answered.

Q. Or some work done by them?

THE COURT: She can answer.

A. I'm sorry. Could you ask that again.

Q. Are Government's Exhibit 7-39(1), (2), (3), (4), and (5) copies of checks to Aey Electric for some work that they had done for one of the Bucheit Companies?

A. Well, it's -- yeah, made out to Aey Electric, so I would assume it's for work.

Q. All right.

Now, at the time that you were -- that Mr. Manevich was working out at the farm, how many other carpenters did

Bucheit International have on the payroll or was paying at that time?

A. Well, I don't know necessarily carpenters, but we had two other men that worked out in the field.

Q. Where did they work?

A. They worked in Washington.

Q. Washington, D.C.?

A. Yes.

Q. How many carpenters did you have in the Youngstown, Ohio, area other than David Manevich working out at the farm?

A. None that I'm aware of.

Q. All right. How many electricians other than Aey Electric Company did you have working on the Bucheit International payroll at the time that David Manevich was working out at the farm?

A. Well, we were subbing work to different electricians, but that would be in Washington. I'm not aware of any in Youngstown.

Q. In the Youngstown -- excuse me - in the Youngstown area.

Limiting questions to the Youngstown area, at the time that David Manevich was working out at Congressman Traficant's farm, how many electricians, other than Aey Electric, did you have on the Bucheit Company payroll or

were paying at that time?

A. None.

MR. TRAFICANT: I ask 7-38(1) and (2) be made joint exhibits.

MR. SMITH: No objection.

THE COURT: Fine.

BY MR. SMITH:

Q. At the time that the work was being done out at the farm, do you recall the number of jobs for which Aey Electric was working for the Bucheit Companies?

A. I believe it was this particular instance.

Q. What instance are you referring to?

A. To the job at the Traficant farm.

Q. So was Aey Electric working out at the Traficant farm?

A. Yes. I would assume so.

Q. Did Congressman Traficant ever pay your father or any of -- any of your father's companies for the work that was done out at that farm?

A. Not when I was employed at the company.

Q. And you left the employment of the company when?

A. In the spring of 1999 I think it was.

Q. Was there --

A. No, I'm sorry. It was in the spring of -- it was -- I was 30 years old, so it was '96.

Q. Was any bill ever sent to the Congressman for the work done at the farm?
A. Yes.
Q. And the -- to your knowledge, did Congressman Traficant pay that bill until the time that you left the company?
A. Not that I'm aware of.
Q. Where is that bill now?
A. I don't know. I'm assuming it's with records that are --
Q. And you're making an assumption there?
A. With the company, yes.
Q. Do you have personal knowledge to where that bill is today?
A. Pardon me?
Q. Do you have personal knowledge of the location of that bill today?
A. All I know is that a bill is sent out because I know that I would have been the one to do that --
Q. And do you have --
A. -- and create that.
Q. And do you know where the bill is now?
A. No.
Q. Other than sending that bill, did the Bucheit Company take any action to collect on that bill?

A. Not that I'm aware of.

MR. SMITH: May I have a moment, your Honor?

THE COURT: Yes.

Q. Is Bucheit International still in business?

A. I don't really know the status of the corporation.

Q. Okay.

MR. SMITH: Nothing additional.

THE COURT: Thank you very much.

Congressman, it's about six minutes before noon. What do you think? Is this a better time?

MR. TRAFICANT: I would like to give the jury a break early, and if you want to come back early, I'll come back early, but I would like to come back at 1:30 if we could.

THE COURT: Okay. That means you'll have to come back at 1:30.

THE WITNESS: Okay.

THE COURT: But, the jury's been working hard all day, so we're going to give you your lunch break. See you back at 1:30.

(Thereupon, a luncheon recess was had.)

Wednesday Session, March 13, 2002, at 1:30 P.M.

THE COURT: You're still under oath.

CROSS-EXAMINATION OF LEISEL M. BUCHEIT

BY MR. TRAFICANT:

Q. Good afternoon, Leisel.

A. Good afternoon, Congressman.

Q. I missed where you said you worked in D.C. Where are you working at now?

A. I work actually in Arlington.

Q. For what company?

A. For DTI Associates, Government subcontractor.

Q. Did I help your father a lot?

A. Yes.

Q. Did I go out of my way to help your father?

A. Yes.

Q. Were you proud of my efforts?

A. Yes.

Q. Now, I also missed the college in Pennsylvania you went to. I'd like to know personally where did you go to school?

A. Marywood.

Q. Marywood?

A. Yes.

Q. And, basically is Bucheit International a company that's really run by -- by your dad, nicknamed Pete?

A. Yes.
Q. He's the boss, isn't he?
A. Yes.
Q. To the best of your knowledge, how long ago did the job at the Traficant farm take place? Try and think back how many years?
A. I can't even think back. I don't really even know what year that was.
Q. Would you say '93, approximately?
A. Probably. I have -- I'm not really too sure to be honest.
Q. Would you say it was longer than seven years ago?
A. Yeah.
Q. Isn't it a fact you weren't really trained in bookkeeping?
A. That's absolutely true.
Q. But your dad had you do some bookkeeping, didn't he?
A. I wouldn't really even call it bookkeeping. It was a matter of when the telephone bill came in you paid it, electric bill, those types of things.
Q. You helped your dad with what had to be done, right?
A. Yeah.
Q. Now, you said that this fellow Manevich did work at your brother's house and at --
A. Yes.

Q. -- some particular point did some work at the farm?
A. Yes.
Q. Isn't it a fact, though, you had no knowledge of what scope of work was being done at the farm?
A. None whatsoever.
Q. Do you know if anybody ever went out and checked on Dave Manevich to see if he was at the farm?
A. I don't have any knowledge of that.
Q. Now, you said you left in the spring of 1996; is that correct?
A. Yes. That's my best estimate.
Q. Did you have a file known as the Traficant file?
A. Meaning?
Q. When you had files and projects, did you have names put in storage boxes or cabinets?
A. We kept like little manila folders.
Q. So you would have had one basically that said Traficant, right?
A. Yeah.
Q. Now, did you send the invoices?
A. I sent out, yes, invoices.
Q. Did you ever know who really owned the Traficant farm?
A. No, not really. I just knew it as the Traficant farm.

Q. How many times did the FBI meet with you, Leisel?
A. They came by my office once prior to the Grand Jury and then a second time, subsequently took the subpoena for this occasion.
Q. Now, when they came by the first time, where was your office?
A. It was at the National Press building.
Q. Where is that located?
A. In Washington, D.C.
Q. How many people came?
A. Two people.
Q. They identify themselves?
A. Yes.
Q. Who were they?
A. Two FBI agents.
Q. Were they from D.C.?
A. Yes, I believe they were.
Q. Did they serve you your subpoena in D.C. to come to the Grand Jury?
A. Oh, yes, they did at that time.
Q. Were they the same agents?
A. Yes. It was at that time they gave me the subpoena.
Q. After they met with you?
A. No. They didn't meet with me at all. They just came over and identified themselves and told me what it was

about and gave me the paper at that time.
Q. So they never asked you any questions. They just served you with a subpoena to come to --
A. Well, I didn't really feel comfortable in answering questions. I didn't know what it was all about, and I felt like I would show up, and they would ask me the questions in front of the Judge.
Q. And they then did what?
A. They then left.
Q. Then they came back how long after?
A. They didn't ever come back. They just came to deliver the subpoena for this. I --
Q. How long after you told them that, you know -- when they first came?
A. They first came, and then I went up for the Grand Jury and went for that process, and then subsequently, they came and delivered the subpoena for this occasion.
Q. Okay.
So the first time they came, they didn't ask any questions; they already had a subpoena in their pocket?
A. Yes.
Q. They came with a subpoena?
A. Yes.
Q. Did you feel intimidated?
A. Somewhat, yes.

Q. Do you remember that Grand Jury testimony, best of your ability?
A. I got an opportunity to reread a couple pages before this. I don't think I had an opportunity to reread the whole thing, but --
Q. Did you testify truthfully before the Grand Jury?
A. Yes.
Q. Who examined you and asked you questions before the Grand Jury? What prosecutors?
A. I can't really remember. I don't --
Q. Are any of them in the room? Would you look at the table?
A. Well, I recognize the faces, but I can't remember specifically who asked me what.
Q. Well, how many of them seated here were in the room?
A. I believe those three were right here, but --
Q. Were there any others?
A. I really can't recall.
Q. Did more than one Prosecutor ask you questions?
A. I think there may have been two.
Q. Isn't it a fact that they got very accusatory with you?
A. They seemed to get a little stressed in their voice towards the end.
Q. Did you feel pressured?

A. Somewhat.
Q. Isn't it a fact you appeared before the Grand Jury in the middle of August of 2000?
A. I believe that was the time frame.
Q. And when did you leave the company?
A. Well prior to that, in the spring right before my 30th birthday. So it was 1996.
Q. 1996?
A. Yes.
Q. But you testified in the Year 2000, right?
A. Yeah.
Q. Four years later?
A. Yeah.
Q. And were they not asking you specific questions that they continuously addressed through different types of verbiage and words?
A. They asked some things repeatedly and framed it differently, yeah.
Q. Did you get the impression they were trying to trap you, Leisel?
MR. SMITH: Objection to what the Government's reasons or motives were.
THE COURT: You can talk about your impression.
THE WITNESS: Can you --

Q. You can answer that question. Did you get the impression that they -- could you read -- please reread that question.

(Thereupon, the record was read back by the Court Reporter.)

THE WITNESS: Well, my impression was that I felt a great sense of having to watch every word that I said, and that everything that I was saying was going to somehow be overly scrutinized.

Q. Did they ever try and use the words you say to try and make it look like it was something other than what you intended to say?

A. I -- I would say possibly. I'm -- I didn't really -- a couple occasions I think I had to correct them, whether they reiterated what I had said or an instance like that.

Q. Did the IRS ever question you?

A. No, sir.

Q. You have any knowledge that your father and I had an agreement?

A. No.

Q. Did Bucheit International have debts for long periods of times with other people?

A. Yes.

Q. Do you still have a long standing debt with someone?

A. Probably.

Q. Was it your job to go out and collect debts?
A. No.
Q. Isn't it a fact the Government was trying to catch you in a lie to charge you with perjury?
MR. SMITH: Objection as to what the Government's reasons were.
THE COURT: That objection is sustained.
Q. Did the Government ever threaten to indict you, Leisel?
A. No, sir.
Q. Do you remember questioning whether or not the Traficant farm received the bills?
A. I'm sorry. Could you repeat that?
Q. Do you remember -- can you recall the questions in the Grand Jury about, well, how would the Traficant farm -- or how can you prove that the Traficant farm got the bills?
A. I don't know if I was specifically asked that question or not. I don't really recall that being a question.
Q. Did there come a time in your Grand Jury when you told the FBI -- where you told the prosecutors that they should call the Congressman to see if the bill was paid?
A. I may have said that.
Q. Wasn't it a fact that in much of your work, much of it was spent in Washington dealing also with D.C. projects?

A. Yes.
Q. You became involved in Gaza; isn't that correct?
A. Yes.
Q. The building relative to the General Accounting Office?
A. Yes.
Q. Weren't you involved with the OPIC matters?
A. Yes.
Q. Wasn't that a long, continuous process that involved a lot of hours?
A. Arduous, yes.
Q. Did anything in Youngstown at any time when you were working in Youngstown take precedence over anything you were doing in D.C.?
A. Definitely not.
Q. Did you ever ask the Government if it was more than seven years ago why are you asking me questions?
A. I never asked them that, no.
Q. Did they specifically try and tie you down to a specific time of the project out at the farm?
A. I don't think they tried to specifically tie me down. They just in general were asking my impressions of the time line, and I'm rather foggy on what that is.
Q. Isn't it a fact you told them they could go see Mr. Manevich?

A. I may have said that again. I don't really specifically recall saying that.
Q. Would you know my father if my father walked in here?
A. No.
Q. Now, when you left the company, did you have any knowledge of any of their records?
A. No, none whatsoever.
Q. Did you take any of them with you?
A. No.
Q. Who ultimately would look into the financial affairs of the company?
A. Meaning?
Q. Money owed, work done?
A. That would fall on the shoulders of my father.
Q. Now, if you received a bill that called for materials and stuff, would you know what those materials were or would be?
A. Two by fours and things like that I would recognize, yes.
Q. Did I ever call you about your testimony?
A. No, sir.
Q. Have I ever talked to you about this case?
A. No, sir.
Q. Has the Government talked to you about this case?
A. Just in relationship to travel and making my way up

here in a timely manner and where to go, et cetera, logistics.

Q. Did you question your father's business decisions?

A. No.

Q. Did your dad tell you what to tell the Grand Jury?

A. No.

Q. Was there any attempt at any time by you or anyone in your family, to the best of your knowledge, to conceal any facts about Jim Traficant?

A. No.

Q. To the best of your knowledge, did the banks that you've dealt with, do they have and would they have kept records of your cancelled checks that were paid to you, to the company?

A. I don't have any idea what sort of records --

Q. For example, let's say that John Doe wrote Bucheit International a check and it was cashed by Bucheit International and put in the bank, would the bank have a record?

MR. SMITH: Objection. She just said she didn't know.

THE WITNESS: Well, I don't think they keep records after a certain point, and this has been some time ago, so whether they would have something like that to begin with, I don't know, other than, you know, generic

deposits shown on the statement.
Q. After the FBI or after the Government talked to you, did you go to the bank and say hey, what's going on here?
A. Well, they didn't never talk to me. They just questioned me, and I just don't have access to any of those records or account numbers or anything else.
Q. Isn't it a fact they hit you cold and brought you before a Grand Jury?
A. I don't really know how to answer that.
Q. Try.
A. I -- I mean by hitting me cold, meaning --
Q. No FBI agents talked to you about an investigation, did they? Did an FBI agent ask you what you did with Jim Traficant?
A. I didn't never talk to the FBI, no.
Q. Did they ever tell you I was the target of their investigation?
A. They did inform me of that at the time that they gave me the subpoena.
Q. When they gave you the subpoena?
A. For the Grand Jury.
Q. For the Grand Jury?
A. Yes.
Q. Now, did you ever go out in the field and check anybody's work?

A. No.
Q. Do you do that for your company now?
A. No.
Q. Did your dad ever tell you that Jim Traficant was not going to pay the bill?
A. No.
MR. SMITH: Objection what her father said.
THE COURT: You have to disregard her answer.
Q. Do you have any knowledge if, in fact, Jim Traficant was not going to pay the bill?
MR. SMITH: Same objection.
THE COURT: You can answer that question.
THE WITNESS: Can you repeat that again, please? Sorry.
Q. Do you have any knowledge that Jim Traficant was not going to pay the bill?
A. No.
Q. Did you have any knowledge that Jim Traficant was going to pay the bill?
A. I didn't have any knowledge of that either.
Q. Were you my constituent?
A. Yes.
Q. Your family my constituents?
A. Yes.
Q. Was your company a company in my district?

A. Yes.
Q. Did you come to me for help?
A. Yes.
Q. Isn't it a fact you also went to Senator Glenn for help?
A. Yes.
Q. Isn't it a fact that I finally negotiated the matter?
A. Pardon me?
Q. Isn't it a fact that I finally negotiated the matter?
A. Yes.
Q. Did the Saudi Government give you the shaft, Leisel?
A. Yes.
Q. Did they get away with it?
A. They got away with a lot of things against a lot of companies.
Q. Wasn't it a fact they kept your workers hostage?
A. Yes.
Q. At one point?
A. Yes.
Q. Wasn't it a fact that your father was so desperate he was willing to accept a $1 million settlement just to get out of there?
A. I don't have any knowledge of that, but --
Q. Was that prince an honorable man?
A. No, I would say not.

Q. Did you have knowledge that I wrote personally to the King?
A. No. I do not have knowledge of that.
Q. Did you know that I recommended a civil RICO action against that prince?
A. I think I may have read that in some of the documents.
Q. Is that what brought him to the table, Leisel?
THE COURT: Well, that -- there's no way that she would know what brought the prince to the table.
Q. Well, do you believe that the civil RICO and the taking of his passport got Saudi Arabia to look into your case?
MR. SMITH: Objection.
THE COURT: Sustained. We don't know why Saudi Arabia did whatever they did. And this witness is in no position to tell us about that.
Q. Were you made aware that the terms of the final settlement were to be kept quiet and sealed as a part of the agreement?
A. Yes.
Q. Do you know what those numbers were?
A. No, I wasn't privy to that.
MR. TRAFICANT: I have no further questions at this time.

THE COURT: Thank you.

MR. SMITH: No redirect.

THE COURT: Thank you very much.

THE WITNESS: That's all?

THE COURT: You're excused. Yes.

THE WITNESS: Okay.

MR. MORFORD: Your Honor, the next witness is Dominic Rosselli.

THE COURT: Would you please raise your right hand.

DOMINIC LOUIS ROSSELLI,

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DOMINIC LOUIS ROSSELLI

BY MR. MORFORD:

Q. Good afternoon.

A. Good afternoon.

Q. Could you please state your full name, and spell your last name, please?

A. Dominic Louis Rosselli, Junior, R-O-S-S-E-L-L-I.

Q. And, Mr. Rosselli, I notice you have a little bit of a quiet voice. I'm going to ask you if you can take that microphone out actually to hold it in your hand to make sure we can hear you because it's a big old courtroom, and

everybody can hear you. Okay?
A. Okay.
Q. Mr. Rosselli, do you have any nicknames that you go by?
A. Chip.
Q. And could you tell the jury where you currently reside, not the full address but just the city in which you reside?
A. Poland, Ohio.
Q. And is -- where is that in relation to Youngstown?
A. It's Southeast of Youngstown, about ten miles outside of Youngstown.
Q. Can you walk us through your educational background a little bit, please?
A. I graduated Youngstown State University with a Bachelor of Science in Business Administration and am a certified public accountant.
Q. Where did you work upon graduating from Youngstown State University?
A. My first job was with the Ohio Department of Taxation as a sales tax auditor. I then worked with Alexander Grant Company as a tax specialist.
Q. What is the Alexander and Grant Company?
A. It's a national -- international accounting firm.
Q. And approximately how long did you work for that

firm?
A. Four years.
Q. And where did you go to work after you left that firm?
A. I went to work for the Cafaro Company.
Q. Okay. And what did you do at the Cafaro Company? Walk us through the different positions you held and the time frame that you held them.
A. I started in the tax department as a tax accountant. I moved on with additional responsibilities to include handling real estate taxes. I was then later moved up to assistant treasurer position, and eventually, I became the treasurer and chief financial officer.
Q. Okay. And when was it approximately that you became the chief financial officer and treasurer of the Cafaro Company?
A. January 1st, 1997.
Q. And what is the business of the Cafaro Company?
A. A real estate owner and developer of commercial real estate, shopping centers and plazas.
Q. And what exactly is the Cafaro Company itself in terms of the structure?
A. The Cafaro Company is a name we use to blanket, refers to all of the real estate holdings of the Cafaro family.

Q. And where is the Cafaro Company headquarters located?
A. Headquarters are in Youngstown, Ohio.
Q. And where does the Cafaro Company rank compared to other national commercial real estate companies in terms of size? Do they do rankings like that?
A. Yes, they do. They're ranked 11th in the United States, and the ranking is based on the square footage owned and managed, which is approximately 33 million square feet.
Q. What region are we talking about in which these malls are located?
A. Currently, the midwest. We have several properties in the Pacific Northwest and as far east as Virginia.
Q. But the main base is out of Youngstown; is that correct?
A. Yes.
Q. And could you describe for the jury your duties as the treasurer and CFO of the Cafaro Company? What things fall under your realm?
A. I'm responsible for mostly the handling of revenue and expenses. I oversee billing of tenants, the collection of the rent, the investment of cash from the rent, and paying the bills.
Q. Who oversees the accounting department?
A. It falls under my jurisdiction.

Q. And how about the tax accounting department?
A. Same thing, falls under me.
Q. Who actually founded the Cafaro Company?
A. William Cafaro -- William M. Cafaro founded it.
Q. Is he now deceased?
A. Yes. He died in April of '98, I believe.
Q. And who is currently the main person in charge of the Cafaro Company?
A. Anthony Cafaro currently runs the company.
Q. And what is Anthony Cafaro's relationship to -- what was his relationship to William Cafaro?
A. Anthony is William Cafaro's son, oldest son.
Q. Did William Cafaro have any other children besides Anthony?
A. Yes. He has another son John J. Cafaro, and --
Q. Are the other two children --
THE COURT: Wait for the reporter to catch up.
THE WITNESS: John J. And Flora Cafaro.
THE COURT: F-L-O-R-A?
THE WITNESS: Yes.
MR. MORFORD: Thank you.
Q. John J. Cafaro, does he go by a nickname?
A. J.J.
Q. With respect to Flora and J.J., are they also

involved with the Cafaro Company in any way?
A. Yes, they are.
Q. And how would you describe Flora's role with the Cafaro Company?
A. Flora serves as assistant treasurer. She handles -- she comes in and works on bill paying and invoice processing.
Q. And how about J.J., what's his role with the company?
A. His role is primarily real estate department, working with tenants, negotiating leases.
Q. And who does he answer to in terms of the hierarchy of the company?
A. His oldest brother, Anthony Cafaro.
Q. As a practical matter, who has the supreme authority over this business, the real estate business collectively known as the Cafaro Company?
A. Anthony Cafaro does.
Q. Now, is this a publicly traded company or a family owned company?
A. It's family owned.
Q. Now, are you familiar with a venture that involved the Cafaro family and the Avanti Motor Company?
A. Yes, I am.
Q. And could you describe the nature of that venture and in a nutshell?

A. The Avanti Motor Company was producing cars. They would take a chassis from a GM built vehicle, remove the body, and put a sports car style body on it and sell those to the public.

Q. And where were those cars being manufactured?

A. They were manufactured in Youngstown, Ohio, Ross Industrial Park.

Q. And who from the Cafaro Company or family was actually in charge of this venture?

A. J.J. Cafaro was.

Q. And do you know the approximate time frame that that venture took place?

A. Avanti ran from 19 -- approximately 1986 through 1991.

Q. And as based upon the duties that you described that you've had with the Cafaro Company, are you familiar with the amount of money that was invested by the Cafaros and the Cafaro Company into that venture?

A. I believe it to be approximately $26 million.

Q. And how did that venture work out from a financial perspective for the Cafaro family?

A. It was -- they lost all $26 million.

Q. Now, who was ultimately responsible for covering that $26 million loss?

A. J.J. Cafaro was.

Q. And why was that?
A. It was his venture, and he -- it was his investment.
Q. Did there come a time when J.J. Cafaro left the Cafaro Company?
A. Yes. He left for a brief period. He left in approximately 1989. He was gone for several years. He came back, I believe, in '92 on a part-time as a consultant type basis, not as an employee, and he returned full-time in 1995.
Q. And when and in terms of sequence, in terms of relation, did he leave relative to the failure of the Avanti company and the loss of the $26 million?
A. He left during probably the middle of the Avanti years, and he returned a year or so after it ceased operations.
Q. I'd like to ask you some questions about a Cafaro investment and a laser landing technology. Are you familiar with that?
A. Yes, I am.
Q. And turning your attention to 1996, do you recall an issue arising regarding a potential investment in some laser landing technology?
A. Yes, I do.
Q. And who in the Cafaro family brought up the idea of having Cafaro family funds invested in this technology?

A. J.J. Cafaro did.
Q. Had the Cafaro Company ever been involved in this type of technology before?
A. No, they had not.
Q. Had they ever been involved in an investment, in any kind of technology, new technology before?
A. Not that I'm aware of.
Q. Now, were you personally involved in any Cafaro Company meetings regarding the feasibility and profit potential of this potential investment in this laser technology by the Cafaro Company?
A. Yes, I was.
Q. And with respect to this potential investment, if the company went forward with the investment, who was going to lobby the federal government on behalf of this technology?
A. J. J. Cafaro would.
Q. Now, if you could just describe again in a nutshell without getting into too much detail your general understanding of the nature of this technology, if you could explain that to the jury?
A. The technology was, it was a small box that they would place at the end of the runway. Out of the box, there would be multiple laser beams, different colors, and pilots, as they would approach the runway would be able to look down, see the lasers, and know if they were on the

proper path to land on the runway or not.
Q. Now, do you know who it was that had actually invented this technology or the use of this technology for the purpose you've described?
A. Their names were Shemwell and Vetter. I don't recall the first name, Alan Shemwell and David Vetter.
Q. What was the connection between the Cafaro Company and this invention of Shemwell and Vetter as this project started?
A. It originally started off as approximately a $2 million loan to an entity known as LaserLine, which was trying to market the technology.
Q. Okay. And who was the main principal behind LaserLine?
A. Their names were Eddington and Catrell.
MR. TRAFICANT: I didn't hear that.
THE WITNESS: Eddington and Catrell.
Q. And you said there was a $2 million loan from whom to whom?
A. The loan was from the Cafaro Company to LaserLine.
Q. And as this investment started, what was your understanding of the potential markets for this technology?
A. It would be primarily marketed to commercial airports.
Q. And were there any other applications as you

understood it or potential applications?
A. Potential applications in the marine use.
Q. When you say marine use --
A. Guiding ships through narrow harbors and channels. Also, there was military applications.
Q. Now, could you describe the first financial involvement then of the Cafaro Company? You said there was talk of a loan. Was the loan actually made?
A. Yes. In 1996, a loan was made of approximately $2 million to LaserLine.
Q. And then after that loan was made, did there come a time when the Cafaro Company took a more active role than simply loaning money to LaserLine?
A. Yes. In August of 1997, J.J. Cafaro acquired the technology from the inventors.
Q. And after J.J. Cafaro actually acquired the rights to the technology, what commitment did the Cafaro Company make towards funding this technology?
A. In early 1999 -- well, the company made a commitment to fund $125,000 a month to begin the marketing process for the technology.
Q. Why -- well, whose decision was it to put an amount of $125,000 a month on the investment?
A. Anthony Cafaro's.
Q. And what is your understanding as to why that

$125,000 cap was put on the investment?
A. To control the spending, to not let things get out of hand as much as they did in the Avanti situation.
Q. Were there any entities set up to handle the financing of this venture?
A. Yes, there was. We set up an entity known as Cafaro Laser.
Q. And was there any other entity besides Cafaro Laser that was set up to handling the marketing of this technology?
A. Yes. An entity known as U.S. Aerospace Group was set up to actually market the project.
Q. Did U.S. Aerospace Group go by an another name, shortened version of that?
A. USAG, I believe.
Q. Now, what was the purpose of Cafaro Laser, as you understood it?
A. Cafaro Laser was just to loan money. It was the Cafaro family's ownership and by loaning the money to USAG.
Q. And then what was the USAG? What was its purpose?
A. Its purpose was to market the product, own -- I believe own the technology and market it.
Q. Now, you said that there was a budget set up of $125,000 a month. Who was in charge ultimately of monitoring the disbursements of the $125,000 a month to

make sure that USAG stayed within the $125,000 a month?
A. Initially, I was.
Q. At the time these discussions were taking place about investing large sums of money in this technology, what was discussed as to the profit making potential of this laser technology?
A. It was -- they anticipated huge profits from the technology.
Q. And what was the primary market for this technology, as you understood it? Who were the customer base?
A. Commercial airports.
Q. And would that be public, private, or both?
A. Both.
Q. What, if any, hurdles did the technology need to overcome before the technology could be sold to U.S. airports?
A. The technology did not have FAA certification, which would have been required in order to sell to commercial airport.
Q. And how significant was this hurdle of obtaining FAA certification to this investment?
A. It would be probably impossible to sell almost to a commercial airport.
Q. Now, assuming the company could obtain FAA certification, where would the airports, which you said

were the potential customers, where would they get the funds needed to buy the technology, as you understood it?

A. I understood it would come from Government funding.

Q. And who was the person ultimately in charge of the affairs of USAG?

A. John J. Cafaro.

Q. That would be J.J.?

A. Yes.

Q. And where were USAG's corporate offices located?

A. Manassas, Virginia.

Q. And where was J.J.'s office within the Cafaro Company?

A. He was in Youngstown, Ohio.

Q. Once USAG was set up, where was J.J.'s main office?

A. He had offices in both locations. I don't know which was his main -- whatever project he was working on, that was probably the office he was in.

Q. Okay. So he continued to maintain an office in Youngstown?

A. Yes, he did.

Q. And then he also had an office in USAG in Virginia?

A. Yes.

Q. Did he have houses at both places, do you know?

A. Yes, he does.

Q. Do you know how he would travel from one place to the

other?
A. By car, by plane. I believe he used both.
Q. When you say by plane, does the Cafaro Company have their own jet?
A. Yes, they do.
Q. Now, are you familiar with a man named Rick Detore?
A. Yes.
Q. And who was Rick Detore?
A. He was the chief operating officer of USAG.
Q. And where was he located? Where was his office?
A. He was in Manassas, Virginia.
Q. You've talked about the role of J.J. Cafaro, and now you talked about Rick Detore. Let me ask you this: What role, if any, did Tony Cafaro play in the affairs of USAG?
A. None that I'm aware of.
Q. Was he involved in the decisions to fund USAG?
A. Yes.
Q. Was it ultimately up to him to continue how long to continue funding USAG?
A. Yes, yes, it was.
Q. Now, did there ever come a time where a cap was placed on the amount of money that the Cafaro Company would be able to invest in this venture?
A. Yes. In early 1999, a cap was set at $5 million.
Q. And why was the cap set on this investment?

A. Just to control it, to ensure that progress was being made towards meeting their goals.
Q. What was the issue that the company put a cap of $5 million on this investment? What were your concerns?
A. That it would just turn into another Avanti, you know, excessive spending.
Q. Now, at the time that the decision was made to put a $5 million cap on the investment, how important was the issue of certification on the company's willingness to continue to invest funds in this venture?
A. It was -- you know, required. The $5 million cap was set and a deadline of June 15th, '98, was set, that they had to have FAA certification by that day, or funding would be stopped.
Q. So you're saying that the company was given what, an ultimatum or a target?
A. A target.
Q. A target FAA certification by June, 1998, or what would happen?
A. All funding would stop.
Q. Now, was this target communicated to J.J. Cafaro?
A. Yes.
Q. And can you tell us, as you approached June of 1998, what was J.J. Cafaro communicating to you and Tony Cafaro and other officials at USAG regarding his progress in

obtaining certification?

MR. TRAFICANT: Objection as to record only.

Q. And as I ask you that, I'm just asking you what he's telling you in terms of --

MR. TRAFICANT: Objection as to record only.

THE COURT: You're talking across him, so I can't hear or understand it. I can't hear both of you. So what I'd like you to do is go on to something else, and we'll take this up.

MR. MORFORD: Okay.

THE COURT: Congressman, don't talk while people who are also speaking.

MR. TRAFICANT: I apologize.

THE COURT: Thank you, but you need to stop doing it. Thanks.

BY MR. MORFORD:

Q. Turning to what's been put in front of you on the stand, do you see an exhibit there marked 8-10?

A. Yes, I do.

Q. And can you tell us just generally what is this document?

A. This is a memo that J.J. sent to Anthony Cafaro, Mark Beck, and myself.

Q. And what is the date of this memoranda?

A. June 18th, 1998.

Q. And what was attached to this memoranda? You may need to pull it out of the glassine there, if you would.
A. A news release from Congressman Jim Traficant.
MR. MORFORD: Your Honor, can I go ahead and put this up on the screen?
THE COURT: Yes.
BY MR. MORFORD:
Q. I'd like to ask you if you could go ahead and read the words that are on the screen or on the document, the body of the document?
A. "The key to the attached news release is: Sets the stage for next year's legislation for mandating its use. This is an extremely big step."
Q. Okay. Without telling us what, if anything, was done, if anything ever was done, could you just tell us what J.J. Cafaro was telling you and Tony Cafaro and corporate counsel as to what --
MR. TRAFICANT: Objection as to hearsay for the record.
MR. MORFORD: Your Honor, this would be an admission of a party opponent.
THE COURT: I think it probably will be. Would you let him finish? He didn't finish his sentence. Okay. Let him complete his sentence, Congressman. You can proceed.

BY MR. MORFORD:

Q. What was your understanding of what J.J. Cafaro was telling corporate officials that were funding this project regarding what, if anything, Congressman Traficant was promising to do for USAG regarding FAA certification?

MR. TRAFICANT: Objection for the record as to speculation period.

THE COURT: Overruled. You may answer.

THE WITNESS: The purpose of this was to show he's making progress.

Q. And who was he telling you was making progress for him with respect to the issue of FAA certification?

A. Congressman Traficant.

Q. And what was the state of the Cafaro company's financial commitment as to whether it was going to continue to fund this venture on June 18th, 1998, when J.J. Cafaro sent you this memorandum and the attached press release?

A. This was past the cutoff date that was set for having FAA certification, and I don't think at this point the $5 million was completely spent.

Q. How many days past the cutoff date was this?

A. Three days.

Q. How close was USAG at the point that J.J. Cafaro sent you this memorandum to going over the $5 million cap, as you recall, approximately?

A. I believe they went over -- about a month away, probably.

Q. If you could turn to Page 2 of this document, the attached press release, do you see that?

A. Blank -- it's a blank page that says "news" at the top.

Q. Yes.

A. Yes. Okay.

MR. TRAFICANT: I ask this be made a joint exhibit.

THE COURT: Okay.

MR. TRAFICANT: All of 18.

THE COURT: Okay, Congressman.

Q. Can you tell us generally what this is just from the caption, what does this appear to be?

A. It's a press release.

Q. And does it have a date?

A. Thursday, June 18th, 1998.

Q. Can you tell from the fax header when it was sent to U.S. Aerospace Group?

A. The fax date appears to be June 18th, 1998.

Q. I'd' like to ask you if you could read the little paragraph there at the bottom of the page. Do you see where I'm referring to?

A. Yes.

Q. Go ahead and read that?
A. "The U.S. Navy has tested enhanced vision technologies and plans to deploy these technologies on its aircraft carriers. The U.S. Park Police has had great success with the cold cathode lights at its helicopter pad in Washington, D.C. In addition, the FAA has been testing and analyzing enhanced vision technologies for the past several years."
Q. Let me stop you there and ask you: What are enhanced vision technologies? That term keeps being referred to here.
A. I believe it's any technology that makes landing with lights easier in adverse weather conditions or -- like I said, adverse weather conditions.
Q. Is that a description of the product that USAG was attempting to get certification for and to market to U.S. airports?
A. Yes, it is.
Q. If you'd turn to the second page of this press release, in particular, the second paragraph, do you see that it starts "These technologies."
A. Yes, I do.
Q. Could you go ahead and read that -- in fact, read -- yeah, just read that paragraph for now if you could?
A. "These technologies, especially laser guidance

systems and cold cathode lights have been extensively tested. They work, and they work well, observed Traficant. They are also cheaper to maintain than conventional lighting. For example, cold cathode lights have a life time cost of only 20 percent of that of incadescent lights. It's time for the FAA to expedite its analysis and certify these technologies."

Q. Okay. There's something there that says these technologies especially laser guidance technologies and cold cathode lights have been extensively tested. Do you see that sentence?

A. Yes.

Q. What are cold cathode lights, do you know?

A. I believe they're lights that they use to highlight the perimeter of a landing area.

Q. And who had the patent rights and the rights to market the laser guidance systems and cold cathode lights as you understood it?

A. The laser guidance assigned to USAG, the cold cathode. I'm not sure about.

Q. Okay.

There's a line at the end of that paragraph that says "it's time for the FAA to expedite its analysis and certify these technologies."

How important was it for you at the Cafaro Company to

know that Congressman Traficant was issuing a press release calling for the FAA to expedite certification of USAG's technology at this point on June 18thth, 1998?

A. This would have been very important because it would have continued funding by the Cafaro Company, because it showed progress was being made.

Q. And if you could drop down and read the very last paragraph?

A. "Traficant said it's blank, he will work next year to pass legislation requiring U.S. airports to install enhanced vision technologies to replace or enhance conventional landing lights systems over a ten-year period."

Q. How important was it to the Cafaro Company to know that Congressman Traficant was promising to work during the next year to pass legislation requiring U.S. airports to install this technology over a ten-year period?

A. It was very important. Once again, it supported that progress was being made.

Q. Did there come a time when USAG reached a $5 million cap?

A. Yes, they did.

Q. How long after this was sent on June 18th, 1998, was it approximately before USAG ran out of money, hit the $5 million cap?

A. I believe it was the next month.
Q. What, if any, discussions do you recall at that time when the $5 million cap ran out?
A. When the $5 million cap ran out, Anthony Cafaro did not want to invest any more company funds. So to continue, J.J. Cafaro personally borrowed $2.5 million from some family trusts.
Q. And who had to approve for J. J. Cafaro to borrow $2.5 million from Cafaro family trusts?
A. Anthony Cafaro had to approve them.
MR. TRAFICANT: I didn't hear that.
THE WITNESS: Anthony Cafaro.
Q. Now, how were you at the Cafaro Company to process draws upon the $2.5 million line of credit once the $5 million cap had been hit?
A. We were basically just processing checks for them. If invoices came through, as long as they were approved by J.J. Cafaro, we would process it and issue a check to pay it.
Q. Okay. So as far as USAG expenses, if USAG had an expense, who had to actually sign and approve the expense as you understood it?
A. J.J. Cafaro had to approve it.
Q. And then once he approved the expense, who would it get sent to to process?

A. It would be sent to my department, and we would issue a check, and sign it.
Q. And off whose account would you issue these checks?
A. They would be charged against the $2.5 million.
Q. But in terms of an entity, was this coming off of a Cafaro Company check or Cafaro Laser checks, or don't you know?
A. All checks are issued off the Cafaro Company, but they're charged against Cafaro Laser. It was loaning money to USAG.
Q. How long a period did the $2.5 million last?
A. The $2.5 million expired on January, 1999.
Q. And once the $2.5 million expired in January '99, what request was made as to additional funding?
A. At that time, I don't believe there was any additional requests. At that time, J.J. began paying USAG bills just out of his personal account.
Q. And when he began paying USAG personal bills out of his personal account, did that cause any problems for the Cafaro Company?
A. The only problem it caused was when he was making -- paying payroll to his personal accounts.
Q. And what kind of problem did that cause?
A. He was issuing checks for just the net payroll and was not withholding or remitting to the Government payroll

taxes.
Q. When an employer makes paychecks payable to employees, in addition to giving a check to the employee, what else does the employer have to do?
A. The employer has to submit the withheld taxes to the Government.
Q. And if the employer fails to do that, what happens?
A. There's severe penalties.
Q. You said J.J. Cafaro was paying the employees out of his personal account, correct?
A. That's correct.
Q. And then what was the issue that you saw as a problem for your company?
A. I was concerned that since those employees were listed on the payroll of the Cafaro Company, that the Cafaro Company would be responsible for those penalties and those taxes.
Q. And as a result of that, what did you do?
A. I met with Anthony Cafaro and expressed my concern about the issue and was able to convince him that we should continue to fund just enough to pay the payroll taxes.
Q. Now, did there ever come a time where there was a discussion of a loan from Bank One?
A. Yes.
Q. Can you explain that to the jury?

A. At the time that J.J. was funding it out of his personal account, he obtained a $900,000 loan from Bank One.

Q. And did anyone have to co-sign for J.J. Cafaro to get that $900,000 loan?

A. Anthony Cafaro signed as a guarantor of that loan.

Q. Why was it necessary for Anthony Cafaro to sign as a guarantor of the $900,000 loan to J.J. Cafaro?

A. J.J. did not have the credit quality to obtain a loan like that.

Q. How long did the $900,000 loan or line of credit from Bank One last, as you understood it?

A. That lasted two months.

Q. And then what happened after that loan was exhausted?

A. J.J. continued to fund out of his personal account.

Q. Okay. Now, you said initially there was a $2 million loan from the Cafaro Company, correct?

A. Correct.

Q. And then you said there was a $5 million cap of investment that was reached; is that correct?

A. Correct.

Q. Did that $5 million include the $2 million original loan, or was that in addition to the $2 million loan?

A. I believe that included the original $2 million.

Q. So there's basically $5 million total invested up to

that point, correct?
A. Yes.
Q. And then you said an additional $2.5 million?
A. Yes.
Q. And that was borrowed from Cafaro family trusts?
A. Correct.
Q. And then you said there was a loan from Bank One for $900,000?
A. Correct.
Q. And then you said J.J. paid some money from his own personal funds, correct?
A. That's correct.
Q. Did there come a time when you all at the Cafaro Company just pulled the plug on all further financing of this venture?
A. Yes, they did. January 1st, 2000, we discontinued all activity with -- there was one additional funding that Anthony Cafaro approved for $800,000 that would be paid out over the next four months.
Q. Okay. How did that $800,000 finally come about?
A. Capri Cafaro met with Tony Cafaro and convinced him to give him one last chance.
Q. And who is Capri Cafaro?
A. That's J.J. Cafaro's daughter.
Q. And what was her connection to USAG as you under

stood it?
A. She worked for USAG. I'm not sure what capacity.
Q. Did Cafaro Company give USAG that one last $800,000 funding?
A. Yes, it did.
Q. After that, did Cafaro Company make any additional funding whatsoever to this company?
A. Only nominal items that were on order that we had to pay.
Q. Now, at the time that the Cafaro Company puts in this last $800,000 funding payment, had USAG obtained FAA certification as of that point in January 2000?
A. No, they had not.
Q. Do you know through your position as a certified -- or as the chief financial officer and the treasurer of the Cafaro Company when you include the original $5 -- for the original $5 million investment, $2.5 line of credit, $900,000 line of credit, the $800,000 amount at the end and money that J.J. Cafaro personally put in, do you have a ball park of how much the Cafaro Company actually invested in this venture?
A. It was in excess of $10 million.
Q. And in the final analysis, did either of the Cafaro Company or J.J. Cafaro or any member of the Cafaro Company make any money on this venture?

A. No, they did not.
Q. Did they lose money on this venture?
A. Yes, they did.
Q. Approximately how much did they lose in this venture?
A. They lost over $10 million.
Q. And what ultimately happened to USAG?
A. It's now defunct.
Q. To your knowledge, did USAG ever obtain FAA certification for this technology?
A. Not to my knowledge.
Q. Now, I'd like to ask you some questions about USAG's involvement with the boat. Okay?
A. Okay.
Q. Did there ever come a time when you learned that USAG had some type of involvement with a boat?
A. Yes, I did.
Q. And how did you first come to learn that USAG was involved in some way with a boat?
A. Someone brought to my attention a repair bill.
Q. And what was there about the repair bill that caught your eye?
A. Actually, it was just -- I was questioning whether it was a personal expenditure of J.J.'s or was it a USAG expense.
Q. And why was that significant to you in your position

in the Cafaro Company?
A. Just to make sure that the proper entities were charged for the expenditure. If it was an expense of J.J., his personal boat. We would have charged J.J. personally for the expenditure. If it's a business expense of USAG, we would have charged USAG.
Q. Now, you said J.J.'s personal boat. Were you aware that J.J. had a boat?
A. Yes.
Q. And what kind of boat did he have?
A. It was a large 110-foot boat. I'm not sure of the proper description of it would be.
Q. A yacht?
A. Yes, I guess.
Q. To your knowledge, was it a wooden boat or fiber glass boat, do you know?
A. It was a wooden boat.
Q. And to your knowledge, had there been large expenses incurred in the maintenance of that wooden yacht?
A. Yes, there were.
Q. Now, when you saw that there was an expense coming through for -- what did you say, boat repairs?
A. That's correct.
Q. What did you do to determine whether or not this was actually a business expense of USAG versus a personal

expense of J.J. trying to repair his own personal yacht?
A. I don't recall exactly how I got the information, but I understood it was repair for the USAG.
Q. At the time that you were trying to determine that this was actually a business expense of USAG, were you ever told of any connection between the boat USAG was claiming expenses to repair and Congressman Traficant?
A. No, I was not.
Q. Turning your attention to a group of exhibits -- and again, if you could take them out of the glassine -- labeled 8-21, do you see that in front of you?
A. Yes, I do.
Q. Generally, can you describe what that is?
A. It's a memorandum from J.J. Cafaro to me. It's a request for a $3,000 check payable to Al Lange for expenses.
Q. Okay.
MR. MORFORD: Your Honor, may I put this up on the board?
THE COURT: Yes.
MR. TRAFICANT: I ask it be made a joint exhibit.
Q. What's the date of this memorandum?
THE COURT: What's the number, please?
MR. MORFORD: Exhibit 8-21.

THE COURT: Okay. It can be joint.

MR. MORFORD: I'm sorry?

THE COURT: He asked it be a joint exhibit.

MR. MORFORD: Thank you, your Honor.

BY MR. MORFORD:

Q. What's the date of this joint exhibit?

A. The date is September 10, 1998.

Q. And again, it's addressed to whom from whom?

A. It's addressed to me from J.J. Cafaro.

Q. And it says regarding -- can you tell us what it's regarding?

A. U.S. Aerospace Group/Cafaro Laser, Limited, Al Lange.

Q. Can you read the sentences that follow, just one sentence?

A. "Please issue a check in the amount of $3,000 payable to Al Lange for expenses."

Q. If you could read the whole --

A. "I will explain to you in full at a later time. Please overnight this check to Al Lange to the U.S. Aerospace address. Thank you."

Q. Now, did you actually issue the check?

A. Yes, we did.

Q. And did J.J. ever explain to you the nature of that check that was issued based on his request in this memo to Al Lange for expenses regarding U.S. Aerospace Cafaro

Laser?

A. No, he did not.

Q. The second page of this exhibit, do you see the check there?

A. Yes, I do.

Q. And is that the check that was issued at the request of J.J. Cafaro in the memo?

A. Yes, it is.

Q. And who was the check made payable to?

A. Al Lange.

Q. Now, what, if any, problems did it cause you in your tax accounting department by the fact that although J.J. Cafaro had said that he would tell you what this was for at a later time, that he never told you what it was for?

A. We had no expenses -- I'm sorry -- we had no receipts to go with it.

Q. Okay. And what problem -- what, if any, problem did that cause for you?

A. To substantiate the deductibility of expense.

Q. Okay. Explain that to the jury a little bit what you mean by that. What's the issue? You've got a $3,000 check to Al Lange, correct?

A. That's correct.

Q. And you said you don't have any substantiation as to what that was a payment for, correct?

A. That's correct.
Q. And what do you need to determine for tax purposes at the end of the year as the Cafaro Company tax accounting people?
A. We need to identify whether it's a deductible expense or not.
Q. What if it's not a business expense? It's just a check to Al Lange. How do you have to treat it?
A. It would be treated as compensation to Al Lange.
Q. What would you do then at the end of the year with respect to that $3,000? Would you have to issue any forms?
A. Yes. We would issue either a 1099, or we would include it in his W-2.
Q. If you issue a 1099, what is that, and what is that set in motion?
A. A 1099 is an Internal Revenue Service form that one copy goes to the recipient, which would be Al Lange, and one copy goes to the Internal Revenue Service to ensure that Al Lange reports it as taxable income on his tax return.
Q. If you fill out a 1099 form for $3,000 for Al Lange and send it to the IRS, what are you telling the IRS about that $3,000?
A. That it's taxable income to Al Lange.
Q. I'd like to ask you to turn your attention to Exhibit

8-22. Do you see that in front of you?
A. Yes, I do.
Q. And can you tell us what this particular document is?
A. This is a memorandum from Jeff Siweck, one of our internal auditors, to Jennie Heinselman, requesting information regarding check 86997 to Al Lange.
Q. And who is J.J. Heinselman?
A. That's J.J. Cafaro's secretary.
Q. Is this Jeff Siweck someone that worked under your direction?
A. Yes, he did.
Q. And is this a document that was prepared and maintained in the ordinary course of the tax accounting business practices of the Cafaro Company?
A. When we're requesting internal information or information from another department, yes, it is.
Q. And this is a record that you maintain, correct?
A. Yes.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes.
Q. What is the topic? What is this particular memo regarding?
A. He's requesting copies of the receipts to support the $3,000 check to Al Lange.

Q. Could you go ahead and just read that -- the two sentences that make up that paragraph, please?
A. "I am currently processing 1099 forms. I came across this payment for expenses and discovered no receipts attached. If receipts cannot be produced to back up this expense check, we will be required to send a 1099 miscellaneous form to Al Lange."
Q. And if you could turn to the final document, there's five documents attached to that exhibit. The final one, you see that where it says substitute form 1099 miscellaneous up there at the top?
A. Yes, I do.
Q. Would you tell us what that is?
A. That's the 1099, a copy of which is sent to Al Lange and a copy to the Internal Revenue Service.
Q. Okay.
So in the end, you sent a 1099 to the IRS telling them what about this $3,000 check?
A. That this was taxable income to Al Lange.
Q. And you sent a 1099 to the IRS saying this was taxable income to Al Lange. Why?
A. Because we did not have any substantiation or receipts to support it.
Q. So you couldn't treat it as a business expense of USAG, correct?

A. That's correct.
Q. After that 1099 was issued, did you receive some memoranda from people involved with USAG?
A. Could you repeat the question?
Q. After the 1099 was issued to the IRS, did there come a time where you received some memoranda about that issue from some of the people running USAG?
A. I believe there was a memo from J.J. Cafaro.
Q. Okay. Taking a look at what's in front of you, 8-26, do you see that?
A. Yes, I do.
Q. And is this a -- again a document that was made and maintained in the ordinary course of business of the Cafaro Company?
A. Yes, it is.
MR. MORFORD: May I put it on the overhead, your Honor?
THE COURT: Yes.
Q. Turning to Government's Exhibit 8-26, what is the date of this particular memoranda?
A. March 30, 1999.
Q. And could you go ahead and read the two paragraphs there, please?
A. "Relative to the 1099's sent to the Internal Revenue Service for Richard Detore in the amounts of $16,572 and Al

Lange in the amount of $3,000, please be advised that those 1099s are in error.

"It was my mistake. They were for expenses and should not have been put on a 1099. Please correct your accounting records accordingly."

Q. As a result of this memorandum, what, if anything, did the tax accounting department do?

A. They voided out the previously issued 1099.

MR. TRAFICANT: I ask this be made a joint exhibit.

THE COURT: All right.

Q. How did you end up treating it?

THE COURT: Congressman, the one on the board, this one?

MR. TRAFICANT: Yes.

THE COURT: Okay.

MR. TRAFICANT: No, the one -- that one right there.

THE COURT: Okay.

MR. MORFORD: That would be 8-26.

THE COURT: Yes, 8-26.

Q. How did you ultimately then end up treating the $3,000 payment the Cafaro Company had made to Al Lange at J.J. Cafaro's request?

A. As a business expense of USAG.

Q. Turning your attention to 8-27, what is that?
A. That's a copy of the previously issued 1099 with a note indicating that it was corrected, shows zero for the instructions from the memo from J. J. Cafaro to me.
Q. Would the 1099 have been reversed, and would you have treated this as a $3,000 business expense of USAG if, in fact, this was income payable to Al Lange?
A. No.
Q. Could you have treated this as a business expense of USAG instead of income to Al Lange if, in fact, the $3,000 had been given to Al Lange personally to buy or repair his own personal boat that he owned?
A. It would have been a taxable income to Al Lange.
MR. TRAFICANT: Could you repeat the question?
THE COURT: I'll read it. Could you have treated this as a business expense of USAG instead of income to Al Lange if, in fact, the $3,000 had been given to Al Lange personally to buy or repair his own personal boat that he owned? That was the question.
Q. So as of March 30, 1999, what were you being told this $3,000 was?
A. It was a business expense of USAG.
Q. Finally, I'd like to turn your attention to what's been marked 8-65. Do you see that exhibit?

A. Yes, I do.
Q. And again could you take those out of the glassine? And starting with the first two pages of that exhibit, can you tell us what those are?
A. The first two pages are copies of W-2 forms for Al Lange for the years 1997, 1998 and 1999.
Q. And are these documents that were prepared by the Cafaro Company tax accounting office under your overall supervision?
A. Yes.
Q. And are these business records of the Cafaro Company?
A. Yes, they are.
Q. And do these summarize the income that was paid to Al Lange during the years 1997, 1998, and 1999?
A. Yes, they do.
Q. Now, the next three pages after that, can you take a look at those and describe what those are?
A. Those are the -- it's the detail of each payroll check that was paid to Al Lange.
Q. And are these business records that were made and maintained by the Cafaro Company in the ordinary course of its business?
A. Yes, they are.
MR. MORFORD: Your Honor, may I place these on the overhead?

THE COURT: Yes.

BY MR. MORFORD:

Q. Starting with the first page there, do you see that?

A. Yes.

Q. Can you tell us -- let's start with the first two entries, what does that depict?

A. That's the paycheck for the check for the period ending -- check date 10-15-97 in the amount of $1,230.77, and the second check is dated 10-29-97 for $3,076.94.

Q. Okay. And then from there on, there appears to be two checks each month in the amount of $3,076.94?

A. Yes, it's every two weeks.

Q. Every two weeks. Is that what the payroll system was for USAG as you understood it?

A. Yes.

Q. Turning to the second page, there comes a time where $3,076.94 apparently stops and picks up with a larger number $4,038.48. Do you see that?

A. Yes, I do.

Q. And what do those amounts represent, as you understand it?

A. It's the same thing. It's payroll checks.

Q. Turning to the last page, the month of May, do you see that?

A. Yes, I do.

Q. And in the month of May, there are two entries, $4,038.48. Do you see that?
A. Yes, I do.
Q. But on May 12, 1999, in addition to the normal entry of $4,038.48, there's also an item $30,000, do you see that?
A. Yes, I do.
Q. Is that $30,000 income to Al Lange?
A. Yes, it is.
Q. What kind of income is listed on this printout?
A. Taxable income.
Q. And what would that include, what types of income?
A. Include regular payroll, regular compensation, and bonuses.
Q. To the best of your knowledge, what does the $30,000 represent?
A. A bonus.
MR. TRAFICANT: I ask it be a joint exhibit.
THE COURT: Okay. There are quite a few pages there, Exhibit 8-65.
MR. MORFORD: May I have just a moment, your Honor?
THE COURT: Yes.
MR. MORFORD: I have no further questions.
THE COURT: Thank you. Congressman, it's

3:00. Shall we take a break before you start?

MR. TRAFICANT: I recommend it.

THE COURT: Okay. We'll do it. About a half hour break. See you back at 3:30.

(Thereupon, a recess was taken.)

THE COURT: Sir, you're still under oath.

CROSS-EXAMINATION OF DOMINIC ROSSELLI

BY MR. TRAFICANT:

Q. Good afternoon, Dominic.

A. Good afternoon.

Q. If my voice is loud, I'm hoarse, and if I talk soft, you won't hear me.

A. Okay.

Q. I have to ask, are you related to Coach Dom Rosselli?

A. Yes, I am.

Q. Dominic is your dad?

A. Yes, he is.

Q. Now, I notice you didn't testify before the Grand Jury, Chip.

A. That's correct.

Q. And you're the chief financial officer and treasurer of the Cafaro Corporation, right?

A. That's correct.

Q. Is that since January of '97?

A. Yes, it is.

Q. Your background is taxes and tax accounting?
A. Yes, it is.
Q. Now, when you said Cafaros were listed as Number 11, was that Number 11 as a private company?
A. That's Number 11 among public and private companies.
Q. They're very big, aren't they?
A. Yes, they are.
Q. Do they have malls in the Cleveland area?
A. No, they do not.
Q. Do they have malls throughout Ohio?
A. Yes.
Q. And several other states, correct?
A. That's correct.
Q. And their basic business is real estate and marketing of real estate?
A. That's correct, owning and operating shopping centers.
Q. You said you were responsible for revenue and expenses, correct?
A. That's correct.
Q. You're responsible for billing?
A. Yes.
Q. You're responsible for collection of rent?
A. That's correct.
Q. And also, you said for collection of cash for rent?

A. That's correct. What I meant was, as rent comes in, we -- it's the handling of not cash in its physical sense but cash in the sense that it's money in bank accounts, not physical.

Q. Any of your tenants pay you cash?

A. On occasion.

Q. Do you have a special account for cash?

A. Cash goes into the regular account. We just have one account.

Q. You do not delineate and separate a separate ledger showing which firms pay cash and how much cash is received when you do your annual report?

A. No, we do not.

Q. Isn't it a fact that Mr. Bill Cafaro was maybe one of the great founders of our Valley?

A. I would agree with that.

Q. He didn't found it, but he was one of the big promoters of it and always kept his company there; is that correct?

A. That's correct.

Q. Now, after he died in '98, there was a new structure set up; is that correct?

A. I believe it was just a continuation of the existing structure.

Q. Well, were there officers in the Cafaro Company

structure?
A. Yes.
Q. It was not a corporation, was it?
A. No. The Cafaro Company is a corporation.
Q. But it was not publicly traded?
A. That's correct.
Q. And it's privately owned?
A. That's correct.
Q. And all the stock is owned by whom?
A. Cafaro family members. I don't recall exactly who the owners are. It's all Cafaro family members or trusts for their benefit.
Q. Who owns the most shares of the of this stock?
A. Of the Cafaro Company itself or all the real estate holdings?
Q. Of the entire Cafaro Company holdings.
A. There's probably three trusts that hold the bulk of the assets.
Q. Are there shares of stock in this corporation?
A. Yes, there are.
Q. Are there three different corporations?
A. When you say the corporation, are you referring to the three trusts?
Q. I'm referring to the corporation. Is there one corporation with three trust accounts?

A. No, there are not. There are multiple corporations that make up all the Cafaro companies. Generally, when a property is developed, each individual property forms a separate entity.
Q. Do they issue stock in each of those?
A. If it's a corporation, yes, they do.
Q. Who owns the bulk of the stock in those -- the bulk of the stock?
A. Probably the Marian, three Marian trusts.
Q. Would you say that again?
A. There's three trusts known as the -- we refer to them as the Marian Trust or the William M. Cafaro Trust for the benefit of Anthony Cafaro, and the second trust, William M. Cafaro, trust for the benefit of John J. Cafaro, and a third trust, William M. Cafaro for the benefit of Flora M. Cafaro. We refer to them as the Marian Trust.
Q. All right. Now, are there three major office holders in this corporation?
A. In the Cafaro Company? There's the normal string of officers.
Q. Who are they?
A. The president of the Cafaro Company is Anthony Cafaro. There are multiple vice-presidents. I'm the treasurer-chief financial officer. The secretary, I believe is Tim Matune. Flora Cafaro is a vice-president

and assistant treasurer. I don't recall who the other officers are.

Q. Do you own stock?

A. No, I do not.

Q. Who owns the stock?

A. Of the Cafaro Company itself? I don't recall who owns that particular stock.

Q. Well, you said Anthony was the boss, didn't you?

A. Yes, I did.

Q. Did they just pick straws, or how did he become the boss?

A. Just by virtue of being the oldest brother, and Mr. Cafaro trusted him with running the family business.

Q. So then there was an estate of Mr. Cafaro?

A. That's correct.

Q. And the estate delineated carefully the future management of the Cafaro Company?

A. I don't know if it was the estate that delineated that or just among the family members, if it was determined that Tony was the -- to run the company.

Q. Could Tony fire Flora?

A. I believe he could.

Q. And who was Flora?

A. Flora is his sister.

Q. Could Tony fire J.J.?

A. I believe he could.
Q. Was J.J. his brother?
A. That's correct.
Q. Now, there were real estate developers, and Tony was the boss, right?
A. That's correct.
Q. Totally family-owned, right?
A. There were two entities, which had outside partners, was a joint venture with other developers. But for the most part, all the other entities are 100 percent family-owned.
Q. Who were the other two ventures?
A. Kentucky Oak Mall in Paducah, Kentucky and Governor Square Mall in Tennessee.
Q. But these were in line with the business activities that the Cafaros were known for; is that correct?
A. That's correct.
Q. They were, in fact, large shopping malls; is that correct?
A. That's correct.
Q. Didn't the Cafaro Company engage in financing a project called Avanti?
A. Yes, it did.
Q. Did Avanti have anything to do with real estate?
A. No, it does not.

Q. What is Avanti?
A. Avanti was a company that attempted to build sports cars based on a GM chassis.
Q. Do you know if the Cafaros invented the Avanti or if they bought the rights to the Avanti?
A. I believe they bought the rights to the Avanti.
Q. Who did they buy them from?
A. I'm not sure of the exact transaction, but I -- I know there was a gentleman named -- his name was Kell that was involved in the business.
Q. When Avanti was purchased, was Mr. Cafaro, William Cafaro still alive?
A. Yes, he was.
Q. So therefore, he had approved of the purchase?
A. That's true.
Q. Were you treasurer at that time?
A. No, I was not.
Q. Now, you say Avanti lasted from '86 to '91; is that correct?
A. That's correct.
Q. You know how many total cars they produced?
A. No, I do not.
Q. In your capacity, did you do audits?
A. In my individual capacity? No, I did not.
Q. Did you have a staff that would do audits on mall

activity and other activity?
A. On mall activity, yes, we had a stack.
Q. So Avanti was just like -- like a sideline type thing?
A. It was an outside investment.
Q. Was Cafaro company's money used in Avanti?
A. Yes.
Q. Who financed Avanti?
A. J.J. Cafaro did.
Q. And he put all the money into it?
A. Yes, he did.
Q. Where did he get the money from?
A. Borrowing it from the Cafaro Company.
Q. Who would have had to approve that?
A. William Cafaro was alive at the time. I assume he and Tony would have approved that.
Q. You said he and Tony?
A. William Cafaro and Tony, I assume, would have both approved that.
Q. Wasn't it a fact that William Cafaro, Senior was grooming Anthony to take over the company?
A. I believe that to be true.
Q. Did the brother, J.J. and sister Flora, understand that?
A. I believe so.

Q. Now, you say there was a $26 million investment in Avanti, correct?
A. That's correct.
Q. And they lost $26 million in Avanti?
A. That's correct.
Q. Who lost the $26 million?
A. J.J. Cafaro did.
Q. Did J.J. Cafaro have all the $26 million in it?
A. Yes.
Q. Where did he get it from?
A. He sold some of his ownership interest in various real estate entities in order to pay for that.
Q. Did Bill Cafaro and the Cafaro Company absorb any of the Avanti loss?
A. Not that I'm aware of.
Q. You were not treasurer at the time?
A. That's correct, I was not.
Q. But you did work in their tax department at the time?
A. That's correct.
Q. Did you file the tax returns for Avanti?
A. No, I did not.
Q. Did they have their own system of accounting?
A. Yes, they did.
Q. Did they report to Mr. Cafaro?
A. I assume they did. I don't know that, though.

Q. What's the normal investment in one of the standard sized malls that the Cafaros built?
A. It could range based on the size of the mall. It could be $30 million to $80 million.
Q. Now, you say that after Avanti, J.J. left briefly in about 1989?
A. That's correct.
Q. And then he returned in 1992 as a part-time consultant?
A. That's correct.
Q. When did Mr. Bill Cafaro pass?
A. April 1998.
Q. Did J. J. Cafaro and his father have any problems?
A. I don't know that as a fact.
Q. Then he became full-time in 1995 you said, right?
A. That's correct.
Q. Was J.J. Cafaro an employee of the Cafaro Company?
A. Yes.
Q. Was Anthony Cafaro an employee of the Cafaro Company?
A. Yes.
Q. And they received salaries?
A. That's correct.
Q. And benefits?
A. That's correct.
Q. Now, in 1996, the laser technology was brought to the

attention of the Cafaro Company; is that correct?
A. Yes, it was.
Q. And Mr. William Cafaro was still alive, was he not?
A. That's correct.
Q. Is it your testimony that J.J. suggested they go forward, that it was an exciting new venture?
A. Yes.
Q. Did the company consult with any engineers and/or outside consulting firms to, in fact, document that this laser technology had a future?
A. Not that I'm aware of on a formal basis.
Q. Were you treasurer at that time?
A. He -- when it first came in 1996, no, I was not.
Q. When did you become the treasurer?
A. January 1st, 1997.
Q. Now, on January 1st of 1997, was the laser technology a topic of discussion in the Cafaro family?
A. Yes, it was.
Q. Was it a big discussion?
A. Yes.
Q. Wasn't it a fact that it was a deviation from their normal investment?
A. That's correct.
Q. Now, when you were the treasurer, did you suggest to the company that they, in fact, hire consultants and to

research the potential of this product?
A. Yes. Suggestions were made for feasibility studies, that's correct.
Q. Did you do feasibility studies?
A. Not that I'm aware of.
Q. Did you make your representations in writing?
A. No, I do not believe so.
Q. Who did you make your recommendation to?
A. J.J. Cafaro and Anthony M. Cafaro.
Q. Well, did J.J. have any real say?
A. Yes. This was his project. Yes, he did.
Q. Did he have the money to finance it?
A. He had -- when funds were low, he had to borrow the money to finance it.
Q. Who did he borrow from?
A. He borrowed it from family trusts.
Q. The family trust?
A. Various family trusts, yes. There were three trusts that lent him the money.
Q. Who ultimately controlled the family trust?
A. I believe Anthony M. Cafaro was the trustee of those trusts, although I'm not sure of that.
Q. Why did Anthony have to approve everything all the time?
A. He controlled the business and what investments they

made.

Q. Chip, was Anthony Cafaro the boss or not?

A. Yes, he was the boss.

Q. Fine.

Now, at some point, you said J.J. was, to quote unquote, lobby the Government; is that correct? Remember the question by the Prosecutor?

A. Yes, I do.

Q. What does lobby mean?

A. To negotiate for a favorable outcome.

Q. Pardon?

A. To negotiate for a favorable outcome.

Q. With whom, who was he to lobby with?

A. I believe the FAA to try to get certification.

Q. Was Mr. Cafaro close with the Kennedy family?

A. I've heard stories that he was close with the Kennedys.

Q. Did J.J. Cafaro have Kennedy family members at his house in Youngstown for parties and receptions?

A. I don't know that.

Q. Were you ever at J.J.'s house in Youngstown?

A. Yes, I was.

Q. And you were never there when there were any political figures?

A. Not that -- there may have been political figures

there but not that I was aware that they were political figures.

Q. Were there any discussions with the Cafaros as to whom in Washington J.J. was lobbying?

A. No, there weren't.

Q. J.J.'s word was taken that he was being a lobbyist, right?

A. Yes.

Q. Do you know if he was a registered lobbyist under U.S. law?

A. I don't know that.

Q. Now, you said that you had some limited knowledge of what the product was. Do you recall your testimony of how you described the laser and what it was used for?

A. Yes, I do.

Q. How big was it?

A. It was about six-foot long, three-foot wide and maybe eight to ten inches deep.

Q. And as J. J. Cafaro bought the rights to Avanti, he then bought the rights to the laser technology; is that correct?

A. That's correct.

Q. Did you ever see it demonstrated?

A. Yes, I did.

Q. Where?

A. In Manassas.
Q. Who flew the plane when you saw it demonstrated?
A. Rick Detore and Rick Goldberg.
Q. Who was flying the plane?
A. I don't know who flies the plane when they're sitting in the cockpit. I know they both seats had the ability to fly. I don't know who was actually flying it, though.
Q. Now, U.S. Aerospace Group known as USAG, do you know who the president of the company was?
A. I believe that was J.J. Cafaro.
Q. Isn't it a fact Capri Cafaro's, the daughter, was the president?
A. I don't know that.
Q. How old was Capri Cafaro back in 1997?
A. I'm just guessing, early 20's.
Q. Who was the engineer or the CEO of the U.S. Aerospace Group?
A. Rick Detore was the chief operating officer.
Q. Do you know if this technology was demonstrated to Government officials?
A. I believe it was.
Q. How did you come to learn that?
A. When we would have status meetings to talk over what progress was being made, J.J. would indicate, you know, that he had certain demonstrations and to promote the

product.
Q. Did he ever say who set those demonstration projects up?
A. No, he did not.
Q. Now, there was a $2 million loan to LaserLine to market the product. Who made that $2 million loan for marketing?
A. The Cafaro Company did.
Q. Who approved it?
A. Anthony Cafaro.
Q. Could the loan have been made without Anthony Cafaro?
A. No.
Q. Now, LaserLine got the money, and what was this project to be used for?
A. To be used to -- for pilots and landing aircrafts at airports.
Q. Did you not also say they had another intentional purpose for its use?
A. That's true. They also were going to attempt to market it for marine use, for guiding ships through harbors.
Q. Now, you said that Mr. Cafaro had told you that the Navy had utilized the product; is that correct?
A. That's correct.
Q. Did you, in fact, do any company investigation to

substantiate statements made by Mr. Cafaro, J.J. Cafaro?
A. No.
Q. No one in the company called the Navy?
A. Not that I'm aware of.
Q. What happened to $2 million?
A. It was never paid back.
Q. Was there also a military utilization of this product?
A. Yes, there was.
Q. Isn't it a fact on certain aircraft carriers this technology had already been tested and been used?
A. I believe that to be true.
Q. Was it explained to you at any point why it was important?
A. It was important to make it easier to land airplanes.
Q. What's the normal cause of a plane crash, if you would know?
A. That I don't know.
Q. Well, would you say that if a plane overruns a runway, there would be a crash?
MR. MORFORD: Objection. He said he doesn't know.
THE COURT: He doesn't know.
Q. Do you fly? Have you flown in airplanes?
A. Yes.

Q. Have you ever had occasion when a plane may have pulled up and landed again?
A. Yes.
Q. Isn't it a fact that there are runways that planes are to land on?
MR. MORFORD: Your Honor, I object to the line of questioning; that he's an expert in accounting procedures but not in aviation. He's made that clear.
THE COURT: Right. You're asking questions that can be put to anybody anywhere, but this is the witness on the stand, and you're asking these questions as if he has some particular knowledge.
MR. TRAFICANT: I apologize, but I thought anybody that flew a plane knew they landed on the runway, so I apologize for that.
Q. The bottom line is this: The product helped the plane to land right on the spot where it's safe, is that correct, or is that what you explained?
A. That's what I understood it to be.
Q. You know if it's used by the Park Service?
A. I don't know that.
Q. You've -- do you know if it was used for helicopter landings?
A. I don't know that.
Q. Do you know that it had a portable unit that could be

carried out on a back pack and set up in the field at night in covert operations for the military?

A. Yes, I'm aware of that.

Q. So having known that, did you at any time or anyone in the company suggest that you call in someone from the military about this product?

A. No.

Q. Now, at some point, there became an authorization for $125,000 to sort of monitor the marketing of this product; is that correct?

A. That's correct.

Q. Was that a one-time shot?

A. No, that was $125,000 per month.

Q. And did it have a time limit on it?

A. It was just the one-month allocation.

Q. And who approved that?

A. Anthony Cafaro.

Q. Now, when you said that the profit potential, when asked by the Prosecutor, was huge, where did you derive those figures from?

A. J.J. Cafaro.

Q. Was it a fact that J.J. Cafaro maintained that the Avanti product had potential for huge profits?

A. That's correct.

Q. As the treasurer at that point now providing

marketing money, did you ask the Cafaros to conduct any particular studies to substantiate the engineering feasibility and the profitability of the product?

MR. MORFORD: Your Honor, objection. It's been asked and answered at least four times.

THE COURT: I don't know how many times.

Q. Now, at the time they did not have the FAA certification; is that correct?

A. Still did not have the FAA certification.

Q. What was J.J. lobbying for?

A. He was to trying to get FAA certification.

Q. And without the certification, could you sell it?

A. Only to a private individual, I believe.

Q. Where was the office of this company located?

A. Manassas, Virginia.

Q. Was the product built in Manassas, Virginia?

A. Yes, it was.

Q. Do you know if they ever built a trailer for this product to transport it?

A. I think there was a trailer that was built, yes.

Q. Do you know where that trailer was built?

A. No, I do not.

Q. Did USAG not report to you their financial transactions?

A. No, they did not.

Q. Now, J.J. Cafaro maintained homes in both Youngstown and Maryland; is that correct?
A. That's correct.
Q. And Maryland being near D.C.; is that correct?
A. That's correct.
Q. You say J.J. had a car and sometimes used a private plane; is that correct?
A. That's correct.
Q. Did he transport public officials on that plane at times?
A. I have no way of knowing that.
Q. Do you know if there was an agreement between J.J. Cafaro and myself relative to U.S. Aerospace and jobs?
A. No, I do not.
Q. You said Tony Cafaro had no role in the Aerospace Group?
A. That's correct.
Q. Is that correct?
A. That's correct.
Q. But Tony Cafaro did have to make the decisions to fund it?
A. That's correct.
Q. Do you know if there was a note that existed between one brother and the other for repayment?
A. There are -- there have been notes between Anthony

Cafaro and J.J. Cafaro for various reasons.
Q. Well, then, you said in early 1999 there was a cap of $5 million placed on the project, and Tony Cafaro placed that cap, correct?
A. That's correct.
Q. Was there a note then?
A. No.
Q. Did you have any knowledge that I was aware of this $5 million cap deadline?
A. No.
Q. At some point, did J.J. Cafaro report to the company that he had asked Congressman Traficant for help?
A. Not that I'm aware of.
Q. Do you know if I did help him?
A. I don't know that.
Q. Well, there was a press release that was put up on the board. I think it's Exhibit 8-10. I'd like to have that exhibit, if you will, so I don't have to look for mine, unless you want to. At the time that this press release was issued, which was evidently June 18th of '98, were you the treasurer?
A. Yes, I was.
Q. Who is that memorandum addressed to?
A. Anthony Cafaro, Senior, Mark Beck, and myself.
Q. Is that your name there?

A. Dominic Rosselli, yes, it is.
Q. Who is it from?
A. J.J. Cafaro.
Q. What was it about?
A. Cafaro Laser, Limited.
Q. And what did the bottom read?
A. "The key to the attached news release is." There's a blank space "Sets the stage for next year's legislation."
Q. You can hold off right there.
A. Okay.
Q. Now, this is the news release, right. Is that the news release?
A. Yes.
Q. What, if anything, did it say?
A. "The U.S. Navy has tested enhanced vision technologies and plans to deploy these technologies on its aircraft carriers. The U.S. Park Police has had great success with cold cathode lights at its helicopter pad in Washington, D.C. In addition, the FAA has been testing and analyzing enhanced vision technologies for the past several years."
Q. Who is that press release from?
A. Jim Traficant.
Q. Was it addressed to you, too, the memo, with the attachment?

A. Yes, it was.
Q. Did you know at the time that I was your Congressman?
A. Yes, I did.
Q. What does the bottom say?
A. The last paragraph?
Q. Yeah. I'll try to get it so you can read it. I am not good at this.
A. "Traficant said he will work next year to pass legislation requiring U.S. airports to install enhanced vision technologies, to replace enhanced conventional landing lights system over a ten-year period.
Q. After having received this, you're saying it didn't know that Mr. Cafaro would come to me?
A. I didn't know that you -- that he was having conversations with you, that you would generate this.
Q. Did you ever come to learn that I had helped Mr. Cafaro with this?
A. Well, I could assume that from the press release.
Q. Why was that press release so important?
A. Because it showed that progress was being made towards getting FAA certification.
Q. How do you know the legislation was going to pass?
A. You didn't, but it indicated that progress was being made towards that.
Q. Isn't it a fact the Prosecutor said the cap expired

the following month?
A. That's correct.
Q. Did you have meetings about whether or not to continue on with the laser program or to kill it?
A. There were meetings, yes, there were.
Q. And what did -- what was the decision?
A. The decision was made to continue.
Q. Was there another loan from the trust?
A. Yes, there was.
Q. For how much?
A. $2.5 million.
Q. Who approved it?
A. Anthony Cafaro.
Q. Who would approve the expenses?
A. J.J. Cafaro would.
Q. Was anybody assigned to monitor J.J.'s activities and expenses since the debacle of the Avanti project?
A. With respect to this project, I was.
Q. And did you do that?
A. Yes.
Q. And when was this $2.5 million, was there a deadline set up, look, if something doesn't happen, this is it?
A. I don't recall if there was a specific deadline for the $2.5 million.
Q. You said at some point J.J. started paying out of his

own personal account?
A. That's correct.
Q. Why would J.J. do that unless the company stopped providing funding, money for them?
A. They stopped providing funding when the $2.5 million ran out.
Q. So there was sort of like an ultimatum, right?
A. Yes, to the extent the money was available out of the $2.5.
Q. Now, you said there became a problem over withholding in paychecks?
A. That's correct.
Q. Could you explain that to the jury?
A. An employer, when they issue a paycheck, they have to withhold a portion of the paycheck that has to be submitted to the Government for the taxes. The employer has a responsibility to pay that money to the Internal Revenue Service for credit to that employee's taxes.
Q. Did you discover that, or did the IRS discover that?
A. I discovered that.
Q. What, in fact, did you do?
A. I met with Anthony Cafaro to discuss the implications of that.
Q. And what, if anything, did Anthony Cafaro do?
A. He agreed with my recommendation that we should

continue to fund at least the payroll taxes that were due.
Q. And how much was that, do you recall?
A. I do not recall the amounts.
Q. You tried to nip it in the bud?
A. That's correct.
Q. Did you at that point see bad business management?
A. Yes.
Q. Did you report that to Anthony Cafaro?
A. Yes.
Q. Then there was a loan that was made from Bank One for $900,000 to J.J. Cafaro; is that correct?
A. That's correct.
Q. Who guaranteed the loan?
A. Anthony Cafaro.
Q. Wasn't that after you recommended to him there was bad business management at U.S. Aerospace Group?
A. That's correct.
Q. And was it not your statement that J.J. Cafaro did not have the credit quality to get the loan on his own?
A. That's correct.
Q. Did he still own the two homes in Maryland and in Youngstown?
A. That's correct.
Q. Were those mortgaged?
A. I do not believe so.

Q. Why did he have to go to his brother since those homes are valued very high, aren't they?
A. Yes, they are.
Q. What are they worth if combine the both of them?
A. Several million dollars.
Q. So through all this, regardless of all the verbiage, who was providing the money?
A. J.J. Cafaro.
Q. Through loans?
A. That's correct.
Q. And who approved them?
A. Anthony Cafaro.
Q. And if Anthony Cafaro didn't approve them, would there have been any laser technology?
A. No, there would not.
Q. Now, the Government said to go $5 million, $2 point 5 million, $900,000, J.J. paying on his own account, and then in January of 2000, was there authority given for another $800,000?
A. That's correct.
Q. Who, in fact, approved it?
A. Anthony Cafaro.
Q. Did you make any recommendations about that?
A. No, I did not.
Q. Who was it that appealed to Mr. Anthony Cafaro to

give that one last shot?
A. I understand that to be Capri Cafaro.
Q. And who was Capri Cafaro?
A. J.J. Cafaro's daughter.
Q. Is U.S. Aerospace bankrupt now?
A. Yes.
Q. Was Capri Cafaro an engineer?
A. Not that I'm aware of.
Q. Was J.J. an engineer?
A. Not that I'm aware of.
Q. Was Anthony an engineer?
A. Not that I'm aware of.
Q. Were you an engineer?
A. No.
Q. Did you ever call Richard Detore in and ask him as CEO what the profitability status was and the certification status?
A. I personally did not.
Q. Did you recommend it?
A. Did I recommend what? I'm not sure I understand the question.
Q. Did you recommend that the CEO of USAG come in and talk with Anthony Cafaro since he's approving $10 million worth of loans?
A. No, I did not.

MR. TRAFICANT: Your Honor, I have more questions for this witness. I want to just let you know that, and I want to let you know what time it is and what you want me to do.

THE COURT: Well, I think we have another five or six minutes here. So you can use it.

MR. TRAFICANT: Okay.

Q. Now, you understood that not only did he own the two homes, he also owned a 110-foot wooden yacht?

A. That's correct.

Q. Were you ever on that yacht?

A. No, I was not.

Q. Now, at some particular point, you got a bill for a $3,000 expense on a boat, right?

A. I don't recall what the amount of the expense was.

Q. Well, to reimburse a receipt to Al Lange for $3,000, you remember the Prosecutor asking you about that?

A. I don't know what the expenses were for, though, the $3,000 expense reimbursement.

Q. Yes, but was there not a request for $3,000 for Al Lange for a boat?

A. I don't know what the nature of the request was for.

Q. But did you know that there was a request made for $3,000?

A. A request for $3,000, yes.

Q. And how did you list it?
A. As an expense of.
Q. Did you first write a 1099 to Al Lange?
A. Yes, we did.
Q. Why?
A. Because we had no substantiation that it was a business expense.
Q. So you did have somebody do at least some type of auditing to find out if there's any documentation substantiation for it, right?
A. Yes, we did.
Q. Did you do that personally?
A. No.
Q. Did you personally direct your staff to do it?
A. Yes.
Q. And what, if anything, did they find?
A. I don't know what the response was to the staff. Their action was to eliminate the 1099 based on a memo from J.J. Cafaro.
Q. Now, did you work for J.J. Cafaro or Anthony Cafaro?
A. I worked for the Cafaro family in its entirety.
Q. Who was the boss?
A. Anthony Cafaro.
Q. Did you confer with Mr. Anthony Cafaro about the memo and the controversy relative to an IRS issue of a 1099

versus a normal W-2?
A. No, I did not.
Q. So on the advice of a memo, you then change it from a 1099 income to a USAG expense account?
A. That's correct.
Q. And you also did that for a Mr. Rick Detore as well, didn't you?
A. I believe that's true, although I don't know that for sure.
Q. Who asked to you do that?
A. That came from a memo from J.J. Cafaro.
Q. Now, were these employees paid by U.S. Aerospace Group?
A. They were paid by the Cafaro Company, and then Cafaro Company would bill U.S. Aerospace Group for the payroll expense.
Q. Were they on the Cafaro Company Group insurance policy, or did they have a separate insurance policy?
A. They were on the Cafaro Group insurance.
Q. Well, if they're on the Cafaro Company Group insurance policy, whose employees were they, U.S. Aerospace or Cafaro employees?
A. They're on the payroll of Cafaro Company who then bills U.S. Aerospace for the expense, but they were on the payroll of the Cafaro Company.

Q. But U.S. Aerospace had no money and kept borrowing it from Tony?
A. They borrowed the money from J.J.
Q. So J.J. borrowed money from his brother to put in his account to pay insurance for U.S. Aerospace employees on the Cafaro Group insurance plan. Is that your testimony?
A. That's correct.
Q. Did anyone ever ask to meet with the Internal Revenue Service relative to the aspects of that relationship?
A. Not that I'm aware of.
MR. TRAFICANT: I have more questions. You want me to keep going?
THE COURT: No. It's a good time to break. We'll break now and see you at 9:00 in the morning? Okay. Remember all your admonitions. Have a pleasant evening. It's beautiful outside.
(The following proceedings were out of the presence of the jury:)
THE COURT: Do we have exhibits to do tomorrow?
MR. SMITH: No. We'll do it tomorrow. We have a lot to do tomorrow.
MR. MORFORD: I believe the Court indicated earlier you wanted to take up the Congressman's motion from this morning this afternoon at 4:30. I don't know if

that's still the extent.

MR. TRAFICANT: I would prefer to submit it in writing, your Honor.

THE COURT: Well, you -- I think we'd better get straight what we're talking about. I told you to submit the two motions made orally this morning in writing.

MR. TRAFICANT: I didn't -- I don't have them prepared, your Honor.

THE COURT: All right. That's okay.

MR. TRAFICANT: I apologize.

THE COURT: Nothing will happen to those until they're submitted and filed properly with the Court.

MR. TRAFICANT: Thank you.

THE COURT: But you filed something else this morning, Congressman.

MR. TRAFICANT: Pardon?

THE COURT: You filed something else this morning.

MR. TRAFICANT: That will be a part of the motion. I filed an affidavit, and we'll deal with that as part of the motion when I submit my motion.

THE COURT: I don't believe it relates to either of the motions that you said you were going to make this morning. Is there another motion?

MR. TRAFICANT: No. This deals with the

affidavit that was filed this morning. That'll be part of it.

THE COURT: Which motion was that part of?

MR. TRAFICANT: This is the affidavit of --

THE COURT: Well, I know it's the affidavit, but what motion is it part of?

MR. TRAFICANT: I'm going to file a motion and make it a part of a motion asking for the Court to consider an action that I request.

THE COURT: So this is a third motion you're going to file?

MR. TRAFICANT: No. This is the motion that I'm going to file.

THE COURT: Okay.

MR. TRAFICANT: I'll combine the two that I talked about into one.

THE COURT: Hold on, we'll go back. Just hold on. Go back and look at this morning's record. I need to go all the way back to before the jury came in. But we need to let the jurors go while you search the record.

(Thereupon, the record was read back by the Court Reporter.)

MR. MORFORD: Your Honor, as to the motion he's making about Agent Speranza, that was something raised

pre-trial the Court considered and denied.

THE COURT: Yeah. Well we may -- we may -- I have to wait and see what he -- what he actually files before I can do it. And you have to wait before you can respond to it.

MR. MORFORD: I understand.

THE COURT: So as soon as you file something, we'll take the next steps as we normally do. Okay?

MR. TRAFICANT: As soon as I can.

THE COURT: Okay. They're your motions, and I have got to do something. You can't just put something out like this on a docket in a court proceeding.

MR. TRAFICANT: I'm going to --

THE COURT: Sir, these are very serious allegations that you have decided to put on a docket in a court proceeding.

MR. TRAFICANT: Yes, I have.

THE COURT: You can't just hang them up there and leave them out to wave. You have a responsibility to make whatever motion you're going to make in regard to these and to do it as soon as you possibly can do it.

MR. TRAFICANT: If they have to be handwritten, would that be fine with you?

THE COURT: Just do what you have to do in order to get them.

MR. TRAFICANT: I certainly shall.

THE COURT: Fine.

MR. MORFORD: Your Honor, I would request, given the serious nature of these allegations, given the fact that obviously Congressman Traficant knows what it is he's going to ask the Court to do, given the fact that on prior occasions he's indicated that he does have some people assisting him with some of these things, and given the fact that he does have time tonight, that he be ordered to file whatever he's going to file very quickly because I think it's wrong to throw these allegations out there, flop an affidavit in the record and go out and talk to reporters and go on national TV when you're talking about somebody's life and their reputation.

And I would just ask if he has something, that he be ordered to file it immediately, and that he not be using this Court as a way to tarnish other people's reputation.

THE COURT: Well, the word forthwith.

MR. TRAFICANT: Can I respond?

THE COURT: The word forthwith is the best word to use when you need to file something, and you really need to understand this, Congressman. This is not anything to play around with nor is your conduct outside the Court anything to play around with.

MR. TRAFICANT: Are you suggesting that

I'm --

THE COURT: My aim in this case is to give you and the Government a fair trial. That's what I care about. I care about your conduct here in this court and as it relates to this Court's docket.

MR. TRAFICANT: Can I respond?

THE COURT: You can respond by filing a motion forthwith that has some bearing to this affidavit that you hung up on the docket today.

MR. TRAFICANT: I will. But I want to respond to what the Prosecutor said. I think I have a right to for the record.

THE COURT: You can -- we'll all sit here while you put on the record whatever it is you want to put on the record and take whatever time we need up until about 6:00 tonight --

MR. TRAFICANT: You get --

THE COURT: - to allow you to make the record you want to make and let them respond.

MR. TRAFICANT: You won't have to wait that long. Just get the minutes of the hearing held in Judge O'Malley's court that was sealed until after the Traficant trial was over regarding the Speranza matter and one of my constituents who was violated. I am not making any light charges here.

THE COURT: No. But, you're in this court on your case, and we deal with things that relate to it.

MR. TRAFICANT: They relate to my case.

THE COURT: They are. File your motion. Don't just stand and talk after the jury has left; file a motion. You're representing yourself.

MR. TRAFICANT: I am, but evidently, Mr. Speranza will have a part in this case.

THE COURT: I don't know, would you please file --

MR. TRAFICANT: I will certainly do that.

THE COURT: Thank you. You've been talking about it for months. Anything further?

MR. MORFORD: No, your Honor.

THE COURT: We'll see you at 8:30 tomorrow.

MR. TRAFICANT: Your Honor, if I've upset you in any way, I apologize.

THE COURT: 8:30 tomorrow morning. Sir, just go to work and represent yourself.

MR. TRAFICANT: I will do that.

THE COURT: Good.

CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON..... 3222
REDIRECT EXAMINATION OF KIMBERLY HARRIS BLITON..... 3235
RECROSS-EXAMINATION OF KIMBERLY HARRIS BLITON..... 3237
DIRECT EXAMINATION OF ROBERT J. GATTI..... 3247
CROSS-EXAMINATION OF ROBERT J. GATTI..... 3252
DIRECT EXAMINATION OF THOMAS R. PASSEWITZ..... 3263
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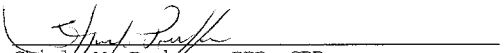
RECROSS-EXAMINATION OF THOMAS PASSEWITZ..... 3304
DIRECT EXAMINATION OF LEISEL M. BUCHEIT..... 3307
CROSS-EXAMINATION OF LEISEL M. BUCHEIT..... 3318
DIRECT EXAMINATION OF DOMINIC LOUIS ROSSELLI..... 3334
CROSS-EXAMINATION OF DOMINIC ROSSELLI..... 3377

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



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U.S. District Court - Room 539
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(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON THURSDAY, MARCH 14, 2002

Jury Trial

Volume 18

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Thursday Session, March 14, 2002, at 8:45 A.M.

THE COURT: Sir, you're still under oath. Good morning, everyone.

THE JURY: Good morning.

MR. TRAFICANT: Good morning, your Honor.

THE COURT: Good morning.

CROSS-EXAMINATION OF DOMINIC ROSSELLI

BY MR. TRAFICANT:

Q. Good morning, Dominic.

A. Good morning, Congressman.

Q. Can I call you Chip?

A. Yes, you may.

Q. Did you go home last night?

A. Yes, I did.

Q. Talk to your dad?

A. Briefly.

Q. How is your dad and mom doing?

A. Very well. Thank you.

Q. Your position as treasurer then, you had responsibility for all Cafaro accounts?

A. That's correct.

Q. Did you have annual reviews and audits of the bookkeeping procedures?

A. Yes. We performed annual audits.

Q. Did you ever have outside consulting firms provide

audits?
A. On occasions, yes.
Q. What were those companies' names?
A. Kentucky Oaks Mall Company and Governor Square Mall Company.
Q. And weren't they, in fact, malls owned by the Cafaros?
A. Those two particular entities had outside partners, and the partnership agreement required independent certified audit.
Q. So the other mall owners required outside audits; is that correct?
A. That's correct.
Q. Did the Cafaros have any of their contracts as a requirement for outside audits?
A. With the entities the Cafaros owned, no.
Q. Did you ever visit with the IRS at any time during the time you were treasurer?
A. No, I have not.
Q. Have the IRS ever conducted an audit of Cafaro business?
A. Yes, they have.
Q. While you were treasurer?
A. Yes.
Q. What year was that?

A. The audit was conducted two years ago, but I believe there were years were prior to my being treasurer they were under audit.
Q. Would that be the Year 2000?
A. I believe there was a settlement for the Year 2000.
Q. There was a settlement in the year?
A. 1999 or 2000, I'm not exactly sure which year.
Q. You know what time the Cafaro investigation relative to the Traficant matter was initiated?
A. No, I do not know that.
Q. Before you were auditor and treasurer, how many years had you served with the company?
A. I've been with the company a total of 18 years. I started in '83. So '83 to '97.
Q. Other than the 1999 IRS audit, did you or were you -- did you have any knowledge of any IRS audit before that?
A. Absolutely.
Q. What years?
A. Most years, almost every year is audited.
Q. They ever audit you?
A. Me personally or --
Q. No, the company?
A. The company's audited almost every year.
Q. Were they audited in 2000?
A. No. I don't believe the Year 2000 has been audited.

Q. Have they contacted you about 2001?
A. Not that I'm aware of.
Q. Now, you said you never really met Richard Detore, right?
A. No, I met Richard Detore.
Q. Where did you meet Richard Detore?
A. In the Youngstown office at one meeting, and I met him once in Manassas.
Q. And when you met with Mr. Detore in Manassas -- let me ask you this: When you met with USAG in Manassas, who was, in fact, the spokesman for USAG at that time?
A. When you say spokesman, do you mean who was conducting the meeting?
Q. Yeah.
A. J.J. Cafaro.
Q. Who was answering the questions on the laser technology?
A. I believe J.J. Cafaro and possibly Richard Detore.
Q. Did you take a plane flight?
A. Yes, I did.
Q. What hour of the day was it?
A. It was in the evening.
Q. Do you know why they conducted the flight in the evening?
A. I believe so that the landing lights would be visible

to show how well it performs in the evening.
Q. Wasn't it a fact that if you had the test during the day, you could not see the laser lights?
A. I don't know that.
Q. You know if the FAA ever tested the guidance system?
A. I don't know that for sure.
Q. How many times did you meet with the FBI?
A. Twice.
Q. Do you remember the first time?
A. Yes, I do.
Q. And when was that?
A. I don't recall the exact date. I believe January, January.
Q. Of what year?
A. 2002.
Q. You didn't meet with them in 2001?
A. I don't recall the exact date. There were two meetings. I don't recall the dates of the first and second meeting.
Q. Well, was it more than six or eight months ago?
A. No, I don't believe it was that. It may have been about six months maybe.
Q. It could have been even a little longer, huh?
A. It may have been. It wasn't more than a year, though. Probably six months would be a fair guess.

Q. Did the FBI have documents to show you?
A. Yes, they did.
Q. What documents did they have in their possession?
A. If I recall, the copies of the memos that we went over yesterday.
Q. Did any of those memos deal with legislative activities?
MR. MORFORD: Objection as to relevance.
THE COURT: Sustained.
THE WITNESS: Should I --
THE COURT: Oh, don't answer.
BY MR. TRAFICANT:
Q. Did they ask you about the $3,000?
A. Yes.
Q. Now, wasn't it a fact if J.J. Cafaro's initials were on a document, and you just went ahead and paid it?
A. That's correct.
Q. Without checking with Tony?
A. That's correct. As long as it was within the budget, we paid it.
Q. So it was at some point where Anthony had approved some extension or there was money available for the USAG account, right?
A. That's correct.
Q. Now, when you were shown a copy of the $3,000 check

to Mr. Lange, was the $5 million cap already exceeded?
A. I'm not sure I understand the question. Are you referring to the one I was shown a copy of the check in the meeting with the FBI?
Q. Do you recall a $3,000 check that became an issue brought up by the Prosecution about whether or not this $3,000 check to Mr. Lange was a 1099 or an expense to USAG?
A. Yes, I do remember.
Q. And at first, it was what?
A. It was treated as an expense reimbursement.
Q. Isn't it a fact it was first treated as a 1099 issue to Mr. Al Lange for income?
A. No. I believe the original memorandum indicated it was for expenses so it was treated that way.
Q. But you first treated it before the memorandum as an income, didn't you, to Al Lange when issued a 1099?
A. No. When it was -- when the check was originally issued, it was treated as an expense item.
Q. Well, where did the 1099 issue come from?
A. That came at the end of the year when the auditors were reviewing and preparing 1099s for all vendors. They reviewed that and determined there was not sufficient backup to classify that as a reimbursable expense.
Q. What auditors were those?
A. Those were internal auditors.

Q. Did they bring that to your attention?
A. Yes.
Q. Whom did you address about that problem?
A. I contacted J.J. or his secretary.
Q. Did you personally talk with J.J.?
A. No, I don't believe so.
Q. Did you report it to Anthony?
A. No.
Q. Did you become aware at any time that USAG had hired a bookkeeper?
A. Yes.
Q. Was that at your request?
A. No.
Q. Isn't it a fact that in 1999 they hired a bookkeeper?
A. I don't recall at what point in the process they hired the bookkeeper.
Q. Let me say this: You don't recall the time, is it fair to say, then, that they had no bookkeeper for USAG?
A. During the particular period of time, they had no bookkeeper, that's correct.
Q. Who did their books?
A. We prepared their checks. We issued the checks, and we transferred all that information to the accounting firm of William Rayall and Company.
Q. When you say we, who are you referring to?

A. The Cafaro Company.
Q. So the Cafaro Company did the books up until USAG hired a bookkeeper, right?
A. We did not complete the books. We only processed the checks. We served as a check writing service actually. We did not complete the bookkeeping services.
Q. Wouldn't a bookkeeper do that? Don't bookkeepers process checks for companies?
A. Sometimes.
Q. Do you?
A. Do I? No, I do not.
Q. Do you have a bookkeeper on your staff?
A. Yes, I do.
Q. Do they?
A. They're part of the process, yes.
Q. Isn't that a normal accounting process, Chip?
A. Yes.
Q. Were you aware of any bonus money owed to Mr. Al Lange?
A. No, I was not.
Q. Did you ever become made aware of that?
A. Only recently.
Q. Who told you?
A. It may have come up in the questioning.
Q. Questioning by whom?

A. By the FBI.
Q. Did you have any knowledge of Mr. Cafaro having a $26,000 check?
A. No, I do not.
Q. Did you participate in anything in inquiring about that check?
A. No, I did not.
Q. Are you now familiar with what the check was? Did the FBI show you the check?
A. Well, I have heard reference to the check. I'm not sure if I've ever seen the check.
Q. Who gave you the reference to the check?
A. I believe it was just in questioning if I had any knowledge of the check from the FBI.
Q. Wasn't it a fact that J.J. would come to the company for money?
A. Not unless -- if he was spending it out of his own personal funds, he would not.
Q. Were you shown by the FBI a check for the amount of approximately $2,100 something? You remember that?
A. No, I don't recall that.
Q. Were you sometimes -- were you at any time informed that there were repairs being made on a boat?
A. Yes.
Q. When did you learn that those repairs were being made

on the Traficant boat?
A. Probably in questioning with the FBI.
Q. When did you stop sending money completely to the U.S. Aerospace Group?
A. Probably would have been April 2000.
Q. Were you familiar with any of J. J. Cafaro's activities on his credit card?
A. No.
Q. Did he have a company credit card?
A. During certain periods of time, yes, he did.
Q. Did you audit and monitor the activities of his credit card of the Cafaro Company?
A. I personally did not.
Q. Did anyone in your staff do that?
A. Yes, they did.
Q. Who did they report to?
A. They would report to me.
Q. Do you know whom in your office handled Cafaro's personal finances, J.J.'s personal finances?
A. Patty Dorenzo would handle J.J.'s checkbook.
Q. Who's Patty Dorenzo employed by?
A. She's employed under the umbrella of the Cafaro Company.
Q. Now, you used the term umbrella. Does the Cafaro Company own the umbrella?

A. No, it does not. It's just a -- it's a name we use to refer to everything that goes on with the family.
Q. Does the company own the Cafaro Company?
A. Yes, they do.
Q. Did J.J. ever ask you for cash?
A. Not me, no.
Q. Did he ever ask you for checks to be made out to him?
A. When he would request checks, he would request them out of his personal account. He would request through Patty Dorenzo, not me.
Q. Did Patty Dorenzo have the authority to go ahead an issue you the check?
A. She would write the check out his checkbook for his signature. Yes, she would do that.
Q. And what, if anything, then, would she do as a follow-up to having written that check for J.J.?
A. She would do nothing. It's just she would deliver the check to him for his signature and would leave with it with him.
Q. Would she file it?
A. If there was backup for, you know, support or receipt or something that was attached to it, she would file that.
Q. Would she give a copy to you?
A. No.
Q. Did you maintain records of all financial

transactions in the Cafaro Company?
A. Yes, I did.
Q. Well, if an employee of the Cafaro Company by the name of Ms. Dorenzo, wrote a check to J.J., would that not be memorialized in the files of the company records?
A. It would be memorialized in his personal records.
Q. Within the company's building?
A. Yes.
Q. Was a check written in the Cafaro building or in Mr. Cafaro's residence?
A. It would be in the building.
Q. Did Ms. Dorenzo ever go write checks at his residence?
A. I have no way of knowing that.
Q. Did you?
A. No.
Q. Were you aware of an agreement to buy the Traficant boat?
A. I was never aware of that.
Q. Did the FBI ever tell you there was an agreement to buy the Traficant boat?
A. In the question they asked if I was aware of it, that was all.
Q. Did you ever issue checks to repair J.J. Cafaro's boat?

A. Those would have been issued out of his personal account.
Q. In his personal account, would that have been under the umbrella of the Cafaro Corporation?
A. No.
Q. And you would have no record of same?
A. Only J.J.'s personal files would contain that.
Q. Were the assets of the family members kept on record at the Cafaro Company building?
A. They're kept in files but not -- yes, they're kept in files in the building.
Q. Who does the taxes for them, Chip?
A. Employees of the Cafaro Company.
Q. And who ultimately reviews their tax returns?
A. The employees.
Q. What employees?
A. Employees under the umbrella of the Cafaro Company.
Q. Who supervised the individuals that did the tax return for the Cafaro family, namely Flora, J.J., and Anthony?
A. We have a tax manager that reports to me. He would supervise -- he would be the direct supervisor of that.
Q. And would he report to you?
A. Yes.
Q. And would you look it over and see if you found any

inconsistencies?
A. I did not review those tax returns.
Q. I did not ask you if you redid them. Did you look them over?
A. No, I did not review them.
Q. But you always requested receipts for any expenditure made under the Cafaro umbrella, right?
A. That's correct.
Q. Even if it was with a partner; is that correct?
A. That's correct.
Q. Did the partners, in fact, require substantiation, documentation?
A. Yes, they would.
Q. Were there ever any payments made from any of your partners' accounts that were made for Cafaro activities in regards to that partnership?
A. Not that I'm aware.
Q. Was that ever audited?
A. No.
Q. Did you ever audit it?
A. No.
Q. Well, how do you know they weren't ripping you off?
A. They weren't handling our funds. We managed the entities that we have partners with, so we control all the cash receipts and disbursements.

Q. So they were required to report it all to you?
A. They had -- they were just -- they were limited partners so they had no involvement in the operations of the entities.
Q. Could you have thrown them out of the partnership? Could Anthony Cafaro say you're gone?
A. No, he could not.
Q. Was there stock in these companies?
A. There were partnerships so there would be partnership interests as opposed to stocks.
Q. Were they corporations?
A. No, they were partnerships.
Q. Do you have agreements on file in the corporation company offices?
A. Yes, we do.
Q. Did you show them to the FBI?
A. No, I did not.
Q. How many times did you meet with the FBI?
A. Twice.
Q. How many agents did you deal with?
A. In the first meeting, there was one FBI agent and one IRS agent. In the second meeting, I believe it was just one FBI agent.
Q. Say the first, there was an FBI and an IRS?
A. That's correct.

Q. And the second just an FBI?
A. Yes.
Q. What questions did the IRS agent ask you?
A. I don't believe he asked any question.
Q. So did you know if the Cafaro Company did pay bonuses to their employees?
A. Yes, they did.
Q. Was it a standard practice?
A. I wouldn't call it a standard practice. It occurs on occasions.
Q. Did you get bonuses?
A. No, I did not.
Q. You're the treasurer, and you didn't get a bonus?
A. That's correct.
Q. Now, on your umbrella company, did some of them give bonuses?
A. Yes.
Q. Was it uncommon?
A. For certain classes of employees, we would sometimes have incentives. They would get bonuses.
Q. Who was it up to to give those bonuses?
A. Anthony Cafaro would have the ultimate say in those.
Q. Would Anthony Cafaro have the ultimate say on USAG bonuses?
A. I don't believe so. I believe J.J. Cafaro had the

ultimate say on those.
Q. Do you know if there was a note that existed between J.J. and his brother on the loans made to USAG?
A. I don't believe there were notes to those loans.
Q. Did you ask if there were?
A. No. We carried them as just open obligations.
Q. What is an open obligation as far as the IRS is concerned?
A. It's just a demand. It's due any time. There's no documentation for a loan.
Q. Okay. It's due on demand. Who would make the demand, and who would it be demanded upon in relationship to the Anthony -- J.J. loans?
A. Anthony would make the demand, and J.J. would have to pay.
Q. Did Anthony ever make the demand?
A. Not that I'm aware of.
Q. If you were aware of it, would it not, in fact, be a part of your tax documentation?
A. Yes.
Q. Would it by law be required to be?
A. I don't know that for sure.
Q. Did you not say that you handled tax matters for the corporation for seven years?
A. I was in the tax department, yes.

Q. Are you aware of the Internal Revenue Service laws?
A. It's been a few years since I've practiced in any tax, but, yes.
Q. Are you aware of Ohio Taxation laws?
A. To some extent.
Q. Are you aware of Virginia taxpayer laws?
A. No.
Q. How many different states do the Cafaro Companies -- name the states that they are located in with real estate activities.
A. The state of Washington, Oregon, Ohio, Pennsylvania, Tennessee, Kentucky, Virginia, West Virginia.
Q. Do you know if all of those state laws are the same?
A. I don't assume they would be the same.
Q. Do you have a tax expert that, in fact, ensures that the Cafaro Company is in compliance with state laws in the respective states in which they operate?
A. Yes, we do.
Q. Who does that person report to?
A. Reports to me.
Q. And who do you report to?
A. Anthony Cafaro.
Q. Has any state audited you?
A. Yes.
Q. What state?

A. Ohio has audited us.
Q. When was the last time?
A. I don't recall the last audit.
Q. If you can't recall, would you say it was more than five years ago?
A. Probably less than five years.
Q. Would you say your memory's good to about five years?
A. Generally, I don't know.
Q. Now, there started to come a number of checks being written to USAG on the request of J.J. Cafaro; is that correct?
A. That's correct, he would ask us to pay the bills.
Q. And if Anthony had approved the money, you'd just go ahead and write the check, right?
A. As long as he approved it, yes, we would.
Q. Was the laser equipment ever brought to Youngstown for demonstration?
A. Not that I'm way aware of.
Q. When you flew to Manassas, how did you get there?
A. Company plane.
Q. Describe the company plane.
A. It's a Cesena Citation.
Q. Two-engine jet or propeller?
A. No, a two-engine jet.
Q. There's not a guy with a hand pump and a couple

rubber bands, is there?
A. No.
Q. It's a jet, isn't it?
A. A two-engine jet, yes.
Q. How big is the jet?
A. I believe it seats eight passengers.
Q. How many went on that trip?
A. Four passengers.
Q. Who were they?
A. J.J. Cafaro, Rick Goldberg, Jim Dober, and myself.
Q. How long ago was that?
A. I'm sorry. What was the question?
Q. How long ago was that?
A. Three or four years ago.
Q. Could it be 1996, Mr. Rosselli?
A. It could have been. I really don't recall the exact date we went down. I don't know if it was back that far, though. I'm confident it would not have been 1996. Probably 1997, 1998.
Q. You had been asked by the Prosecutors about the Avanti disaster. Is that a matter -- is that a fact?
A. That's correct.
Q. At the time of the Avanti disaster, was J. J. A member of the, say, top governing officials of the corporation, of the company?

A. For a portion of that time, he was.
Q. And you said it was after Avanti that he left?
A. No. He left during the middle of the Avanti years.
Q. Middle of Avanti?
So now you've exhausted $10 million and gone forward on the strength of a press release from Washington?
A. There was a lot of information that convinced them to continue to fund it.
Q. What other information convinced them to fund it?
A. Mostly from what I was aware we would meet, and J.J. would give us his explanation of what was being done by the company and what had been accomplished.
Q. Did you ever write checks in the Cafaro Company or any of its individuals who were political candidates as contributions?
A. I did not, no.
Q. Are you aware of those?
A. I know they made political contributions, but I'm not aware of the specifics.
Q. Did the company ever discuss law with you about political contributions?
A. Yes. We were aware that there were limitations on political contributions.
Q. And what were those limitations?
A. I'm not that familiar with the law.

Q. Is J.J. a good businessman?
A. With respect to some items, yes.
Q. What items?
A. The real estate business.
Q. Was J.J. as good a businessman as Anthony?
A. I believe Anthony is a stronger businessman than J.J.
Q. Did Anthony ever venture out of the real estate area?
A. Not that I'm aware of.
Q. Did Mr. Cafaro ever venture out of the real estate area?
A. Not that I'm aware.
Q. Is it not a fact Mr. Cafaro approved the billing of a stadium for a minor league baseball team?
A. That was really done within the auspices of helping to contribute to the development of the Eastwood Mall property.
Q. Who paid for the stadium?
A. Cafaro family.
Q. Did you -- did you write the checks?
A. Yes.
Q. Is it a beautiful stadium?
A. Yes, it is.
Q. Is it -- does it carry the Cafaro name?
A. Yes, it does.

Q. Did you write the checks on that account?
A. Yes.
Q. Did you meet with Mr. Alan Levin?
A. No, I never did.
Q. Who gave you the authority to go forward and write the checks?
A. Anthony Cafaro.
Q. Was his father still alive?
A. I don't recall the time frame of when the stadium was built and Mr. Cafaro's passing, but I believe when it was started, Mr. Cafaro was alive.
Q. Mr. Cafaro would have had to approve it to go forward, would he have not?
A. Yes.
Q. But who was it that gave you the instructions to go ahead?
A. Anthony Cafaro.
Q. Anthony was the boss?
A. That's correct.
Q. Now, U.S. Aerospace employees, why were they under the Cafaro insurance group plan?
A. Probably just to take advantage of the group rates that would be available for all the companies.
Q. Yeah. But would that not, in fact, connote to the auditors that they were, in fact, employees of the Cafaro

Company?
A. Well, actually, no. In true legal sense, the Cafaro Company has no employees. We worked for -- the paychecks actually say William Cafaro Associates. The accounts the funds are drawn is in the name of Cafaro Lockbox Fund, LP, and I believe the name on the payroll tax return is Cafaro Management Company. It serves -- it serves as a common paymaster for all of the Cafaro umbrella companies.
Q. That's a pretty specific and pretty large and broad convoluted deal, isn't it?
A. Yes, it is.
Q. Did the IRS audit every one of those?
A. I believe they were looking at everything.
Q. I didn't ask you if they looked at them. Did the IRS audit every single account that you just mentioned?
A. No, they do not.
Q. Well, then, how do they audit -- how did they audit the Cafaro Company?
MR. MORFORD: Objection as to what he'll know, as to how they did that, your Honor.
THE COURT: If he knows, he can answer it.
THE WITNESS: Could you repeat the question?
Q. How did they audit the Cafaro Company?
A. They may not have audited the Cafaro Company. They selected and picked which companies they were going to

audit.
Q. You said in 1999 they audited them?
A. When I said they audited the Cafaro Company, I was referring to the Cafaro Company as the blanket, which may mean they may have chosen five or six specific companies within that umbrella that they would audit.
Q. Chip, you just explained a myriad of companies that employees were paid from. Now, listen to my question carefully.
Did the IRS ask for every one of those accounts?
A. No, they did not.
Q. Did they audit any of those accounts?
A. Some of the accounts, they would.
Q. Which ones?
A. I don't recall specific entities that were audited.
Q. How do you know which company was paid from which of these accounts you just mentioned?
A. Our internal records will identify where employees were located and which entity would be charged for those payroll services.
Q. So your words were the IRS would, quote unquote, selectively decide which to audit, is that your statement?
A. That's correct.
Q. Did you explain to them about all of these other entities that you had?

A. Yes, there were.
Q. They asked you about them?
A. I do not -- they don't ask me. I don't conduct the actual discussions with the Internal Revenue Service.
Q. Who does?
A. We have a tax manager that does that.
Q. Who does he report to?
A. He reports to me.
Q. Would the IRS go to the boss?
A. No.
Q. Would the IRS go to Ms. Dorenzo?
A. No.
Q. Who directed them, and how did they know who to go to?
A. The owners of the entity would sign a power of attorney, which would give them the ability to discuss the matters with the Internal Revenue Service.
Q. Who signed the power of attorneys?
A. Whoever the owner was of that particular entity.
Q. If they were Cafaro Company entities, who signed them?
A. Whichever Cafaro family members owned that particular entity. They don't all own the same entities.
Q. So it either has to be J.J., Flora, or Anthony?
A. They would have -- they would have been involved in

it. They could be involved in any of them, that's correct.
Q. Now, if the IRS came to the boss of a multi million dollar, 11th biggest privately owned company in America, they wouldn't consult with their treasurer?
A. They did not.
Q. Now, when the IRS completed their audits, did you ask for their findings?
A. Yes.
Q. Did you review their findings?
A. People under my supervision, we do.
Q. Did you report them to anybody?
A. Anthony Cafaro would be made -- would be made aware of them.
Q. Did you have outside consultants that you at times used to assist in assuring compliance?
A. Yes, we would.
Q. Name them.
A. We would use various -- different legal firms. Thompson Hine and Flory I believe was one firm that was used.
Q. Pardon?
A. Thompson Hine and Flory.
Q. Where were they located?
A. In Cleveland.
Q. Cleveland. What was one of the other ones?

MR. MORFORD: Objection, your Honor, as to relevance, as to what this has to do with any of the facts of this case.

THE COURT: The objection is sustained.

BY MR. TRAFICANT:

Q. Are you familiar with the counts of my indictment, sir?

A. No, I'm not.

Q. Were you ever asked about a boat to be used for testing for the laser guidance system?

A. I questioned some expenses for repairs for a boat, and I was told that the boat was to be used for marine test -- marine demonstrations.

Q. Did the Government show you a check that was written in January 2000 to Mr. Lange?

A. No, they did not.

MR. TRAFICANT: 302, transcribed 3-27, interview 3-09.

Second paragraph, your Honor. I have used it as a work product. Can I show this to the witness?

THE COURT: Yes. Don't read it out loud, though.

MR. TRAFICANT: What page was that? I'm -- I don't have my copy.

MR. MORFORD: Page 4.

MR. TRAFICANT: Thank you.

Q. Could you read, Chip, his dad was the greatest basketball coach in history, the second paragraph.

A. Okay.

MR. TRAFICANT: Can I have my document, your Honor?

THE COURT: Um-hum.

MR. TRAFICANT: Can he keep that while I ask him some questions, or you need them back.

THE COURT: Well, you can do it one at a time. So I need it back.

MR. TRAFICANT: Okay.

Q. Do you recall any issues regarding a welder or generator?

A. No, I do not.

Q. Do you remember being questioned about a check to Al Lange in the amount of $2,172?

A. Yes, I do.

Q. When was that check written?

A. I believe that said January 2002.

Q. Well, since you read it, would your memory be refreshed that it might be January of 2000?

A. It slips my memory, I apologize.

Q. Because --

THE COURT: Here.

THE WITNESS: Yes, it says January of 2000.
Q. Wasn't it a fact at that time the Cafaro Company was completely away from writing any checks for U.S. Aerospace?
A. That's correct.
Q. Wasn't it a fact that U.S. Aerospace was supposed to be writing its own checks?
A. That's correct.
Q. Why did the Cafaro Company send a check?
A. I don't know that.
Q. But, it is a fact that the Cafaro Company sent a check after the Cafaro Company --
MR. TRAFICANT: I object to the objection here.
THE COURT: It hasn't been -- the objection hasn't been --
MR. MORFORD: I'm waiting for him to finish his sentence.
MR. TRAFICANT: Unless he's standing to help his knees.
THE COURT: No. But, it would be helpful if you wouldn't talk when he's standing to make an objection. You can proceed --
MR. TRAFICANT: Did you have --
THE COURT: Excuse me. You can proceed.
MR. MORFORD: I object because there is

absolutely no evidence that this was a Cafaro Company check, and it's misleading.

THE COURT: Thank you. The objection is sustained, Congressman. Move on.

BY MR. TRAFICANT:

Q. Let me ask you something: Wasn't it your response that you had no knowledge of that check?

A. That's correct.

Q. And why would you say at that time USAG was writing all its own checks?

A. January 1st of 2000, we stopped all activity. We -- that's when we began to find out what the final one, that they wrote their own checks.

Q. But you knew that the check was not written by USAG according to what you just read, didn't you?

A. No.

MR. TRAFICANT: Show him the document again.

THE COURT: No. We don't need to keep doing that. He said he didn't know about this check.

Q. Was not one of the big issues involving this case that certain employees of U.S. Aerospace believed that the umbrella company --

THE COURT: Sir, are you talking about this case?

MR. TRAFICANT: This case.

THE COURT: Okay. Well he's already said he doesn't even know about the indictment in the case.

MR. TRAFICANT: I'm not talking about that question. You didn't let me ask my question.

THE COURT: Well, you got enough of it out for me to say you can't pursue that with this witness.

MR. TRAFICANT: I got enough of it out?

THE COURT: Yeah.

BY MR. TRAFICANT:

Q. Were you aware of any lawsuits filed against the Cafaro Company by USAG employees?

A. Rick Detore filed a lawsuit.

Q. Wasn't it a fact that Rick Detore maintained that he was a Cafaro Company employee?

A. I don't know the specifics of that lawsuit.

Q. Did you confer at all with anybody about the lawsuit when you heard about it?

A. No, I did not.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. MORFORD: We have nothing to redirect here.

THE COURT: Thank you. You're excused. Thank you very much.

TRACY SLOAN

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF TRACY SLOAN

BY MR. KALL:

Q. Could you please state your name, and spell your last name?

A. Tracy Sloan, S-L-O-A-N.

Q. And, Ms. Sloan, could I ask you to pick up the microphone so we can hear you, please?

A. Is that better?

Q. Okay.

Where do you live?

A. I live in 9611 Scales Place, 9611 Scales Place, Bristow, Virginia.

THE COURT: Can you spell the street?

THE WITNESS: S-C-A-L-E-S.

Q. Are you currently employed?

A. Yes, I am.

Q. Where do you work?

A. Altarus Corporation.

Q. How long have you worked there?

A. Almost a year.

Q. Have you ever worked at a company called U.S.

Aerospace Group?
A. Yes, I have.
Q. Also referred to as USAG?
A. Yes, it is.
Q. When did you work at U.S. Aerospace Group?
A. Sometime in '99 to 2000.
Q. What were your duties there?
A. Basically, I was the accounting manager, office manager, and HR manager.
Q. Who were your bosses within the office?
A. I reported directly to Ruth Nielson, but the majority of my duties came from Richard Detore and Capri Cafaro.
Q. And what were Mr. Detore and Ms. Cafaro's titles?
A. Mr. Detore -- there was -- there was a change of titles sometime during the time that I was there. So I'm not -- I don't recall the titles any longer. It's been awhile.
Q. But you did report to Mr. Detore and to Ms. Cafaro?
A. Yes, I did.
Q. During the course of your employment at USAG, did you ever meet Congressman Traficant?
A. No, I did not.
Q. Were you aware of his office contacting U.S. Aerospace Group?
A. Yes, I was.

Q. How did you become aware of that?
A. His office would call and contact myself occasionally to set up luncheons or have Mr. Detore or Mr. Lange come down to meet with him.
Q. How frequently did that occur?
A. I don't remember.
Q. Was it an unusual occurrence?
A. I didn't think it was.
Q. Who did you understand -- who are you setting up these appointments for at USAG?
A. I'm not sure what you're asking.
Q. Who are the people at USAG that were scheduled to attend these meetings?
A. The majority of the time it was Mr. Detore, Mr. Lange went down.
Q. And did you under -- were you told who they were to be meeting with?
A. Not all the time, no.
Q. Do you recall who was on the phone?
A. If I'm not mistaken -- and this is a guess, again it's been a long time, I think -- the think the gentleman's name was Paul -- I can not remember his last name.
Q. Okay.
A. Marcone maybe.
Q. Okay. Did you ever see any correspondence going

between the congressional office and USAG?
A. I saw some faxes being sent to and from the items in which they referenced. I don't know.
Q. All right.
During the time that you were employed at USAG, were you ever asked to contact any car rental companies?
A. Yes, I was.
Q. Was this a normal occurrence?
A. No, it was not.
Q. How often during the course of your time there were you asked to do that?
A. Once.
Q. Who asked to you do that?
A. Mr. Detore.
Q. What were you asked to do?
A. I was asked to rent a -- a car for Mr. Traficant, Congressman Traficant.
Q. Do you recall when this occurred?
A. Latter part of '99.
Q. Was this part of USAG's normal business?
A. No, it was not.
Q. What kind of car were you instructed to try to find?
A. I was instructed to find an exotic or luxury car.
MR. TRAFICANT: Pardon?
THE WITNESS: Exotic or luxury car.

Q. Were you able to find something like that?
A. Yes, I was.
Q. What did you find?
A. I found a Corvette.
Q. Where did you find that?
A. A company called Millennium Cars.
Q. And did you end up setting up a rental for that?
A. Yes, I did.
Q. For how long was the car to be rented?
A. Originally, it was a two-week period.
Q. And you say originally. Did that come to change at some point?
A. It did. It was extended. I think it was extended another two weeks.
Q. At the time that you made this reservation for the car rental, was it secured in any way?
A. It was secured with Mr. Detore's credit card.
Q. Did Mr. Detore tell you why USAG would be doing this?
A. My recollection of why we were doing it is because we were finding some -- we were finding a shop to do some repairs on Congressman Traficant's car, and this was -- the payment of the car -- the rental of the car was going to be reimbursed by Congressman Traficant.
Q. What kind of car was USAG repairing for Congressman Traficant, did you understand?

A. It was an Avanti.
Q. Do you know whether or not -- let me ask it this way: Do you know where that Avanti came from?
A. Rephrase the question.
Q. Were you aware of J.J. Cafaro ever having affiliation with the Avanti company?
A. Yes, I was.
Q. Were you ever told that that Avanti came from the Avanti company?
A. I -- I'm not sure how -- I'm not sure.
Q. Okay.
But it was your understanding that while the Avanti was being repaired, a Corvette was going to be rented for Congressman Traficant?
A. Yes.
Q. Do you know who eventually paid for the Corvette?
A. I'm not sure.
Q. Was there ever any incident regarding Mr. Detore's credit card, any problems you recall relating to this?
A. Yes. This -- the rental of the car had to be somewhere at the end of the year, right around Christmas, and Mr. Detore wanted to purchase a gift for his wife and could not use the credit card to purchase the gift because the Millennium had hit his card for the charges for the car.

Q. What was Mr. Detore's reaction?
A. He was angry.
Q. I'd like to ask you some questions now about a boat. During the time that you were employed at USAG, are you familiar with any repairs that were made to a boat?
A. Vaguely, yes.
Q. Who was in charge of these boat repairs?
A. Albert Lange.
Q. And do you recall whether or not Mr. Lange was ever reimbursed for these boat repairs?
A. Yes, he was.
Q. As part of your duties, did you become familiar with that?
A. Limited, yes.
Q. How much do you recall Mr. Lange being reimbursed for boat repairs?
A. It had to be in a sum of over $2000. The number 2,000 comes to mind.
Q. If there were additional reimbursements to Mr. Lange from J.J. Cafaro directly, would you in your position have seen those?
A. No.
Q. And were -- was there a time when USAG's finances were handled out of Youngstown as opposed to out of Manassas?

A. Yes.
Q. Did Mr. Lange seem happy to be doing these boat repairs?
A. No, he did not.
Q. Did you ever hear him complain about it?
A. Yes, I did.
Q. Did you ever hear him reminisce about how fond he was about the boat, anything like that?
A. No, I did not.
Q. Did you ever hear him say he wanted to do this work?
A. No, I did not.
Q. Do you know why the boat was being repaired?
A. No.
Q. Do you know whose boat it was?
A. I -- I don't know for a fact. I just know my impression of where or whom I thought owned the boat.
Q. And that impression is based on things that other people might have told you?
A. Yes.
Q. Okay. During the time you were employed with USAG, do you recall anything unusual -- unusual about a generator?
A. I came across some documentation that I was going over the company's asset list and came across some documents, and I -- we had a receptionist/bookkeeper prior

to my coming on board, and I was going through her files, trying to clean things up.

And I found documentation for a generator, and I knew we already had a generator, and that generator was purchased during the time I was there. So I was a little surprised to see another one, and so I started investigating where the generator was because it was sitting on our asset list.

Q. Why would you do that?

A. Well, if it's sitting on your asset list, you have to know where the property is, and you've got to depreciate it for your taxes, and so we're responsible for the property.

If we don't have the property, then we need -- you know, have to find out where it went, if it was damaged, you know, the circumstances behind it, and if it was damaged, we have to write it off.

Q. What did you do to try to look for it?

A. We -- we were on the second floor of the large manufacturing facility. So I went downstairs to start locating it, looking around to see if it was on the meat trailer, talked to Mr. Lange about it, and I wasn't able to locate it.

Q. Do you have any personal knowledge what happened to that generator?

A. Not at all.

Q. How do you know that that particular generator was not still around, how were you able to compare it?
A. The serial numbers.
MR. KALL: Nothing further at this time, your Honor.
THE COURT: Thank you.
CROSS-EXAMINATION OF TRACY SLOAN
BY MR. TRAFICANT:
Q. Good morning, Tracy.
A. Good morning.
Q. The FBI visit with you?
A. Yes, they did.
Q. Where?
A. At the facility at U.S. Aerospace.
Q. And that is in Virginia?
A. Yes, sir.
Q. Did you know me?
A. No, sir.
Q. You ever meet me?
A. Never.
Q. Ever see me?
A. Other than on TV, no.
Q. Ever talk to me on the phone?
A. No, sir.
Q. How did you see me on the TV down in Virginia?

A. I think you were on CNN or one of the Capitol Hill shows that --
Q. Did they call you and tell you they were going to come out and meet with you, the FBI?
A. Yes, they did.
Q. Um-hum. When you came into USAG, was it a mess as far as bookkeeping?
A. It needed some cleaning up. I wouldn't -- compared to some of the companies that I have gone into, it was pretty neat.
Q. Did you know Mr. Detore before you went to work there?
A. Yes, I did.
Q. Did he hire you?
A. Yes, did he.
Q. Did Mr. Cafaro hire you?
A. No, sir. He got all -- Mr. Detore got authorization from the Cafaro Company to hire me.
Q. From the Cafaro Company?
A. Yes, sir.
Q. Who was the Cafaro Company that authorized it?
A. I'm not sure who authorized it.
Q. Did they call back to Youngstown for authorization?
A. I wouldn't know that. You have to ask Mr. Detore.
Q. Now, when you said they would call the office, you

mean Paul Marcone?
A. I'm sorry. I didn't hear that.
Q. You said when my office had called, they were made by Paul?
A. I think so. I think I spoke with at least two different people.
Q. Did you ever talk with me?
A. No, sir.
Q. When someone called your office, would you ask their names?
A. Usually when they called, they would say who -- who it was calling.
Q. So I never called?
A. No, sir.
Q. Are you familiar with a company called NAVCOM?
A. Yes. Yes, sir, I am.
Q. Did you work for NAVCOM?
A. Yes, I did.
Q. Can you explain what NAVCOM was?
A. NAVCOM was a Government contractor.
Q. And what did they do for the Government?
A. They built demarcation systems.
Q. What are those systems?
A. I don't even want to go into an explanation of it. I'm not a technical person.

Q. Did they have Government contracts, though?
A. Yes, they did.
Q. Did they have a Government contract, outstanding debt the Government owed them money?
A. Yes, they did.
Q. Were you doing the books at that time for NAVCOM?
A. The latter part -- NAVCOM had several different companies under the NAVCOM umbrella, and until the latter part of my employment, no, I did not do the books for the Government contracting side of the house, no.
Q. While you were doing the books, were you familiar with the fact that the Government owed NAVCOM any money?
A. I can't respond to that one way or another. I'm not -- the -- you have to understand that NAVCOM was a large company. They had many, many different Government contracts. I did not keep up with the contract. So -- and at the latter part of my employment with NAVCOM, there were a lot of issues between NAVCOM and the Government. So I can't respond to that.
Q. Did you have to get approval from the Youngstown company to pay employees?
A. Yes. We -- we did not get autonomy from the Youngstown office for a considerable amount of time. So everything that was -- was paid, was approved, and at one point, at the beginning of my employment there, the checks

actually came from Youngstown.
Q. Who signed the check?
A. I don't even remember.
Q. Was it a Cafaro Company check?
A. Yes, they were.
Q. Your paycheck came from the Cafaro Company?
A. Yes, it did.
Q. Who paid for your health insurance?
A. Well, when I first started my employment with USAG, the Cafaro Company did. When we started insisting upon our autonomy, we did.
Q. Now, when you insisted upon autonomy, was it a fact the Cafaro Company was no longer making money available to U.S. Aerospace?
A. No, sir, that's not true.
Q. Do you know if there were loans owed to the Cafaro Company?
A. Yes, there were.
Q. Did you handle those loans?
A. As far as loan documentation or --
Q. Documentation to have bookkeeping records?
A. We -- we both -- the transactions as they came in to where the funds were coming from, yes.
Q. You maintained them in your files?
A. Yes.

Q. Other than the Cafaro Company, was there any other money coming in?
A. I'm not sure what you're asking.
Q. Other than the money that was being loaned from the Cafaro Company, were you getting any significant amount of money from any other sources?
A. I would answer no to that question. I mean -- to me, there's such a fine line between the Cafaro Company and the Cafaro individuals.
Q. Now, when you talked with Mr. Lange about the generator, what did he say?
MR. KALL: Objection, hearsay.
THE COURT: Right. You can't answer what he said to you.
THE WITNESS: Okay.
Q. Did you investigate the generator?
A. Yes, I did.
Q. What if -- what, in fact, did you learn in your investigation?
MR. KALL: Objection to the extent this is based on hearsay.
MR. TRAFICANT: No, I didn't ask that. I asked what she learned upon her investigation.
THE COURT: You have to talk about your own experience, what you know firsthand.

MR. TRAFICANT: Yes.

THE COURT: Because nobody else is here to be cross-examined or to be sworn, and so you can't -- they can't put evidence of other people on.

MR. TRAFICANT: Excuse me. For the record, I object. I asked a question what she learned from her investigation, not who she learned it from. Now, can I ask that question?

THE COURT: Yes, you can ask that question.

Q. From your investigation, what did you personally learn?

A. I learned that the generator was not on our site.

Q. Did you further investigate it to where it would be?

A. I went as far as I could go as to find out where it was.

Q. Did you ever find out where it was?

A. No, sir, I did not.

MR. TRAFICANT: This is a defense exhibit marked -- I can't even read my own handwriting.

THE COURT: Well, show it to the Government.

MR. TRAFICANT: It's a rental agreement. Is that DD-2 or BS-2?

MR. KALL: That's DD-2.

MR. TRAFICANT: Thank you, Matthew. Coming to my defense.

Q. I want you to look at this very carefully. Is that the rental agreement you called on?
A. It looks like it.
Q. What's the name of the company?
A. Millennium.
Q. What does it say at the top?
A. Which section?
Q. Right there.
A. Rental agreement.
Q. Now, does it say who rented the car?
A. The renter's name is Richard Detore.
Q. And was anybody listed as an additional driver on the car?
A. Yes, sir.
Q. What was the name of the individual listed as the additional driver?
A. James A. Traficant.

MR. KALL: We'd ask this be made a joint exhibit.

THE COURT: It will.

MR. TRAFICANT: I ask it now be submitted now into evidence.

THE COURT: We do that at breaks, as you know, Congressman.

MR. TRAFICANT: Okay.

Q. So Mr. Detore put Mr. Traficant's name on it, didn't he?
A. I would assume so.
Q. You assume, or did you see it?
A. I didn't -- I wasn't sitting there watching him fill out the documents.
Q. You testified in court before?
A. I'm sorry. I didn't hear that.
Q. Have you testified in courts before?
A. Yes, sir, I have.
Q. Did the Millennium Company bill for the car when it wasn't returned after two weeks?
A. I'm not sure. I -- I'm not sure. I don't recall how the billing -- I know that the charges were hit on Mr. Detore's credit card. As to whether we actually got a hard copy invoice, I don't recall.
Q. You know how many days the car was rented for?
A. Not off the top of my head I don't.
Q. Do you know that there was a charge on the Millennium rental agreement?
A. I'm sorry?
Q. You know if there would be a charge listed on the bill?
A. I'm sure there would be.
Q. Would you have maintained this in your company files?

A. I -- I don't know. I'm sure I probably had a file. I don't know. I don't recall.
Q. Who was the boss of U.S. Aerospace?
A. Well, title-wise or who actually ran the day-to-day operations?
Q. Who was the boss that ran the day-to-day operations?
A. Richard Detore ran the day-to-day operations.
Q. Who was the professional engineer that understood the laser technology?
A. Albert Lange.
Q. Did Mr. Richard Detore understand the technology?
A. I assumed he did. He seemed to.
Q. Who would fly the planes on demonstrations, if you know?
A. Mr. Detore.
Q. You know if he was a licensed certified pilot?
A. I would hope so. I don't know for a fact.
Q. What, in fact -- well, we just had a couple TWA buildings go down. They're still wondering what happened, but anyway, was there anybody that would hold the box on the runway?
A. Hold the box --
Q. Was the laser a little box?
A. Yes. It was positioned on the runway. Nobody --
Q. You know who would positioned it on the runway?

A. Albert Lange and Robert Looney.
Q. Do you know if you had a portable unit that could be carried on your back?
A. Yes, we did.
Q. Did you think it was a good technology?
A. I certainly did.
Q. Did you know if the company lobbied many members of Congress?
A. I couldn't speculate to that.
Q. Did Capri Cafaro ever ask you for money?
A. Ask me for money?
Q. Yes. As far as checks or anything?
A. I'm not sure -- I mean, we would go over accounts payable list and -- together. What are you referring to?
Q. What role did Capri Cafaro play with the company?
A. She would review documents, help, you know, sit in with meetings, make her opinion, or she would sign checks, review AP's, you know.
Q. Did she have the authority to sign checks?
A. Yes, she did, but that was after we received autonomy from the Cafaro Company. These were our checks, out of our account. U.S. Aerospace's checks are out of U.S. Aerospace's account.
Q. You started working in '99?
A. If my memory serves me well, yes.

Q. So at what time after you started did you start writing your own checks?
A. It was after 2000. I think the last -- I'm sorry, go ahead.
Q. No. I'm sorry. I might have cut you off.
THE COURT: Right.
Q. I might have cut you off. I thought you had concluded.
A. I think the latter part of '99 we established an account, a local account, put a couple of dollars in there to get the account started to -- to speed things up as far as, you know, when we finally got the autonomy, and then in the Year 2000, the beginning half -- the first quarter is when we were able to --
Q. Were there signators to that account? Whose names had to appear on the checks, or could just any employee of U.S. Aerospace sign the check?
A. No, we had -- we had signators.
Q. Who were the signators?
A. I'm not sure if it was just Capri Cafaro and Richard Detore or if there were other people. It wasn't a limited number of people. At least the two of them.
Q. Did Capri Cafaro work eight hours a day?
A. No, she did not.
Q. Was she there very often?

A. No, she was not.
Q. Was she hardly there?
A. Yes.
Q. Was she a figurehead?
A. I don't know. I mean she -- you know, she could be off-site doing other things in regards to the company. I don't know that.
Q. Do you know who her father was?
A. Yes, I do.
Q. Who was her father?
A. J.J. Cafaro.
Q. And who was his brother?
A. Anthony Cafaro.
Q. Who was the boss of the Cafaro Company?
A. I assumed Anthony Cafaro.
Q. Why did you assume that?
A. I couldn't tell you how I came up with the assumption.
Q. When your paycheck was signed from the Cafaro Company but you were working for U.S. Aerospace and your insurance was coming from the Cafaro Company, as an experienced bookkeeper, as an experienced worker in Government activities, whom do you believe was your employer?
A. Well, I've worked for several companies who have had -- who have been -- who have had subsidiary companies,

and the checks have come from the corporation, but you work for the subsidiary.

I personally -- I didn't like my paycheck coming from the Cafaro Company, but I -- I've had it happen before.

Q. Are employees usually paid by their employers?

MR. KALL: Objection.

THE COURT: Sustained.

Q. Did you ever work for a company who they themselves did not pay you?

MR. KALL: Objection, relevance.

THE COURT: Sustained.

Q. Was Mr. J.J. Cafaro there?

A. Once in a while he would come in, yes.

Q. Who established the bank account?

A. Ruth Nielson went down, got all the documentation we needed, brought it back to the site, and got -- I would assume Capri signed the documentation to establish the account.

Q. Well, you said earlier when the prosecutors asked you if you knew about any titles. You said you didn't know any titles; is that correct?

A. No, I can't recall.

Q. Can you recall now?

A. No. I -- the titles changed midstream, and they changed there at the end. And I'm not -- I don't want to

tell you something that's -- that's not factual or that I'm incorrect in saying so --

Q. At any time you were an employee with U.S. Aerospace, was there someone called a president?

A. Yes.

Q. Who?

MR. KALL: Objection, your Honor. She said she didn't remember titles.

MR. TRAFICANT: No, she just said yes.

THE WITNESS: There was somebody that was a president of a company.

THE COURT: If you know. Answer if you don't know.

THE WITNESS: I don't want to speculate. I don't want to say -- make a false statement. I don't know.

Q. Did you order the Corvette?

A. Yes, I did.

Q. Did you specifically ask for a Corvette?

A. Yes, I did.

Q. And your testimony to the FBI -- and the Prosecutor you said some luxury model car?

A. After I did the research and called Millennium to say this is the car, that's the car I ordered, but while I was doing the research, I was looking for a luxury or exotic car.

Q. You know what the car was to be used for?
A. I'm sorry?
Q. Do you know what the car was to be used for?
A. My knowledge was that you would be using it.
Q. Do you know for what?
A. I would assume travel.
Q. Do you know who ultimately paid the bill on the car?
A. No, I do not.
Q. Did you write it off as an expense for U.S. Aerospace?
A. No, we did not.
Q. Well, if it was a U.S. Aerospace expense, wouldn't you have as the bookkeeper written it off as a business expense?
A. Yes. But the -- the car was -- Mr. Detore's credit card was used. U.S. Aerospace never expended funds to my knowledge to pay for that car.
Q. Did U.S. Aerospace have money in the bank to pay for this car?
A. I don't recall at that time if we had funds to pay for the car.
Q. Well, you said when the account was opened, it was opened with a couple dollars?
A. Yes.
Q. Who physically went to the bank and opened the

account?
A. I don't recall.
Q. Did Mr. Rick Detore show up for work?
A. Yes, he did.
Q. Was he a delegator?
A. In what respect?
Q. Would he delegate duties to others?
A. Yes.
Q. And have them report to him?
A. Yes.
Q. Did you consider him a good manager?
A. He was a decent manager, yes.
Q. Did he ever do an evaluation on you?
A. No.
Q. Did anyone ever do an evaluation on you?
A. No.
Q. Were there any evaluations ever on U.S. Aerospace staff?
A. Not that I'm aware of.
Q. While you were there?
A. Correct.
Q. Did Capri ever talk with staff?
A. Yes.
Q. Did Capri ever give orders to staff?
A. Yeah. She would delegate things.

Q. Did she ever delegate things for you to do?
A. Yes.
Q. Did you ever question it with Mr. Detore, who was the chief executive officer?
A. I don't recall.
Q. Who was your boss?
A. I had several different bosses.
Q. Tell me who they were, names.
A. Ruth Nielson, Richard Detore, Albert Lange, Capri Cafaro.
Q. Which one of those four was related to the Cafaro Company?
A. I'm sorry --
Q. Which one of the four was related to the Cafaro Company?
A. Capri Cafaro.
Q. Could you describe Capri Cafaro to the jury?
A. She's a blond, rather short female.
Q. How old was she?
A. In her early 20's.
Q. Pardon?
A. Early 20's.
Q. How early, how early?
A. Early -- I don't know, 21, 22, 23, early 20's.
Q. Did she perform services for the company on Capitol

Hill?
A. I don't know.
Q. Did Rick Detore perform services for the company on Capitol Hill?
A. To my knowledge, yes.
Q. Do you know if he went?
A. Yes, he did, because I read an article where he testified on Capitol Hill regarding the -- my mind just went blank. I'm sorry. I read an article where he testified on Capitol Hill, yes.
Q. And he went to many offices on Capitol Hill, would that be a correct statement?
A. I couldn't respond to that.
Q. Do you know if he went to my office?
A. To my knowledge, yes.
Q. You know if he met with me?
A. To my knowledge, yes.
Q. Now, did Mr. Detore buy meals on the expense account of U.S. Aerospace?
A. Yes, he did.
Q. And were some of those meals with me?
A. If my recollection is correct, yes.
Q. Would you list whom the meal was with? Would they list on it what the event was to get reimbursed?
A. I would assume so. I don't know.

Q. Did you process those documents?
A. At the latter part, yes, I did.
Q. Did you maintain any records in the files?
A. Yes, I did.
Q. Did the company make political donations to the best of your knowledge?
A. Not to my knowledge.
Q. Do you know if any individual members of the company made political contribution?
A. It would be speculation for me to say.
Q. Now, you saw an Avanti car?
A. Yes, I did.
Q. And you knew Mr. Cafaro had built the Avanti car?
A. Yes.
Q. And you know where that car was built?
A. To my knowledge, it was -- no, I don't.
Q. Do you know if Mr. Cafaro had a company to build cars in Youngstown, Ohio?
A. That was my -- I don't know how I assumed this, but that was to my knowledge, yes.
Q. Whose car was it?
A. My understanding that it was your car.
Q. Did you know if I had a title for that car?
A. No. I don't know that.
Q. Wasn't it, in fact, a 1989 car?

A. I don't know that.
Q. Was Mr. Lange ever reimbursed by U.S. Aerospace for work on a boat?
A. Yes, he was.
Q. Who wrote that check?
A. I -- I think U.S. Aerospace did.
Q. Who would have signed it?
A. Capri or Richard Detore.
Q. So Capri evidently have the same authority as Mr. Detore for signing checks?
A. Yes.
Q. Did anyone else ever sign the checks?
A. Not to my knowledge, not to my recollection.
Q. Did Capri Cafaro have to get approval from Mr. Detore to have a check signed?
A. I don't think so.
Q. Did you ever inquire of Mr. Detore if, in fact, you should write a check because Capri had asked you to?
A. I don't recall the need to have done that, no.
Q. Why wouldn't you have had the need to have done that?
A. I'm just saying that I don't recall ever having to do that or having seen anything that I questioned to have done that.
Q. Could Mr. Detore fire Capri Cafaro?
A. No, he could not.

Q. Could Capri Cafaro fire Mr. Detore?
A. I guess so, yes.
Q. Who was the boss?
A. I can't answer that question.
Q. Well, if I can fire you, and you can't fire me, are you my boss?
A. I guess so.
Q. Now, you just testified Capri Cafaro could fire Detore but Detore couldn't fire Capri. Now who was the boss?
A. I cannot make a statement to that effect. There -- Mr. Detore had an employment contract. Ms. Cafaro, I don't think -- and again, this is speculation, I don't even want to get into this line because I'm assuming things that --
Q. I don't want you to assume anything, just what you know?
A. Okay. Then I can't answer this question.
MR. KALL: Objection, your Honor, she said this is speculation.
MR. TRAFICANT: Okay.
Q. We've established for the record, though, that Capri could fire Mr. Detore?
A. I wouldn't think she could walk in on her own accord and fire Mr. Detore, but, yes, it could come through that she would bring him into her office or go into his office

and say, "I'm sorry, I'm going to have to let you go."

Q. Well, whom would Mr. -- would Ms. Cafaro have to clear it through someone?

A. Mr. Cafaro.

Q. Which Mr. Cafaro?

A. Probably J. J. Cafaro.

THE COURT: Congressman, it's 10:30. Is this a good time to stop?

MR. TRAFICANT: Yes, I didn't realize that, and I have more questions for this witness.

THE COURT: Okay. Very well. We'll see you again at 11:05. Have a nice break.

(Thereupon, a recess was taken.)

THE COURT: You're still under oath.

BY MR. TRAFICANT:

Q. Good afternoon, Tracy.

A. Good afternoon.

Q. Or it's still morning?

A. Still morning.

Q. Were you familiar with the boat agreement relative to the repairs made on the Traficant boat?

A. No, I wasn't.

Q. Are you familiar with a welder?

A. I'm sorry.

Q. Were you ever familiar with a welder?

A. No. I have no knowledge of a welder.
Q. And so some point did you consider yourself when you were first hired as a Cafaro Company employee?
A. No. I don't think I ever considered myself a Cafaro Company employee.
Q. Would you have the original checks?
A. No, I wouldn't.
Q. Did you know who signed the check?
A. No.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

REDIRECT EXAMINATION OF TRACY SLOAN

BY MR. KALL:

Q. Tracy, you were asked questions earlier about a car rental agreement. You recall those questions?
A. Yes, I do.
Q. Do you have that agreement in front of you right now?
A. I do.

MR. KALL: May I put it on the overhead, your Honor?

THE COURT: Yes.

THE COURT: It's a joint exhibit, but I don't remember the number.

MR. KALL: It's listed as Defendant's Exhibit

DD-2. So Joint Exhibit DD-2.

THE COURT: Thank you.

Q. When was this car rental agreement prepared? Do you see a date in the upper right-hand corner?

A. Yes, I do, December 10th, '99.

Q. December or November, does it say 11-10-99?

A. Oh, you're -- I'm sorry?

Q. It's November?

A. Oh, you're right, you're right. I'm sorry, looking at the due date.

Q. What was the amount of the rental?

A. $5,000.

Q. Were there additional things on there?

A. Additional driver, $10 a day.

Q. So $300 extra for that?

A. Exactly.

Q. Who was listed as the rental on this?

A. Richard Detore.

Q. And the additional driver listed?

A. James Traficant.

Q. Now, does there appear to be what's written as a credit card number at the bottom securing this?

A. There is.

Q. And you see a series of numbers. You don't recognize those numbers personally, do you?

A. No, I don't.
Q. But you see to the right of that a credit card imprint?
A. Yes.
Q. And that's for Rick Detore, correct?
A. Correct.
Q. Who did you understand was ultimately going to pay for this credit card -- excuse me -- for this Corvette rental?
A. The Congressman.
Q. Do you recall being asked that question when you were met by the FBI, when you were interviewed by the FBI?
A. Not specifically.
Q. Will it refresh your recollection to see the document regarding this?
A. It would.
MR. TRAFICANT: What are you showing her?
MR. KALL: The 302, third paragraph.
THE WITNESS: Okay. Yes, they did ask me that question.
Q. Does it refresh your recollection what you answered to it at that time?
A. Yes.
Q. Who did you understand was going to pay for the rental?

A. Either J.J. Cafaro or the Congressman.
Q. Why did you put the charge on Rick Detore's credit card?
A. Because we needed to secure, you know, a security deposit or just to secure the car, and they're not just going to let you rent a car without -- or a hotel room or anything else without putting some sort of security on it, and U.S. Aerospace to my knowledge didn't have any credit cards.
Q. You said we. Who were you working with on this?
A. Richard Detore.
Q. Why not put it on Congressman Traficant's credit card?
A. I don't know that we had access to his credit card.
Q. Do you recall ever seeing this Corvette at USAG?
A. I do.
Q. Do you have any knowledge why it was delivered to USAG?
A. I know that the intent was for Mr. Detore, Mr. Lange to take the car down to the Congressman, and I'm not sure if at that time they were picking up the Avanti and bringing it back or if they had already brought the Avanti back.
Q. Couldn't the car simply have been delivered to Congressman Traficant on Capitol Hill?

A. I would assume so.
Q. Where was the car company?
A. I think they were in D.C.
Q. And where was USAG?
A. Manassas.
Q. How far away from D.C. is Manassas?
A. Out about 30 or 45 minutes.

MR. KALL: Nothing further, your Honor.

MR. TRAFICANT: Leave it on.

RECROSS-EXAMINATION OF TRACY SLOAN

BY MR. TRAFICANT:

Q. Tracy, you said that no one of any prudent business mind would let a valuable item go without having some security; is that correct?
A. Yes.
Q. Do you know if Mr. Detore left from Jim Traficant's office to pick up the car, or did he go in from Manassas to pick up the Corvette?
A. The car was delivered to our office in Manassas.
Q. So if the car was delivered to your office in Manassas, did you see me come pick up the car at Manassas?
A. No, sir.
Q. Did you see Mr. Detore drive the car at all?
A. No, sir.
Q. At some point, was the car not at USAG in Manassas?

A. Yes, sir.
Q. And what did that lead you to conclude?
A. That the car was being delivered or had been delivered to you.
Q. Now -- or I could have possibly picked it up?
A. The car -- when you asked if I saw Mr. Detore drive the car --
Q. Yes.
A. -- I did not physically see him drive the car. I saw Mr. Lange and Mr. Detore leave out of the office during the workday to take the car down.
Q. It was during the workday?
A. Yes.
Q. Did you see me ever at USAG?
A. No, sir, I've never seen you.
Q. Was I there that day?
A. No, sir.
Q. Would Millennium Car Rental -- excuse me, I asked that you leave that on?
MR. KALL: It's on.
Q. So you saw Mr. Detore, Mr. Lange get in the Corvette --
A. No.
Q. You just know they took it?
A. Yes.

Q. During work hours?
A. Yes.
Q. You're not sure if the Avanti was there or brought back after?
A. That's correct.
Q. What condition was the Avanti in?
A. I'm not sure what you're asking.
Q. Well, how was the paint job on it?
A. It -- it could have used a paint job. It was -- you remember the cars in the'80s where the -- they all seemed to really get that faded paint look. That was what the car looked like. It was that faded, you know, hard '80s look.
Q. Isn't it a fact they took it for repairs, and no one wanted to repair it?
A. That's correct.
Q. Did you know if that car run?
A. I know it was driven in.
Q. Did you know it was made out of all used parts, including the frame?
A. No, I did not know that.
Q. Did you know that Jim Traficant had bought two Avantis?
A. I did not know that.
Q. Did you know who paid for the rental of that car?
A. I do not.

Q. Did I call you and ask you to rent me a Corvette?
A. No, you did not.
Q. Do you have any memos or any notes from Mr. Detore about the payment of this car?
A. No, I do not.
Q. Did Capri Cafaro have to approve this?
A. I don't think so.
Q. You see a charge of $30 a day?
A. Yes.
Q. $10 a day?
A. Yes.
Q. What did that imply?
A. That there would be an additional driver.
Q. And who was that additional driver to be, to the best of your knowledge?
A. Well, the car was rented in Mr. Detore's name, and you would be the additional driver.
Q. Now, as a bookkeeper, if Mr. Detore was trying to hide something, would he have put additional driver $10 a day, or would he rent it in his name and not listed Jim Traficant as additional driver?
MR. KALL: Objection.
THE COURT: Sustained.
Q. Did Mr. Detore lie on this document when he said James A. Traficant, Junior would be the additional driver?

A. Did he lie?
Q. Did he lie?
A. I don't know.
Q. Did he list my name?
A. Yes, he did.
Q. He certainly wasn't concealing the fact I was to be the driver, was he?
A. Not to my knowledge.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. KALL: Nothing further, your Honor.

THE COURT: Thank you. You're excused. Thank you very much.

MATTHEW H. HALL

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF MATTHEW H. HALL

BY MR. KALL:

Q. Could you please state and spell your last name?
A. Matthew Hall, M-A-T-T-H-E-W, H-A-L-L.
Q. I like the sound of that.
Where do you live?
A. South Boston, Virginia.
Q. What do you do for a living?

A. Account manager for a store called Comstore.
Q. What kind of business is Comstore?
A. I do sales for Cisco Systems.
Q. How long have you held that position?
A. About two years.
Q. Where did you work before that?
A. I did some electrical work for Stauffer Electric.
Q. And prior to that?
A. Millennium Luxury Car Rentals.
Q. How long did you work at Millennium Luxury Car Rentals?
A. About ten months.
Q. From when until when?
A. From August of '99 to about March of 2000.
Q. What were your duties there?
A. I maintained the fleet of cars that we had, took care of most of the rental contracts, any maintenance on the cars.
Q. What kind of --
A. Deliveries.
Q. What kind of cars did Millennium have?
A. High and luxury cars, Mercedes, Porsches, Ferraris. We had one Lamborghini, some Corvettes, fibers, sports utility, Land Rovers, Cadillacs.
Q. Okay.

In the course of your employment with Millennium, were you familiar with the procedures for renting cars?
A. Yes.
Q. And in the course of your employment with Millennium, were you familiar with the paperwork associated with car rentals?
A. Yes.
Q. If you look down in front of you, do you see Exhibit 8-59?
A. Yes.
Q. You may need to take it out of the plastic. What is that?
A. It's a standard rental agreement that we used.
Q. How many pages are there in that exhibit?
A. Seven.
Q. And are all these the documents typical of documents that might be generated as part of a car rental?
A. Yes.
Q. And was it Millennium's normal practice to create and keep such records?
A. Yes.
MR. KALL: Your Honor, may I place these on the overhead.
THE COURT: Yes.
MR. TRAFICANT: I ask they be made a joint

exhibit.

MR. KALL: No objection.

THE COURT: That's fine.

Q. Before I do this, let me ask you this: Do you have any personal knowledge or memory regarding this transaction?

A. No.

Q. Do you recall being involved in this transaction?

A. Some of the handwriting on the contract is mine, but that's going to be the case in most of them.

Q. Which handwriting was yours?

A. The -- the detail on cars being rented out, the VIN number, the date.

Q. Is that the stuff that's in the upper right-hand corner of this?

A. Yes.

Q. Did you have a customer routine in preparing this type of thing?

A. Whenever I come in the morning, I'd look at the schedule, what cars were to go out, fill in just the general information on the car. If somebody was coming to pick up the car, I fill in the mileage. If it was being delivered. Whoever delivered it would fill out the rest of the paperwork.

Q. Based on the paperwork here, what kind of car was

rented?
A. A Chevy Corvette, convertible.
Q. When was it rented?
A. On the 10th of November '99.
Q. To whom was it rented?
A. Richard Detore.
Q. And does it list where he's employed?
A. Yes, U.S. Aerospace.
Q. Is there an additional driver listed?
A. Yes.
Q. Who?
A. James Traficant.
Q. What was the quoted amount for rental?
A. It was $5,760 total for the month.
Q. And what did that include?
A. The $5,000 for standard month rental, $20 a day insurance and additional driver, $10 a day.
Q. And sales tax?
A. Yes.
Q. Was it standard for your company to take a credit card imprint at the time you rented a car out?
A. Yes.
Q. Look at the next page. It's also been -- this page itself has also been labeled Joint Exhibit DD-2. Whose credit card imprint was taken for this?

A. Richard Detore's.
Q. When would that have been taken?
A. When -- if the car was delivered to him, it would have been taken then.
Q. Does it state in the paperwork when that car was delivered to him?
A. On the 10th of November at 10:00 A.M.
Q. Was it standard for your company to take a copy of a driver's license at the time a car was rented?
A. Yes.
Q. Looking through that material, do you see a driver's license in there?
A. Yes.
Q. Whose driver's license?
A. James Traficant.
Q. And looking through these documents, can you tell when this car was returned?
A. It looks like it was supposed to be returned on the 17th of December, and then it was extended another week so the 24th.
Q. Do you recall the extension or when it was returned?
A. No.
Q. You're basing this on what's written on these documents then?
A. Yes.

Q. At the time the car was returned in late December of 1999, can you tell from this document if the charges were left on Rick Detore's credit card?

A. They were returned about two minutes after they were charged.

Q. What do you mean by returned?

A. There was a sales processed on his credit card, and a return was done on the same date.

Q. So it was originally charged to Mr. Detore, and then it was refunded?

A. Yes.

Q. Can you tell whose credit card was ultimately charged for this transaction?

A. James Traficant.

Q. Do you know what happened between November 10th, '99 and the end of December of '99 that caused them to change this charge from Rick Detore's credit card to James Traficant's credit card?

A. No.

MR. KALL: No further questions.

THE COURT: Thank you. Congressman.

CROSS-EXAMINATION OF MATTHEW HALL

BY MR. TRAFICANT:

Q. You can leave. Do they call you Matthew or Aaron?
A. Matthew.
Q. How are you doing, Matthew?
A. Good, how are you doing?
Q. Did you ever meet me?
A. No, sir.
Q. You know who I am?
A. Yes.
Q. How do you know who I am?
A. The newspapers.
Q. What newspaper?
A. The Washington Post.
Q. You know who Mr. Detore was?
A. No.
Q. You just got the cars ready for delivery and made sure they had oil in them, right?
A. Yes.
Q. Was Millennium a luxury car, specific rental place?
A. Yes.
Q. What did your top Mercedes go for?
A. About $450 a day.
Q. $450 a day?
A. Um-hum.

Q. What did your Porsches go for?
A. $300.
Q. What did the Ferrari go for?
A. $1,200.
Q. $1,200 a day?
A. Yes, sir.
Q. Did a woman go with it or what?
A. No.
Q. What did your Vipers go for a day?
A. Four or five hundred.
Q. What did your Corvettes go for a day?
A. $300.
Q. Would you say then of the luxury cars you had at Millennium, that the lowest price luxury car that was rented was the Corvette?
A. The BMW V-3 was the lowest.
Q. How big is --
A. It is a little two-door convertible.
Q. How much smaller than a Corvette?
A. Not much.
Q. Could it accommodate a hunting trip to Louisiana?
A. No.
Q. In fact, could a Corvette handle a hunting trip to Louisiana?
A. I don't think so.

Q. Do you have knowledge there was to be a hunting trip to Louisiana?
A. No.
Q. Was Mr. Detore honest when he listed an additional driver?
A. I don't know.
Q. Well, if he didn't list an additional driver, would he have to pay $10 more a day?
A. No, so I assume he wouldn't have listed it if he didn't want to pay extra.
Q. Would he, in fact, not have to pay more insurance -- less insurance if he didn't list an additional driver?
A. The insurance rate stays the same.
Q. It would have stayed the same?
So what effect did it have in putting down additional driver?
A. $300.
Q. So he let you know who the additional driver was going to be, didn't he?
A. Yes.
Q. Isn't it standard procedure that you have to have some documentation to prove that that person has insurance?
A. No.
Q. Or don't you have to know -- have some documentation who the additional driver is?

A. Yes, take a copy of the driver's license.
Q. You're from Virginia?
A. Yes.
Q. Do you have a state law that says you have to have insurance?
A. Yes.
Q. To your knowledge, have you rented to anybody that didn't have to have insurance?
A. Yes.
Q. From what state?
A. Anything outside of Virginia, or we dealt with a lot of diplomats.
Q. So a diplomat didn't need it?
A. No.
Q. Well, diplomats have all kind of immunity, don't they?
A. I guess so.
Q. Was Mr. Detore a diplomat?
A. No.
Q. Am I a diplomat?
A. No.
Q. You know what I am?
A. Yes.
Q. Don't call me names.
Now, Matthew Hall -- Matthew Kall has given me a

series of documents to confuse me.

MR. TRAFICANT: And I'd like to find the driver's license. If you know where it is.

MR. KALL: The fourth page.

MR. TRAFICANT: Thank you, Matthew Kall.

Q. Do I really look like that guy?

A. No.

Q. Now, do I look a little bit like that guy?

A. A little bit. It's a bad copy.

Q. Bad copy or bad looking?

A. Bad copy.

Q. Uh-huh.

MR. TRAFICANT: Let the record reflect it's a bad copy.

Q. Does it give an address?

A. Yes.

Q. You have a social security number?

A. Yes.

Q. Satisfy the requirements?

A. Yes.

Q. Did I bring that in?

A. Not that I'm aware of. I wasn't there at the time.

Q. Who picked the car up?

A. It was delivered.

Q. Who delivered it?

A. Not me.
Q. Would one of your company men have delivered it?
A. Yes.
Q. You know where they delivered it to?
A. The Manassas address on the -- in the directions.
Q. And you know if I have an office in Manassas?
A. No.
Q. You know if I have an office in Washington, D.C.?
A. No.
Q. Now, how many times the FBI meet with you?
A. Once.
Q. Where did they meet with you?
A. My house.
Q. Where is your house?
A. South Boston, Virginia.
Q. You remember the agent's name?
A. I think it was Bob White.
Q. You know where he was located from?
A. Falls Church.
Q. He was a Virginia agent?
A. Yes.
Q. And you did confirm those were, in fact, your handwritten notes on it?
A. Yes.
Q. Did they have the document, or did you have the

document?
A. They had the documents.
Q. Did Mr. Detore rent cars, other cars from your company?
A. I don't know.
Q. How long was the meeting with the FBI agent?
A. About a half hour.
Q. Did you notice a recorder?
A. No.
Q. Was anybody present with you?
A. No.
Q. What time of the day was it?
A. It was in the afternoon, around two.
Q. Now, you said the car was ultimately paid for by credit card. Do you have that one, Matthew?
The car ultimately had to be paid for and brought back, right?
A. Yes.
Q. You know who brought the car back?
A. No.
Q. Who paid for that car rental?
A. You did.
Q. How?
A. On your credit card.
Q. And what credit card was that?

A. Looks like a Visa.
Q. You know what Visa number it was?
A. A 4237 9500.
Q. Read the rest of it?
A. 0982 2332.
Q. Do you know what, other than VISA, if it was from a specific bank or organization?
A. No.
Q. Do you know if I brought that vehicle in?
A. No.
Q. What time was it delivered after it had been used? What was the exact time and date of when it was -- when was it returned?
A. The 17th of December.
Q. You know what time?
A. No.
Q. If I hand you the documents, would you be able to find out?
A. I have the documents.
Q. Could you look through them and see if you can find a time.
A. Looks like 10:00 A.M.
Q. 10:00 in the morning?
A. Yes.
Q. You know what day of the week September 17th was?

A. No.
Q. That was December 17th, right?
A. Yes.
Q. Do you know if the House of Representatives was in session on September 17th?
A. No.
MR. TRAFICANT: No further questions at this time.
MR. KALL: No redirect.
THE COURT: You may step down, sir. You're excused.
Ladies and gentlemen, it's almost noon. I want to give you some instructions at this point. They'll be brief, but I -- we're in the sixth week of the trial, and this is a good time since we have a few minutes for me to do that. So if you'll just sit back and relax for a minute.
I'm going to go back and read again to you from the same instructions that I read as we all began this together. I'm not going to read all of them, but it's time now for me to give you sort of a booster shot on some of those, and this is the easiest way to do it when we aren't delaying you or any witnesses so if you will just sit back and listen for a few minutes. These will all be familiar. You've heard all this before.

But, in trials that last, you know, four days or five days, we don't have to do this, but we have been working as long as you have, it's a helpful thing.

Way back at the beginning when I summoned you, as part of a large panel of people who were prospective jurors -- think back to that time, in a different month -- I explained the case that you've been summoned in as a prospective juror or alternate. And I said as a juror, you are performing one of the most difficult, often inconvenient, and one of the highest civic duties in our American system of self-Government.

Remember that when you first started together?

You know how inconvenient it can be now. You are also helping guarantee the rule of law to social order and the protection of precious rights under our constitution, the constitution of the United States of America. And then I said on behalf of the public, the United States, and the Defendant, I thank you.

And now six weeks into this you're entitled to another round of thanks from us for your attention and your steadfastness.

And then I said some other things, but I went over the trial of a criminal jury case and pointed out that the Court consists not just of the trial judge but of the trial judge and the jury.

Together the trial judge and the jury constitute the Court. Each has separate functions to perform, and then I went into those separate functions that you, and I have. And then I explained that during the trial evidence is offered by the United States and by the defense if the Defense desires.

From the evidence offered in this courtroom, the jury decides the facts, applies the law received from the trial judge to those facts and then determines the guilt or innocence of the accused. In this function, the jury is supreme.

Then I talked a little bit more about the rule of law to acquaint you before we even got into evidence with it. It's a fundamental rule of law that a case be decided solely upon the evidence brought out in open court here in this courtroom and upon the law as the trial judge states the law to be, as applicable to the case at hand.

The jury must consider the case only upon the evidence presented to it in the courtroom and only under the law that the trial judge provides to the jury.

The jury may not consider as evidence anything jurors see or hear or do outside of the courtroom. The jurors may not apply their own notions or opinions as to what the law is or ought to be concerning the facts of a particular case. What jurors are asked to do -- I told you then, is

not easy, but day in and day out, in thousands of court rooms across America, men and women interrupt their daily lives, temporarily disrupt their families, their friends, and their work, in order to make justice real, not just a high-minded promise.

The rules that govern you as a prospective juror -- that's what you were then, and it's true now -- and as a participant with the trial judge, as a member of a court of law, are not ordinary rules. This is not the way we do things everyday.

But these rules and admonitions, which I give you, are critical rules of longstanding, which are at the core of our American justice, a powerful and hard-earned brand of justice, which is rare across human history. In America, under our constitution, citizens shoulder with our judges the responsibility of delivering justice.

And I said then and I know you understand it now that yours is a high calling.

As the Judge presiding at the trial of this case, I must instruct prospective jurors and throughout the trial that whenever and wherever you are, you shall not discuss this case with anyone, not with strangers, not with other prospective jurors, not with family, not with colleagues, not even with the people you otherwise discuss everything with.

Also, you must not permit yourself to be addressed by any person who wants to discuss this case. You must not listen to any conversation on the subject of this trial. If anyone attempts to discuss this case with you, you must report the incident to the U.S. Marshals, and I gave you the phone number, immediately.

You're bound by your solemn oath or affirmation and by your responsibilities as a juror or alternate to do justice. You're also bound to follow these long, established rules until you're dismissed as a juror or alternate in this case until a verdict in the case is accepted in open court.

In addition, I told you then, and I have been telling you as you go along, you're not to read any newspaper items about this trial or any proceedings related to it. You're not to view any matters about it on television, nor listen to any matters relating to it on the radio.

Moreover, you may not go out and investigate anything about this case on your own regarding this case, ladies and gentlemen. Television, the radio, print, and computer coverage is not easy to avoid, and I understand that, but although I assure you that I don't underestimate how difficult it is for you to avoid that, that's how you keep your solemn oath, and I commend you for doing it, and six weeks is a long time to have to live under these kinds of

restrictions in this world we live in. So I commend you for it.

And I asked you this prior to the trial. Can each one of you assure me that you will continue to avoid any and all media coverage related to this case? Can you all give me that answer.

THE JURY: Yes.

THE COURT: Speak out so I can hear you.

THE JURY: Yes.

THE COURT: All right.

Can you remember not to discuss the case and not to let anybody discuss it with you, and if they try, you know the number to call? Okay.

THE JURY: Yes.

THE COURT: All right. All right. And not investigate, don't go out and investigate.

All right. Well, remembering those admonitions, I thank you and hope you have a really good lunch. It's supposed to be beautiful out. It started beautiful this morning so I suspect it'll be nice now. You have until 1:30, and we'll see you back. Thank you.

(Thereupon, a luncheon recess was had.)

Thursday Session, March 14, 2002, at 1:30 P.M.

(Proceedings in the absence of the jury:)

MR. MORFORD: We do have one matter, your Honor.

THE COURT: Sir, would you raise your right hand.

ALBERT LANGE, JUNIOR,

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF ALBERT LANGE, JUNIOR

THE COURT: Mr. Morford?

MR. MORFORD: Your Honor, it is my understanding having talked to Mr. Lange and his counsel, who's here in the courtroom, that Mr. Alan Gardener, that it is Mr. Lange's intention to invoke his Fifth Amendment privilege against self-incrimination. And I have provided the Court with a motion, and I would like to ask at this time that I be permitted to conduct a short voir dire to establish on the record that is his intention, and I would ask the Court to go ahead and review it.

THE COURT: Thank you. Proceed.

BY MR. MORFORD:

Q. Would you please state your name for the record?

A. My name is Albert Lange, Junior.

Q. Could you spell your last name?
A. L-A-N-G-E.
Q. And, Mr. Lange, once the jury comes in and we get started, I'm going to ask you to keep your voice up. If you need to, you can take the microphone out and actually hold it in your hand if you need to.
A. All right.
Q. And also, speak slow enough that the Court Reporter can get all your words down.

Sir, as I understand it, it is your intention to invoke your Fifth Amendment privilege against self-incrimination; is that correct?
A. That is correct.
Q. And now I'm going to ask you a couple of questions, and if that is your intention, then would I ask you to go ahead and invoke your privilege.

Do you know the Congressman, James Traficant?
A. Do I know him?
Q. Yes. If it's your intention today to invoke your privilege, I would ask you to do so at this time.
A. I'd like to plead the Fifth Amendment at this point in time if I can. Right?
Q. All right.

Did there come a time where you were involved in a scheme to conduct repairs on Congressman Traficant's boat?

A. I'm sorry. I'm going to have to refuse to answer that and plead the Fifth Amendment.

Q. And is it your intention throughout this proceeding today to invoke your Fifth Amendment privilege as to each and every question that you would be asked about these matters?

A. Yes.

MR. MORFORD: Your Honor, at this time I would like to ask the order be read into the record.

THE COURT: I'll read an immunity order. Listen carefully, sir.

On motion of Emily M. Sweeney, United States Attorney for the Northern District of Ohio, filed in this matter on 14 March 2002, and it appearing under the satisfaction of this court, that you are being called to testify or provide other information before the Court in the trial of United States versus James A. Traficant, and in the judgment of the United States Attorney, Albert Lange has refused to testify or provide other information on the basis of his privilege against self-incrimination.

And that in the judgment of the United States Attorney, the testimony or other information from you, Albert Lange, may be necessary to public interest.

And that the aforesaid motion, which was filed in this matter, has been made with the approval of the acting

Assistant Attorney General in charge of the Criminal Division of the Department of Justice, pursuant to the authority vested in him by 18 U.S.C. Section 6003 and 28 Code of Federal Regulations, Section 0.175.

Now, therefore, hearing your invocation of that right here in open court, it is ordered, pursuant to 18 United States Code Section 6002 that you give testimony or provide other information, which you have refused to give or to provide on the basis of your privilege against self-incrimination as to all matters about which you may be interrogated before this Court.

You may not refuse to comply with this order on the basis of your privilege against self-incrimination, but -- and this is a very important part for you -- no testimony or other information compelled under this order or any information directly or indirectly derived from such testimony or other information may be used against you in any criminal case, except a Prosecution for perjury, giving a false statement, or otherwise failing to comply with this order.

And it cites 18 U.S.C. Section 6002, and I'm going to sign this.

THE WITNESS: Okay, thank you.

THE COURT: You have any questions about that order?

THE WITNESS: No, ma'am.

THE COURT: Did you have an opportunity to consult with your lawyer?

THE WITNESS: Yes, ma'am.

THE COURT: Very well.

MR. TRAFICANT: Question: Has he been officially granted immunity?

THE COURT: He has just been granted immunity.

MR. TRAFICANT: Thank you.

THE COURT: Okay.

MR. MORFORD: Yes, your Honor.

THE COURT: Very well. Stand for the jury, please.

(Proceedings resumed in the presence of the jury:)

THE COURT: Sir, you're under oath.

THE WITNESS: Yes, ma'am

BY MR. MORFORD:

Q. Good afternoon.

A. Good afternoon.

Q. Would you please state your name?

A. My name is Albert Lange, Junior.

Q. And, Mr. Lange, where do you live what city?

A. Manassas, Virginia.

Q. And I'd like to ask you some questions about your

employment background. Okay?
A. Yes, sir.
Q. Are you familiar with a company called USAG?
A. Yes, sir.
Q. What do the letters USAG stand for?
A. U.S. Aerospace Group.
Q. And what, if any, connection did you have with USAG?
A. I was hired in originally as chief engineer. I was promoted to the general manager, and upon -- at the later part of my employment with the USAG, I was elevated to the chief operating officer.
Q. Approximately when were you hired initially with USAG as their engineer?
A. October '97.
Q. And how were you employed immediately prior to the time that you went to work for USAG?
A. I was the director of engineer manufacturing for an engineering house down in Christian, Florida.
Q. Where were you employed prior to that?
A. I had my own consulting business in Delaware prior to going to Florida to work.
Q. Are you familiar with a company called Alliance Avionics?
A. Alliance Avionics, yes.
Q. And did you work at that company at one time?

A. Yes, sir. I was the director of engineer for that company.
Q. And approximately when would that have been?
A. Mid 1994 to summer of 1995.
Q. Now, are you familiar with a person by the name of Rick Detore?
A. Yes, I am.
Q. And how did you first come to meet Rick Detore?
A. I met Richard Detore because he was the owner of the Alliance Avionics, and they were looking for an engineering type to take over some of the work in the company and basically went for an interview.
Q. Did you work with Mr. Detore at Alliance?
A. Yes.
Q. And for how long a period did you work with Mr. Detore? What years are we talking about that you worked with him at Alliance?
A. Probably, like I said, mid 1994 to July of 1995, June or July time frame, 1995.
Q. Turning your attention back now to the fall of 1997, how did you first come to learn that there was a job opportunity at USAG?
A. I was called by Richard Detore.
Q. And what was Rick Detore telling you about USAG at the time that he called you?

A. The time that he called me, he said that they were starting up USAG, and that he had good backing, financial backing with an investment group or an investor.

Q. And what was your understanding of the profit of USAG, the profit potential of USAG and its prospects for success?

A. The product I was familiar with, I'd seen it in the -- knew that it was a good technology, that it had very high potential to be very lucrative.

Q. And what was your understanding of the ownership of USAG and their wherewithal to take this thing off the ground?

A. I was -- I was told that USAG was owned by J.J. Cafaro, a member of the Cafaro Company who were basically billionaires and could do -- they could -- had the financial background, backing to make a company like this go.

Q. And what was your understanding of the profit potential of this company with this product?

A. Profit potential would be in the tens if not hundreds of millions of dollars over a ten-year period of time.

Q. Who was the primary customer base that you would be marketing this technology to eventually if the company took off?

A. We would be targeting mainly commercial, regional,

and local airports.
Q. How many airports?
A. Throughout the United States.
Q. How many airports are we talking about across the United States, just ball park?
A. Between 10 and 14,000.
Q. And how well established was USAG at the time that you were initially interviewed for the position of engineer?
A. How well established was it?
Q. Yes.
A. Not very well established whatsoever. They had some incorporation rules going on, but basically, there was no complete infrastructure to operate a business under.
Q. How many man operation was it at that point?
A. There was Richard Detore, hired in as the chief operating officer. I was hired in as chief engineer, and Steven Boffia at the time, who was director of marketing, and there was one other gentleman, his name was Dave Hanna, who was kind of like Rick's helper, but I don't believe he was even on the payroll.
Q. That's it?
A. That's it.
Q. Now, who actually interviewed you for the position of chief engineer at USAG?

A. I was flown to Youngstown, Ohio, and escorted by Richard Detore and went in and had a discussion about the company and my employment with J.J. Cafaro.

Q. And whereabouts in Youngstown, what facility did you -- was the interview conducted at?

A. I was taken to J.J. Cafaro's office at the Cafaro Company, second floor, down at 4445 Belmont Avenue or -- whatever that address is.

Q. At the Cafaro Company headquarters?

A. That's correct.

Q. And approximate time frame, what are we talking?

A. September of '97.

Q. Now, where were you living at the time that you flew up to Youngstown to interview with J.J. Cafaro and Rick Detore about this job opportunity at USAG?

A. Christian, Florida on the panhandle.

Q. And where were you told your office would be if you took the job?

A. Manassas, Virginia.

Q. What were you told during the course of the interview regarding your moving expenses if you decided to go ahead and take this job?

A. That they would pick up the majority of them.

Q. Was there any particular moving expense that entailed more discussion than the others?

A. Yes.
Q. And what was that?
A. The shipment of my boat from Florida to the Manassas area.
Q. You had a boat in Florida?
A. That's correct.
Q. And what kind of boat did you have in Florida?
A. 21-foot ranking, got a caddy cabinet, inboard, outboard, fiberglass boat.
Q. And you wanted the Cafaro Company to pay to move your boat to D.C. if you took the job?
A. That is correct.
Q. And what was J.J. Cafaro's position initially?
A. At first, he said that the Cafaro Company doesn't -- won't pay for moving boats.
Q. How important and significant was it to you that they go ahead and move your boat?
A. I told them I wouldn't take the job.
Q. Did you end up taking the job?
A. Yes.
Q. What about the boat?
A. They put it -- they shipped it.
Q. So where did the boat end up?
A. The boat just is now located at Lake Manassas in Virginia where I use it during the summer months.

Q. Do you still have the boat?
A. Yes, I do.
Q. And did you have the boat or the 21st-foot fiberglass boat throughout the time you worked for USAG?
A. That is correct.
Q. And you had it in Virginia during that time?
A. Yes.
Q. Still in Virginia?
Now, you mentioned that it was not just a 21-foot boat but a fiberglass boat. Was there a reason that you chose to own a fiberglass boat as opposed to a wooden boat?
A. Yeah. Fiberglass boats are a lot easier to take care of. The maintenance costs are a lot lower than what you would have on a wooden boat.
Q. What is your understanding of maintenance cost and problems you incur with a wooden boat?
A. Could you repeat that question, please?
Q. What is your understanding of the problems and expenses and maintenance that you would incur with a wooden boat?
A. Well, wooden boats you have to pull out of the water periodically to recoat with paint, do other wood rotting repair work. You name it, wooden boats are -- they're just not as durable as a fiberglass boat.
Q. Going back to the time of your interview and even

actually referring specifically to the interview itself, was there any other discussion involving boats during the course of your interview aside from the discussion you had about whether or not the Cafaro Company would move your boat?

A. Yes, there was.

Q. And can you describe that for the jury, please?

A. I was basically asked what it would take to put fiberglass on a 30 some odd foot wooden boat.

Q. And who asked you that question?

A. I was asked by J.J. Cafaro and reasked by Richard Detore.

Q. And what was the context of this discussion? What boat were they talking about, if they told you?

A. I wasn't aware of exactly whose boat it was at the time. They just said that they had a friend that needed a boat repaired and needed to have some guidance on how to put the fiberglass on it.

Q. And what was your response to this discussion of putting fiberglass on a wooden boat?

A. I told them that that was not the way that you want it to go; that the boat was designed with certain engines for certain weight, and by adding a full coat of fiberglass and cloth and resin to that boat would make the engine under power, and that's not the way you repair a wooden

boat.
Q. Did either Rick Detore or J.J. Cafaro ever mention what this friend of theirs did for a living?
A. Not at that time that I can remember.
Q. Now, who were the key employers and principals at USAG after you took the job and started there in the fall of 1997?
A. I took the -- the key principals I knew of was J.J. Cafaro.
Q. What was his position?
A. I want to say president of the company.
Q. Okay. How about -- who else?
A. And Richard Detore was the chief operating officer, and he's the gentleman that I took my direction from.
Q. Now, what was the business plan for USAG when you first started in 1997?
A. There wasn't a formalized business plan to say, but the -- the focus of the business was to get certification of the laser units so we could start revenuing it by selling it to different airports around the nation.
Q. And who did you have to get certification from?
A. Well, you had to certify the units through the Federal Aviation Administration.
Q. How important was it to USAG to obtain FAA certification of this technology?

A. It was extremely important. Without the certification, we couldn't sell the units to commercial airports.

Q. What was USAG's single highest priority then when you started there in the fall of 1997?

A. Develop the documentation needed to be able to achieve certification of these laser units.

Q. Now, was USAG seeking the assistance of any Government officials to help it obtain FAA certification?

A. Yes.

Q. And who was USAG seeking assistance from?

A. Congressman Traficant. We needed a champion for our product line and someone to champion our cause, and he stepped up to do it.

Q. Now, who at USAG served as the principal point of contact between USAG and Congressman Traficant?

A. Richard Detore.

Q. And how long did you actually work for USAG in Manassas before you met -- personally met Congressman Traficant for the very first time?

A. About a four to six-month time period I would say.

Q. And can you tell the jury what you recall of that initial meeting where you first met Congressman Traficant?

A. As far as I can remember, the first time I met Mr. Traficant -- Congressman Traficant was at his boat down

in Washington, D.C. Richard Detore had asked me to go down to take a survey of his boat, to see what type of work would -- needed to be done to repair it.

Q. Do you recall what time of year it was?

A. It was the wintertime. I'm not sure exactly when, if it was January, February, March time frame, but it was -- it was cold outside.

Q. If you started in the fall of 1997, what year are we talking, winter of?

A. '98.

Q. Could you describe for the jury the shape that the boat was in when you went out and took a look at it that first day?

A. When I went down, we met the Congressman. The Congressman took us on the boat. There was a tarp laying over the boat to keep water from seeping down during the storms. I looked over the boat quickly. I didn't get too involved because there was a gentleman living on the boat at the time, and I didn't want to intrude into their privacy, but the boat was in very rough shape.

There was evidence of rotting in various places, and it just needed a lot of repair.

Q. What, if anything, did Congressman Traficant ask you all at USAG to do at that time?

A. There he was just asking at that point in time what

steps would he need to take to be able to get the boat fixed.

Q. In your opinion, how important was it at that time that repairs be made to that boat?

A. In relation to what though?

Q. To what would happen if the repairs didn't get made?

A. It was significantly important. I would think that -- I would venture to say that there wasn't a lot of life expectancy left on that boat due to the fact that from rotting back in the transient area sooner or later was going to start to leak.

Q. And if it started to leak back in that area, what would happen?

A. The boat would have sunk.

Q. How difficult would it have been to sell that boat, based on that condition that you saw it in that day when you went out there?

A. Extremely difficult.

Q. Why?

A. It's extremely difficult in the first place to sell a -- or to find somebody to buy a wooden boat that's in excellent condition. It's even harder to try to find someone to buy a boat that's in poor condition.

Q. Without telling the jury whether or not Congressman Traficant actually did anything, I'd like you to describe

some of the things Congressman Traficant was promising to do for USAG and its technology during the time period that you went out to look at the boat and the months immediately following that.

A. Could you repeat the question, please, sir?

Q. Yeah. Without getting into whether or not he actually did any of the things he was promising to do, what types of things was he promising you all at USAG that he was going to do to help your technology around the time that you went out to look at the boat in the months following the time you went out to look at the boat?

A. He said he was going to work with USAG to move the technology forward, champion our technology and if needed, introduce legislation to help support the introduction of the technology into the marketplace.

Q. Was he -- was he telling you he would do anything or promising to do anything regarding something called AIP funding?

A. That is correct.

Q. And can you explain to the jury what AIP funding is and what Congressman Traficant was telling you all that he would do to help with AIP funding?

A. The AIP Fund is a trust fund that's set up for the Federal Aviation Administration. It's for national and international airport usage for upgrades. What that allows

is that each airport has its own operating budget for the year, and if they want to do upgrades, they're allowed to use that trust fund to pull funds from that trust fund, to buy equipment that is certified to put on their airport, to provide upgrades without cutting into their normal operating budget.

Q. What effect would your company, USAG, having availability to AIP funding, have on the prospective sales of USAG?

A. It would make the sales of our equipment significantly easier to occur at these airports on a local and national level.

Q. And what was Congressman Traficant saying he would do with regard to the whole certification process at the FAA for USAG?

A. He said that he would maintain his influence out of the office to keep pressure on the Federal Aviation Administration efforts, ask people to make sure that they do their job to help us with the certification process.

Q. How important were these issues of certification with the FAA and AIP funding to USAG at that point during early 1998?

A. They were extremely important, extremely important to the fact being that if you can't get your certification, we would not be able to make sales of the units to any

revenuing airport or federal or local airport in the nation.

Q. Did there ever come a time when USAG discussed actually purchasing Congressman Traficant's boat?

A. Yes.

Q. And can you describe to the jury how that came about?

A. Basically, Richard Detore and Jim Traficant -- excuse me -- J.J. Cafaro, John J. Cafaro talked to me about we were going to head into the maritime applications for the laser units, and we needed a boat to be able to do that certification work.

Q. What exactly were these maritime operations that you're referring to?

A. The laser system has other applications other than just landing aircraft. It can do channel markings for boats, help harbor definition, create that type of stuff. But that unit needed to have work accomplished on that to be able to get to the -- to that area, you know, to be mature enough to be used in that area.

Q. At the time the discussion started about possibly having USAG purchase Congressman Traficant's boat, how far along into this nautical area was USAG at that time?

A. Not very far, not very far. We had a -- we had one prototype unit that was used for that -- that was used to demonstrate maritime applications, but the documentation

was not available to it, and we were already trying to work in the -- we were focusing on most of our attention towards getting certification on the -- on the laser visual landing system where the big money for the company was going to come from.

Q. Was the company at that point big enough to be doing these, two things at once, pursuing FAA certification for the aeronautical system and pursuing Coast Guard testing for the nautical system?

A. No, it wasn't.

Q. Who was pushing USAG at that point in the nautical area as you understood it?

A. Richard Detore.

Q. And who was suggesting that USAG would need a boat?

A. Richard Detore.

Q. And who was suggesting that USAG should buy Congressman Traficant's boat?

A. That was a combination of Richard Detore and J.J. Cafaro.

Q. Who was the point person at that point who was working with Congressman Traficant in getting him to continue to help USAG with this technology?

A. Richard Detore.

Q. And who had taken you out to the boat that first time to take a look at the damage and repairs that needed to be

done to the boat?
A. Richard Detore.
Q. Did USAG really need a boat at that time?
A. No, it did not, in my opinion.
Q. Even if USAG had needed a boat, would Congressman Traficant's boat been a wise choice for USAG from a strictly business standpoint?
A. No, it would not.
Q. Why?
A. Considering the work that needed to be done on the boat to get it into shape to be used, it was going to be an expensive process.
Q. Knowing what you knew about boats, would you have recommended to the company to obtain a wooden boat or fiberglass boat if, in fact, it was going to get a boat to use for demonstration?
A. I would have opted for a fiberglass boat.
Q. Why?
A. Fiberglass boats require a lot less maintenance -- they have a lot less maintenance requirements. They're, like I said before, they're very -- they're more durable than what a wooden boat would be. It presents much easier. If you're going to be having clientele on board, I mean, the whole idea is to have a piece of equipment that's going to function when you're in a testing environment.

You should have a boat that's turnkey operation as soon as you -- as soon as you buy it and not spend a considerable amount of time repairing it to make it work for you.

Q. Was USAG in the market for a boat prior to the time that Rick Detore suggested that USAG should buy Congressman Traficant's boat?

A. Not to my knowledge.

Q. To your knowledge, had anyone come out to look at and price boats prior to the time that Rick Detore suggested you should buy, meaning you, USAG should buy Congressman Traficant's boat?

A. Not to my knowledge.

Q. Did anyone from USAG go out and look at any other boats to compare and price them against Congressman Traficant's boat?

A. Not to my knowledge.

Q. Did you have any conversations with Rick Detore and J.J. Cafaro regarding this idea of why USAG should buy Congressman Traficant's boat?

A. Yes, I did.

Q. And what did J.J. Cafaro and Rick Detore explain to you was their primary purpose in seeking to buy Congressman Traficant's boat?

A. Basically, it was presented to me that Jim was doing

favors for us, and we needed to do a favor for Jim.
Q. I'd like you to take a look, if you will, in front of you on the counter, there's an exhibit marked 8-12(1). Do you see that?
A. Yes, sir.
Q. And have you ever seen this document before?
A. Yes, sir.
Q. Or at least the check that represents this document? Can you tell us what is this document?
A. This is a cashier's check for $26,000 and change that J.J. Cafaro had and tried to present to Jim Traficant to buy out the mortgage on his boat.
Q. Let's back up. When is the first time you recall seeing this document?
A. Summer of '98.
Q. And in what context did you see it?
A. I was outside smoking a cigarette in front of U.S. Aerospace Group when J.J. drove up, got out of the car, and showed me the check and said that he tried to give it to Jim, that Jim wouldn't accept it, and needed to figure out what we were going to do next with the boat.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes
MR. TRAFICANT: Ask it be made a joint

exhibit.

THE COURT: Okay.

BY MR. MORFORD:

Q. Let me ask you just a couple things about this.

What is the amount of the check again?

A. $26,948.18.

Q. And do you see a date on the check?

A. July 28, 1998.

Q. And do you see up in the left-hand corner the name of the bank and the branch of the bank?

A. Yeah, Bank One, NationsBank.

Q. Do you see above NationsBank where it says Liberty?

A. Yes.

Q. Do you know what that means?

A. I have no idea.

Q. Okay.

You see something there where it says purchaser?

A. Yes.

Q. And what does that indicate?

A. It says Jim Traficant.

Q. Now, when you first --

A. Excuse me. J. Traficant.

Q. When you first saw this, the check for which this is the carbon, what were you told the purpose of this check was?

A. To buy out Jim's boat.
Q. And you said you were told that it was presented to Congressman Traficant; is that correct?
A. Yes, that's what I was told.
Q. And you were told that he wouldn't take the check?
A. That is correct.
Q. Were you told why he would not take the check?
A. I was told that he wouldn't take the check because it was going to look like a fishy deal, and they didn't want to have any bad press going on between J.J. Cafaro, who's a millionaire living in the area of Youngstown, and Congressman Traficant.
Q. Were you told how the amount, $26,948.18 was determined?
A. At that time, I believe that was the payoff amount for the mortgage that Jim Traficant had on the boat.
Q. After you were shown this check, did there come a time when the boat transaction was modified?
A. Yes, there was.
Q. And could you describe to the jury what happened and how that modification came about?
A. The modification came about that I was talked into making it look like I was going to purchase the boat so that we could keep it out of the papers, so basically, I was told that I should use my name as a front man and buy

the boat.
Q. Who told you that?
A. It was discussed in front of Richard Detore and J.J. Cafaro on more than one occasion.
Q. Did you have any personal interest in buying Congressman Traficant's boat?
A. No, I did not.
Q. Did you already have a boat?
A. Yes, I did.
Q. Did you need two boats?
A. No, I did not.
Q. Did you need to have a wooden boat on top of the boat you already had?
A. No, I did not.
Q. Was there ever a time when you had any personal interest or desire in buying Congressman Traficant's boat yourself with your own money?
A. No, sir.
Q. Why then did you agree to buy the boat?
A. I agreed to buy the boat because J.J. Cafaro said that he was going to give me the money that I needed to take care of purchasing the boat, and that I should just get the boat fixed up and just make it look like it was my money that was being spent.
Q. And what was your understanding as to why J.J. Cafaro

was going to funnel the money through you to make it look like you were buying Congressman Traficant's boat instead of J.J. Cafaro just buying the boat directly?

A. He told me that he, J.J. Cafaro, was such a big wig in Youngstown, Ohio, and Congressman Traficant was such a big wig in Youngstown, Ohio, that it may have some improprietary looks about this purchase going on between the two of them, and that they -- they were concerned that some nosey reporters would blow it out of proportion from what it really was.

Q. Under this plan then, were you going to buy the boat in reality?

A. I was not going to buy the boat.

Q. Were you going to buy it on paper?

A. I was going to buy it on paper as long as the money showed up.

Q. And who was going to provide the money?

A. J.J. Cafaro.

Q. In reality, who was really buying the boat?

A. J.J. Cafaro.

Q. And what were you in this transaction?

A. I guess you could call me the mule. I was just funneling the money through my accounts, getting the work done to repair the boat.

Q. What was the sole purpose in you and Rick Detore and

J.J. Cafaro going to all this trouble to make it look as though you were buying the boat when in reality J.J. was buying the boat?

A. Could you repeat that question, please?

Q. What was the point and purpose of you and J.J. Cafaro and Rick Detore going to all this trouble to make it look like you were buying the boat when, in fact, it was J. J. Cafaro?

A. Just wanted to make sure that it didn't look like J.J. Cafaro and Jim Traficant were doing this deal together.

Q. Turning your attention to Government's Exhibit 8-18, do you see that in front of you?

A. Yes, sir.

Q. And just generically in general, what is this?

A. This is a fax I sent to J.J. Cafaro from myself requesting $3,500 in cash --

Q. Before you go any further --

MR. MORFORD: Your Honor, may I put this on the overhead?

THE COURT: Sure.

BY MR. MORFORD:

Q. Now, do you recognize this fax form?

A. Yes.

Q. And is this the standard fax form you used at USAG?

A. Yes, it is.
Q. And who was the author of this fax?
A. I was.
Q. And what was the date?
A. August 13, 1998.
Q. Who was the fax sent to?
A. J.J. Cafaro.
Q. Could you go ahead and read the body of the fax, please?
A. "Just wanted to send you a reminder to bring $3,500 in cash with you today when you come to U.S. Aerospace Group or to U.S. Aerospace Group. This money is to be used for the operation that you and Rick discussed at your meeting yesterday.

"Have a safe trip. I will update you when you get to the office. Joe."

Q. Now, what was the, quote, operation, end quote, that J.J. Cafaro and Rick Detore had discussed at their meeting on August 12, 1996, the day before you sent this facsimile to J.J. Cafaro?
A. It was about -- starting to get the money needed to start to do the repairs, pay for back slip fees, and on Jim Traficant's boat.
Q. Now, was there a decision made to make the repairs to the boat prior to the time that the final payment would be

made on the boat?
A. Yes.
Q. Now, in this memo, why do you use the term "for the operation that you and Rick discussed" instead of just flat out say this money will be used to repair the boat?
A. I didn't want it to be -- this was going to a public fax within the Cafaro Company, and I didn't want to do this within the company, to see exactly what the money was going to be used for.
Q. Were you trying to keep it secret J.J. was funding the boat repairs?
A. Yes.
MR. TRAFICANT: What is the exhibit number on this?
MR. MORFORD: 8-18.
MR. TRAFICANT: Ask it be made a joint exhibit.
THE COURT: Fine.
BY MR. MORFORD:
Q. Why did you ask for cash?
A. I wanted to eliminate a paper trail.
Q. Turning your attention to Exhibit 8-19 -- you may need to take that out of the glassine, if you would.
A. 8-19?
Q. Yes.

A. Okay. There's multiples here.
Q. Starting with the first page, do you see a check?
A. Yes.
Q. Do you recognize the signature on the back of that check?
A. That's my signature.
MR. MORFORD: Your Honor, may I put that on the overhead?
THE COURT: Certainly.
BY MR. MORFORD:
Q. What's the date of this check?
A. August 13, 1998.
Q. And what's the amount?
A. $3,500.
Q. And what's -- who's the check made out to?
A. Cash.
Q. And what was this check used for?
A. Initially, this initial check was used to payoff back slip rents for Jim's boat and also start the people into getting a survey done and doing some incidentals on the boat.
Q. Okay.
Looking at the second document there, do you see that?
A. The second document?

Q. I'm sorry?
A. The third document?
Q. Yes. The Airborne?
A. Yes. I see that.
Q. Do you recognize this document?
A. Yeah. I believe this is the document, the shipping package sent in the check in to me.
Q. How did you physically receive the check from J.J. Cafaro in Youngstown?
A. He sent it via Airborne Express, I believe.
Q. Now after USAG decided to go ahead and repair and then purchase this boat, who was tasked with the responsibility of setting up and arranging for repairs to be done to the boat?
A. I was.
Q. And was this something that you wanted to do?
A. No.
MR. TRAFICANT: I didn't hear that.
THE WITNESS: Excuse me?
MR. TRAFICANT: I didn't hear that answer.
THE WITNESS: No, sir. That was not what I wanted to do.
BY MR. MORFORD:
Q. How much of your own personal time did the boat repairs take up?

A. A significant amount. I didn't keep track of how many hours, but usually, when the repairs were going on and boat crews are there, I'd do a day's worth of work at U.S. Aerospace Group, leave out from U.S. Aerospace Group around 4:30 or 5:00, and then head down to the boat area and at least three days a week stay there until 9:00 at night, and during the weekends, I don't know, for a two-month period of time, three-month period of time, on and off.

There were a couple times there that I spent 48 hours straight at the boat location.

Q. Approximately how far, distance-wise, was it from Manassas where you lived and where the USAG offices are located over to Washington, D.C. where the boat was?

A. I don't know, 25 miles each way.

Q. And how was the traffic that time of night when you'd be traveling?

A. There would be stop and go from periods of time to wide open -- most of the traffic at that time of night was heading west. It was only when I got down closer to the D.C. area that inside the beltway that the large backups would take place.

Q. Did you ever complain to any of your co-workers about having to handle the repairs on this boat?

A. Yeah, pretty much complained to anybody that would listen to me from inside the organization.

Q. Who were some of the people you recall complaining to?
A. Robert Looney I've complained to. I've complained more or less to Richard Detore, but I know he didn't want to hear it; Tracy Sloan, Ruth Nielson, just basically it.
Q. Who actually owned the boat, as you started making and funding the repairs with J.J. Cafaro's money?
A. Jim Traficant.
Q. Who did you hire to perform the boat repairs?
A. I hired -- well, actually, the boat repairs were by Ernst deGroot along with a small crew of people to work on it, but I was introduced to him by the guy that I had come do the survey on the boat to get it -- a rough estimate of what kind of work was going to need to be accomplished.
Q. You mentioned Ernst deGroot?
A. That's correct.
Q. What did he do for a living at that time?
A. He was a master carpenter, and he was doing work from job to job, and I just -- he knew Bruce Sannino who was a boat surveyor, and we connected, and I put him as crew lead to do the woodwork that was needed on the boat.
Q. How did you pay Ernst deGroot and his crew for the work they were doing repairing the boat?
A. I paid him in cash I got from J.J. Cafaro.
Q. And what was some of the type of work that they had

to do with the boat?
A. If -- well, first we had to pull the boat out of the water, steam it all down, and then tear out all the rotted -- rotted wood that was on the boat, main significant problems with the boat where the transmural from below the waterline to just at the exhaust level, that whole back area had to be replaced, and also, there's -- where the shafts come through, from the engines to go to the outside, the left shaft log had to be replaced, about five-foot section of the shaft log. The shaft log is an eight-inch by eight-inch log that's hogged out, and the shaft is slid up through, and the main structural members of your boat that's connected to your engine comes -- that weight is transferred into that area.
Q. Okay.
Now, you said you paid Ernst deGroot and his crew in cash. What, if anything, did you do to document your payments to Ernst deGroot?
A. Every time that I paid Ernst deGroot cash, I kept accounting that he signed for all the receipts that he turned in, and detailed breakout of the labor hours that was expended on the boat.
Q. Why did you do that? Why did you keep such precise documentation?
A. Because I didn't want anyone from the Cafaro Company,

J.J. Cafaro or whoever, to come back to me and tell me that I didn't use the money that was being given to me to do the work on the boat for anything else other than work on that boat.

Q. Now, in addition to these carpentry expenses, what were some of the other expenses that you had to pay in repairing and maintaining the boat? You mentioned the survey; is that correct?

A. That is correct.

Q. Did you have to pay for that survey?

A. That is correct, the survey was paid for. I don't -- I don't specifically remember how much it was. I think it was $6 or $800, which involved the guy scouring top to bottom on the boat and outlining all the areas of problems.

Q. Were there any fees or dues or utility expenses involved in storing the boat at the boat yard?

A. Yeah, there was pool out fees, also the monthly electrical fees, monthly slip fees. I had fees to pay to become a member of the boat club because if I wasn't a member of the boat club, then I needed to be -- to move the boat out of that location.

Q. What was the name of the boat club?

A. The Eastern Power Boat Club.

Q. Now, again, at the time that these repairs are being done there at the Eastern Power Boat Club, who actually

still has legal ownership of the boat?
A. As far as I know, at this point in time, Jim Traficant still owns the boat.
Q. What are you telling people at the boat club regarding why you're coming in and doing these repairs to this boat if it belonged to the Congressman?
A. I told them that I was striking a deal with the Congressman to purchase the boat. They questioned why I would want to buy such a boat when they had more than one boat there that they were willing to give up for sale, and I told them that there was a nostalgia tied to that boat, and I was using that as an excuse to make it look like I had a motivation that was -- that was a part of my own motivation to buy that boat.
Q. You say that you were questioned as to why you'd want to buy his boat. Was that because of the condition it was in?
A. That is correct.
Q. And the story you came up about nostalgia, was that true?
A. No. I just needed a cover story because there was only one or two things these people were going to think, either I was a big idiot for buying this type of boat or -- so I needed to have some kind of reason, some viable reason why I would be purchasing this boat.

Q. Now, did you save and maintain the documents that you had showing how you had expended the money that J.J. Cafaro gave you to repair the boat?
A. Yes, I did.
Q. And did there come a time where through your attorney you turned those over to the Government?
A. Yes, I did.
Q. I'd like to turn your attention for a moment to what is marked in front of you 8-36(1). Do you see that?
A. Yes, sir.
Q. And if you could take it out of the glassine, there's a number of pages there. We're not going to go through them all, but I'd like to walk you through some so you can explain what they are. Okay?
A. Okay.
Q. I'd like to you start with 8-36, Page 1?
A. Okay.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Certainly.
BY MR. MORFORD:
Q. And what is that and whose handwriting is that?
A. The handwriting is Bruce Sannino who was the gentleman that did the survey, the initial survey of the boat, and it's a receipt from him -- or stating that I gave

him $600 to do the work.
Q. Turning to the same exhibit, Page 2?
A. That's a receipt for some work that was done on the 20th -- around the 20th of August from Ernst deGroot.
Q. Okay. Turning your attention to Page 3, could you tell us what that is?
A. Excuse me?
Q. Go ahead.
A. This is a receipt again from Bruce Sannino, stating that I gave him $3,000 in cash to start purchasing items needed for the repair of the boat.
Q. Now, in addition to making these cash payments to Sannino, the surveyor, and Ernst deGroot and his team, the carpenters, were there times that you personally bought materials and supplies that they needed to use in their work? Were there times that you bought supplies or materials?
A. No. Mainly, they did all the purchasing. They knew exactly what it was that they needed to purchase. I don't -- I don't recall that I actually made purchases of materials to take down to the boat.
Q. Let me ask you this: If you can take a look, if you flip through a little bit there to Page 23 of Exhibit 8-36, continuing all the way through Page 48, do you see those documents?

A. From Page what, 23?
Q. From Page 23 through Page 48.
A. Yes.
Q. What -- just in general, what are those documents?
A. These documents here are of different purchases of materials that were needed to continue work on the boat and do the repairs.
Q. Okay. And who was making these purchases?
A. Mainly, Ernst deGroot. I guess, as I see here, a couple times I did make some purchases for some of these.
Q. If either you made the purchase or Ernst deGroot made the purchase, would you obtain and keep receipts?
A. Yes.
Q. For what purpose?
A. I kept those receipts so I could maintain accountability for the money that was being given to me by J.J. Cafaro for the repairs of that boat.
Q. Okay. Turning back to Page 4 of 8-36 and looking at Page 4, Page 5, Page 6, are those more handwritten receipts from Ernst deGroot?
A. Yes.
Q. Documenting cash that you paid to him for boat repairs?
A. That is correct.
MR. TRAFICANT: I ask this all be made a

joint exhibit.

THE COURT: Fine.

Q. Next, I'd like to turn your attention to Page 7. You see that?

A. Yes.

Q. And --

MR. MORFORD: Your Honor, may I put that on the overhead?

THE COURT: Yes.

BY MR. MORFORD:

Q. Describe for the jury just generally what this is, this statement.

A. I was required to give them money -- give Ernst deGroot and his crew money only if they documented the hours that they were working on the boat. This is an accounting of the hours that they worked on the boat --

Q. Okay. And then?

A. -- during this period of time.

Q. And this would be August 27th through September 3rd?

A. That's correct. And it also has who it was of the people working on the boat. If you notice, there's all types of names.

Q. So this is a list of who worked each day and how many hours they worked?

A. That is correct.

Q. And then down at the bottom, you see where it says grand total?
A. Yes.
Q. Has total labor, and it has some materials. It has grand total?
A. That's correct.
Q. And then down here on the left side says receipts to ED less to be total, do you see that?
A. Yes.
Q. And what did that represent? Is that representing the payments you were making to them?
A. Yes. I believe so, yeah.
Q. And would you get a statement like this each month or every period?
A. Whenever I was -- had a -- whenever we did any kind of cash transaction, yes.
Q. Turning to Page 9, it says statement Number 2, September 4 through September 11th?
A. Right. Yeah.
Q. Is that the same basic kind of statement?
A. Same basic kind of thing. You need to know who was doing work and how many hours they were working on it.
MR. TRAFICANT: The Exhibit number?
MR. MORFORD: This is all 8-36, 8-36.
Q. Do you see down here where it says payments, 9-4,

$100, 9-8, $1,500, totaling $3,100, you see that?
A. Yes.
Q. What does that represent?
A. I believe I was keeping a running account of what I already paid him and what it was I owed him, and at this point in time, I was up $502 so he had $502 worth of work that needed to be accomplished before I would give him any more money.
Q. Okay.
Page 10 says statement Number 3?
A. Yes.
Q. Same basic can type of form for the period September 12th through September 19th?
A. Yep. I wanted accounting of all the materials put on the boat plus who worked on the boat and how many hours.
Q. Page 11 looks like another handwritten receipt from Ernst deGroot?
A. Yes.
Q. Page Number 12 says statement Number 4?
A. Yes.
Q. September 20th through September 28th?
A. Yes.
Q. Same basic kind of summary?
A. Basic -- same summary, same type of stuff.
Q. Pages 13 and 14, those are more receipts for cash you

gave them?
A. Yes.
Q. Turning your attention to Page 15, is this more of your running summary how much you've given them and how much they billed up?
A. This one here is an accounting of what the money that J.J. had already given me and how much has been expended out.
Q. Okay.
Page 16 --
A. Excuse me. I'm wrong on that. You are right. I had a sheet that was -- that would keep track of that, but that was not this sheet. I'm sorry.
Q. That's okay.
A. This is again an accounting of Ernst deGroot's and his crew's hours.
Q. Okay. Page 16. Says Bruce received $500, January 6, '99 Ernst deGroot?
A. That's correct.
Q. That's just another receipt of cash you'd given him?
A. That is a receipt of cash I gave to Ernst deGroot, and then he had Bruce is a -- excuse me, yes, this is a -- a receipt of money that I gave him.
Q. Okay. Now heading into 1999, there's a statement says January 1st, '99 through March 3, '99. Do you see

that?
A. Yes.
Q. And what are these?
A. Again, these are charges for work that was accomplished on the boat.
Q. And who was providing these to you?
A. Ernst deGroot.
Q. And would that be the same type of document for additional periods on Pages 18, 19, 20?
A. That is correct.
Q. 21?
A. That is correct.
MR. TRAFICANT: I ask that all of that, 8-36, be made a joint exhibit.
THE COURT: Fine.
Q. Now, would you have ever kept this detailed a record if this was something you were doing on your own for yourself and not being funded by someone else?
A. Probably when I got to this level, I would have been keeping ball park. I still would have asked for most of the receipts, but I -- I would have been looking for, you know, expenditures over $4 or $500 to be accounted for. I still would have asked them to outline all the hours worked. How else can you keep an accounting of how much something you're working on is actually going to cost you?

Hobby or no hobby or wanting to have the boat or not.
Q. Okay. Turning your attention to Government's Exhibit 8-36.2, do you see that in front of you?
A. Yes, sir.
Q. And is this another receipt that you turned over to the Government?
A. That's -- that is correct.
MR. MORFORD: May I put this on the board, your Honor?
Q. Can you tell us what this is?
A. When I first got involved with working on Congressman Traficant's boat, there was $1,750 in arrears on slip rents and electric bill for the slip --
Q. I'm sorry. Let me stop you there. You said there was a bill of how much in arrears?
A. Arrears of about $1,750.
Q. Explain what you mean by that. Who had failed to pay dues and fees and utilities that caused that to be in arrears?
A. Congressman Traficant.
Q. Okay. And so what did you have to do with regard to that bill?
A. We -- I paid the bill in cash. Otherwise, they wouldn't have let me work on the boat.
Q. Okay. You a couple times mentioned the term slip

fees. What's a slip, and what's a slip fee?
A. Your slip is where your boat is docked at. A slip fee is what the rental charge is for using that slip.
Q. Okay.
Now, the second page of this document, 8-36.2, actually the next two pages, Pages 2 and 3, do you see those?
A. Yes.
Q. And can you tell us what those are?
A. These are two checks for my personal checking account to pay off slip fees owed to the Eastern Power Boat Club, and then a $1,400 check to pay to Ernst deGroot for work he had accomplished on the boat.
Q. Now, these were payments to the Eastern Power Boat Club starting with the check at the top, the September '99 for slip fees and utility fees were for whose boat?
A. Jim Traficant's boat.
Q. And then the check June 3rd, 1999, that's still on the board, that was to Ernst deGroot for what?
A. Work that was accomplished on the boat.
Q. And the final area of these boat fee receipts that I want to walk you through and then we'll be done and move on as is Exhibit 8-36.3, do you see that?
A. Yes.
Q. Can you tell us -- let's start with -- there's a

memo, Eastern Power Boat Club memo. What is that, and what does that deal with?

A. I was notified by the Eastern Power Boat Club that I was in arrears on slip -- slip fees and electricity on this boat, and that it had accumulated to $774, and they were giving me 14 days to either pay up, or they were going to take legal action against me.

MR. TRAFICANT: What was the date of that?

THE WITNESS: 16th December 1998.

Q. Now, when you started to make the boat repairs, did you say you actually joined the club?

A. Yeah, I had to join the club.

Q. And why did you have to join the club?

A. Otherwise, I needed to take -- as far as they were concerned, that I was making the purchase of Traficant's boat, and that the boat slips were only available to club members, and if you weren't a member, you couldn't keep the boat at the Power Club. So I paid the money that was required to join the club and joined the club.

Q. Now, there's some handwriting sort of a list and chart running down this document. Can you explain to the jury what those notations are?

A. Just -- they're just expenditures that had taken place from an additional drop of money that J.J. Cafaro gave me.

Q. Okay. And turning to the second page of that document, is that a continuation of the same listing out different expenses that you paid along the way?
A. Yes, sir.
Q. Now, there's a number of these expenses that are written on here -- by the way, whose handwriting is this?
A. This is mine.
Q. Okay. And there's a number of these expenses that will say after them, check number, like, if there's -- the item here, you see the item that says $711.76, paid 3-18-99, check number 737?
A. Yes.
Q. And then further down there would be another one, $2,426.52, check number 753?
A. Yes.
Q. And there's some other entries like that with check numbers.
Whose checking account were those checks being written on?
A. Mine.
Q. And did there come a time where you provided copies of those checks to the FBI as part of its investigation of this matter?
A. Yes.
Q. Turning your attention to Government's Exhibit 8-38,

it's probably down in your file a little bit, it's not exactly the next item, can you dig down there and see if you can find that?

A. 8-38?

Q. 8-38.

A. I have an 8-20, 28, and 3, 35.

Q. If you keep digging, you'll get there.

A. I don't want to get them too messed up. Okay. I see now 8-38.

Q. Do you recognize those checks?

A. Yes.

Q. And are those checks that you wrote on your account?

A. Yes.

MR. MORFORD: Your Honor, may I put these on the overhead?

THE COURT: Yes.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: Fine.

BY MR. MORFORD:

Q. Okay. I'm going to just flash these five pages rather quickly and then ask you a couple summary questions. There are a number of checks to the Eastern Power Boat Club; is that correct?

A. That is correct.

Q. And then there's at least one check to Ernst deGroot?
A. Yeah, more than one.
Q. Yeah. Actually it looks like a couple.
What were these checks written for, for what purpose?
A. Checks were written to cover the expenses and costs of Jim Traficant's boat.
Q. And were you reimbursed for the amounts that you wrote these checks for on your account?
A. Yes, I was.
Q. And who reimbursed you?
A. J.J. Cafaro.
Q. And was that part of this scheme that you described earlier?
A. That is correct.
Q. At this time, I'd like it ask if you would take a look at what's been marked Exhibits 8-69, and it's a number of pages there. Do you see those in front of you?
A. Yes, sir.
Q. And do you recognize the boat that's depicted in these pictures?
A. Yes, I do.
Q. And whose boat is that?
A. Jim Traficant's boat.
MR. MORFORD: Your Honor, may I place these up on the overhead?

THE COURT: Sure.

BY MR. MORFORD:

Q. Putting the first Exhibit, which is 8-69(1), up on the screen, do you see that?

A. Yes, sir.

Q. And is that the boat that you have been describing this morning?

A. Yes, it is.

Q. And you recognize any of the people that are on the boat there?

A. Well, the gentleman in the back is Ernst deGroot who's pulling on the rope.

Q. Turning to Page 2 or exhibit -- I guess it would be Exhibit 8-69(2), can you just point out or note for the jury in terms of the shape of the boat from that view what some of the problems were with the boat?

A. If you notice from that view, you can see where the tarpaulin that was covering the whole top of the boat has been rolled up and thrown right there at the front deck area.

Q. That would be this here?

A. That is correct, and the poles that are there were to hold -- see the poles running from -- right from the bow up to the top where the flying bridge is.

Q. This stuff here?

A. That is correct, that those are the tarp bows so the water would run off.
Q. What about the --
A. There's some paint removal that's going on in that area there, but that's not a great picture to see some of the more significant damage.
Q. Why was the tarp needed?
A. To keep water out from -- from rain because the decking around the whole top of the boat would leak.
Q. How about page -- or Exhibit 8-69(3)? Again, this is some of the area you were describing that --
A. Yes. This is a picture of some of the area that we were redoing. If you notice, there's a piece missing off of there. It was not a significant thing, but it's missing. They're not quite in the order of --
Q. I'm going to skip back to 8-69(5).
A. 8-69(5)?
Q. And 8-69(6), let me see if I can get them both on the screen at the same time and ask you if you could describe some of the problems here, the back of the boat?
A. Right.
Well, the picture at the bottom is the first picture, is taken when the boat was pulled out of the water. You can't really tell the damage that's, you know, rotting or anything like that because it's got many years of silt

built up from the Anticosti River adhering to the bottom of the boat. So prior to doing any kind of work on the boat, the boat needed to have a power wash.

Q. Okay. Once you power wash this silt and stuff off, what was revealed, what is -- what is the condition?

A. Well, the condition was there was a lot of rotting that -- that followed the whole transom right at the waterline. If you look at the next picture up, you can see where the approximate -- the whole transom first two feet of the transom from the waterline down to the bottom of the boat was basically cut out and replaced with new wood.

MR. TRAFICANT: I ask this be a joint exhibit.

THE COURT: Fine.

BY MR. MORFORD:

Q. And 8-69(7), what's being depicted in this particular picture?

A. That's the repair going back onto the -- to the transom of the boat, after all the rotten wood was cut off out, discarded, frame and structure put back in and transom put back in place on the back of the boat.

Q. Who is the person doing the work in the picture?

A. That's Ernst deGroot.

Q. How about 8-69(8)?

A. It's the same, they're out of sequence. Basically,

we had to take and tear down and draw all the paint off the boat so that we could put a fresh coat on and expect to make sure we've gotten all the rot and damage taken care of, but as you can tell on this side, this is the left side of the boat.

Ernst was previously working on the right side of the boat so you can tell that the whole back has a transom basically was tore open.

Q. And that would also be depicted in this picture?

A. That is correct. That happens to show some of the renewed structure going back in.

Q. Is this the area that's around --

A. Around the exhaust pipe.

Q. Okay.

A. One of the exhaust pipes.

Q. And finally, 8-69(10), what does that picture show?

A. That's where the shaft log I told you about before, that had to be taken out, cut out, board to match the pitch of the shaft, and then installed with the shaft in there.

MR. TRAFICANT: I ask if any of these not made joint exhibits, they should also be made joint exhibits of 8-69.

THE COURT: Very well.

Q. Now, approximately how much money did you ultimately spend paying Ernst deGroot and his workers for the repairs,

paying for materials that needed to be purchased for the repairs, paying for slip fees, paying for your gas back and forth to Manassas and any other expenses incurred in repairing this boat?

A. Actual number, I don't have it at the top of my head at this time, but I would say between $16, $18,000.

Q. You don't know the exact number?

A. I don't know the exact number but --

Q. Let me do this. Let me walk you through some checks, and you can tell us what these checks represent.

Earlier, I showed you a check for $3,500. Do you recall that?

A. That's correct.

Q. And that was for boat repairs?

A. Boat repairs.

Q. Okay. Turning your attention to Exhibit 8-20.

A. Yes.

Q. There's a check here from J.J. Cafaro to Al Lange in the amount of $3,800 on August 27, 1998. What was the purpose of that check?

A. Boat repairs.

Q. Exhibit 8-28, there's a check from John J. Cafaro to cash on September 28, 1998, in the amount of $6,000. Turning it over -- do you recognize this signature?

A. Yes, sir.

Q. Is that your signature?
A. Yes, it is.
Q. And what was this check used for?
A. Boat repairs.
Q. Turning your attention to 8-33, there's a USAG interoffice memorandum. You see that?
A. Yes.
Q. Have you seen this document before?
A. Yes.
MR. MORFORD: May I put that on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. Can you tell us about this particular fax?
A. It was basically needing $8,000 to try to complete the repairs that were going on with Jim Traficant's boat.
Q. Okay. Who was the memo to, and who was the memo from?
A. The memo was from Richard Detore and went to J.J. Cafaro.
Q. And then turning your attention to Government's Exhibit 8-35, there's a check here in the amount of $8,000 from J.J. Cafaro to Rick Detore, dated December 24th, 1998, do you see that?
A. Yes, sir.

Q. And do you see the signatures on the back?
A. Yes. There should be two signatures on the back of this check, one from Richard Detore and one from myself.
Q. Okay.
What was this $8,000 check used for?
A. Boat repairs.
Q. Now, turning your attention to Government's Exhibit 8-21, do you see that in front of you?
A. 8-21, sir?
Q. Yes.
A. Okay. I have 8-21.
Q. If you could take it out of the glassine there a moment?
A. Okay. Are we done with these other exhibits?
Q. And if you would look at the second page of that exhibit, there's a check from the Cafaro Company in the amount of $3,000, payable to Al Lange, dated September 10, 1998. Do you see that?
A. Yes, sir.
Q. And what was this check used for?
A. Repairs on Jim Traficant's boat.
Q. Now, what, if any, problems did it cause you when you got a check for the boat repairs that -- rather than coming from J.J. Cafaro's personal accounts like the other checks you've looked at, this one came from the Cafaro Company

account?
A. This check was cut, and then when the taxes came in with our W-2s, I had a 1099 attached to it for $3,000 as saying it was additional income that I had received.
Q. Okay. And was this, in fact -- well, you said this was a check for boat repairs, correct?
A. That is correct.
Q. And did -- was that in any way income to you?
A. No, it wasn't. I called, and J.J. Cafaro, Richard Detore called J.J. Cafaro to tell him that they needed to issue a new 1099, zeroing out this $3,000 so I wouldn't have to pay taxes on it.
Q. Turning your attention to 8-23, another USAG interoffice memorandum.
A. 23?
Q. Yes, 23. Do you recognize that?
A. Yes.
MR. MORFORD: I may I put that on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. And who was this memorandum to, and who is it from?
A. From Richard Detore going to John J. Cafaro.
Q. And what's the date?
A. 2-16-99.

Q. And it's regarding?
A. The -- miscellaneous 1099s we were issued or the one I was issued for $3,000 for the money I received from the Cafaro Company to do the boat repairs and whatever Rick had.
Q. Okay. And could you go ahead and read the body of this, please?
A. "Both Al and I received" --
THE WITNESS: Sorry. Excuse me.
THE COURT: If you can talk slower because people tend to speed up when they read. Okay. Almost everybody speeds up when they read.
THE WITNESS: "Both Al and I received 1099s, miscellaneous nonemployee compensation forms which were filled with -- which were filed with the IRS. The funds in both cases paid out by the company to Al and myself were for expenses not compensation. These forms need to be amended immediately to reflect having been filed in error.
"My taxes have been prepared and are filed with the IRS, and this will cause a huge problem if not corrected now. Regards."
Q. So it was your position and Rick Detore's position that these expenses for $3,000 for boat repairs were expenses of USAG and not personal funds of yours, correct?
A. That is correct.

MR. TRAFICANT: I ask that all of the exhibits from 8-33 down and through 8-23 be made joint exhibits.

BY MR. MORFORD:

Q. Turning your attention --

THE COURT: That'll be all right, but we have to figure out the actual --

MR. TRAFICANT: 8-33, 8-35, 8-21 and 8-33, I think 8-69, all of their numbers have now been made joint exhibits prior.

THE COURT: Thank you.

MR. MORFORD: Your Honor, it might speed things up being he has all these exhibits that he can let us know outside the jury's presence, and we can take care of this.

THE COURT: Well, that certainly would help.

MR. TRAFICANT: I don't want to forget.

THE COURT: Well, but it sort of like interrupts everything every time you say it. So if you could just keep a list, we'll do it after the jury's recessed -- recessed for the mid-day break. Okay? Thank you.

MR. MORFORD: Sorry. Did you say --

THE COURT: No, I am not taking the mid-day break. But that's what we will do at the mid-day break

after the jury's left. Okay?

MR. MORFORD: Thank you.

BY MR. MORFORD:

Q. Turning your attention to 8-24, do you see that?

A. 8-24, I have it.

Q. Okay. And this is another interoffice memorandum on the USAG letterhead; is that correct?

A. That is correct.

Q. And who was this sent to, and who was it sent from?

A. It was sent from me, and it was sent to J.J. Cafaro.

Q. Did you send copies to anyone?

A. To Capri and -- Capri Cafaro and to Richard Detore.

Q. And what was the date of this?

A. 3-1-99.

MR. MORFORD: May I put this on the overhead, your Honor?

THE COURT: Yes.

BY MR. MORFORD:

Q. Could you go ahead and --

(Thereupon, the record was read back by the Court Reporter.)

The body of this memorandum that you sent to J.J. Cafaro, Richard Detore, and Capri Cafaro on March 1, 1999?

A. Right.

Says "I am writing to remind you to double check

with the payroll department to be sure that they have processed the paperwork for me to receive the $35,000 bonus and the two weeks of vacation pay that is owed to me from last year.

"I also received a substitute 1099 form from the company for $3,000. This amount was for expenses used on the boat. I have already sent in my taxes for 1998. I need you to make sure that the accounting department sends the IRS the proper forms to back out this additional $3,000 against my account, to keep me from having troubles with the IRS."

Q. Focusing on the first paragraph there, you're talking about a $35,000 bonus. Can you explain to the jury what that issue was and how that came up?

A. When I went to work for U.S. Aerospace Group, the incentive package for me to join the company was to increase my pay from what I was making down there. In lieu of paying me all the money up front, J.J. wanted to have it as a performance factor on my pay, to make a base pay and then pay me -- if I made my goals for the year, that I would be paid a $35,000 bonus for the first year that I was there. I made my goals, and it took a considerable amount of time for me to get that money.

Q. You say you started in the fall of 1997 so you completed your first year in the fall of 1998; is that

correct?
A. That is correct.
Q. And so what you're telling us is that as of March 1, 1999, you have not been paid the $35,000 performance bonus?
A. Or the two weeks of vacation that I didn't get the first year.
Q. That was supposed to be paid to you back in --
A. Supposed to be paid prior to the -- my anniversary date with the company, October 7th, and should have been in that pay period at that point in time.
Q. Now, with respect to the second paragraph where you indicated that the $3,000 check from Cafaro was for expenses used on the boat, and you want to make sure it's not treated as income to you, either before or after you sent this memorandum to Rick Detore, did you ever talk to him about the fact that this boat expense money should not be treated as income to you?
A. Did I ever talk to who?
Q. Rick Detore?
A. Yes.
Q. And did he agree that this should not be treated as income to you?
A. That is correct.
Q. Next, I'd like you to look at 8-6(3). Do you see that in front of you?

A. 8-6(3), yes.
Q. That's another interoffice memorandum; is that correct?
A. That is correct.
Q. And this is to whom from whom?
A. It's to Capri Cafaro from myself.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Yes.
MR. MORFORD: And what's the date of this memo.
THE WITNESS: 5-10-99.
Q. And who did you send copies of this memo to besides sending it to Capri?
A. Richard Detore and J.J. Cafaro.
Q. Could you go ahead and read the body of this memo?
A. It says "I wish to thank you for staying on top of my bonus issue and finally getting the majority of it paid. I am still a little short on the bonus amount. The shortage is $5,000. My bonus was for $35,000, but the check issued was for $30. If you could get the amount to be issued -- get this amount to be issued in my next paycheck, it would be appreciated.
"Second, I need to have a separate check cut from your father's checking account in the amount of $8,000 to

finish the repairs on the boat. It needs to be made out to cash. The boat people are, once again, becoming restless about being paid."

Q. Now, did there ever come a time when you attempted to create any kind of a written agreement or statement regarding this boat purchase?

A. Yes, there was.

Q. And can you describe for the jury what you did and why you did it and when you did it?

A. The why I did it is I was instructed by J.J. Cafaro to make an agreement up for the sale of the boat to -- the purchase of the boat from Jim Traficant so it would look like a legitimate deal. And you had two other parts of that question.

Q. The other parts were approximately when did this occur?

A. Sometime after we already started working on the boat. I cannot remember exactly when it was, but it was many months after we were far along with work in progress, way down the line in the work in progress.

Q. And what was the sole purpose for writing up an agreement?

A. The sole purpose was to make it look like it was a legitimatized sale. J.J. Cafaro made a special trip out to see me, to say that they're -- there was a possibility of

an investigation that was going to take place, and that they really -- that I really needed to have a documented place showing me as the purchaser of the boat.

Q. And then what did you do? Did you actually create a document?

A. Yeah. Sometime after we had that meeting, that I had that meeting with J.J., I wrote this up in my own handwriting and then took it, presented it to Jim and got it signed.

Q. Turning your attention to Exhibit 8-17, is that the agreement?

A. Yes, sir, it is.

MR. MORFORD: May I put it on the overhead, please.

THE COURT: Yeah.

BY MR. MORFORD:

Q. Could you please go ahead and read the agreement? I may stop you along the way to ask you some questions.

A. "Sales purchase agreement. An agreement has been struck between Jim Traficant, seller, and Albert Lange, buyer, for the purchase of Jim's 37-foot, 1970 Egg Harbor boat for the purchase price of $26,000 plus cost of repairs, under the following conditions:

Albert -- conditions are Albert Lange will pay for a boat survey to determine the boat's condition and value

after repairs have been made."

Sub paragraph A, "survey will identify problems to be repaired.

"(B) estimate cost for repairs will be derived from the survey for which Albert Lange will pay for the repairs.

"2. Repairs on the boat will be made at the cost of Albert Lange before final payment of $26,000 is made to Jim Traficant under the following conditions."

Q. Let me stop you there. Is that true, that the repairs on the boat were going to be made at the cost of Al Lange?

A. No, they weren't.

Q. Continue.

A. "(B) under the following conditions: If repair costs and payment to Jim Traficant far exceed the value of the boat as stated on the survey, then Albert Lange will have -- will not continue with the purchase but will be responsible for the cost of the survey.

"(B) final payment of $26,000 will be made to Jim Traficant at the time Albert Lange has obtained financing to cover the cost of the payment to Jim Traficant.

Q. Was that true?

A. I never seek financing and had no intention of seeking financing for the boat.

Q. Why were these kinds of things put into this thing?

What were you trying to accomplish?
A. I was trying to accomplish and make it look like it was a legitimized deal by having paragraph, Sub paragraph (b) in there, and I was trying to make sure if J.J. backed out of paying the money, I didn't have Jim Traficant suing me over the purchase of the boat. So that's why I put in that Sub paragraph (a) in, in an effort to cover me.
Q. If you could start with Paragraph 3 then.
A. "In the event that repairs to the boat are started and the cost to repair the boat or if something happens to make repairs too expensive, then Albert Lange has the right to back out of the sale with the following conditions" -- or "following condition" -- excuse me. If Albert Lange backs out of the purchase of the boat, all monies spent on the repair of the boat will be held until such time that the boat is sold by Jim Traficant.

"At the sale of the boat, Albert Lange will receive a cashier's check for the amount of the repairs he has paid to restore the boat only. All slip rents and club dues are the responsibility of Albert Lange until final purchase has been made or until Albert Lange has declined to purchase the boat.

"Upon completion of the payments of $26,000 to Jim Traficant, Jim Traficant will present clear title to the 37-foot, 1973 Egg Harbor boat to Albert Lange within ten

working days. This agreement is understood by both parties, and they have entered into this agreement on August -- 10 August 1998."

And there's my signature and Jim's signature.

Q. Let me ask you about that date, 10th of August 1998. Is that an accurate agreement as to when this agreement was signed by you?

A. No, it wasn't.

Q. Did you backdate this?

A. Yes.

Q. Why?

A. Because we need it to show that this had been an agreement that had been enforced since the beginning of this whole endeavor and not something that was done as an afterthought.

Q. Mr. Lange, could you have afforded to buy and repair this boat on your own if J.J. Cafaro had not been funding it?

A. No, sir.

Q. Did you have any interest in buying a second boat?

A. No, sir.

Q. How important was Congressman Traficant to the success of USAG at the period of time from July of 1998 when J. J. Cafaro showed you the check for $26,948.18 until the time that you finally executed this agreement and paid

for the boat repairs?
A. It was extremely important. He was championing our cause, and in a bureaucratic society, if you don't have a champion for your cause, you don't get ahead.
Q. I'd like to show you one last exhibit on the boat expenses. If you could turn to 8-39, do you see that in front of you?
A. Yes.
MR. MORFORD: May I put that on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. USAG check, in the amount of $2,172.17, do you see that?
A. Yes.
Q. And who is it payable to?
A. It's payable to Albert Lange, Junior.
Q. And who is it signed by?
A. Capri S. Cafaro.
Q. What's the date?
A. 1-17-00.
Q. And what was this check used for?
A. It was -- this check was used to cover two checks that I wrote out of my personal account to pay for back slip fees and electrical fees to Eastern Power Boat Company

and to pay for work that had been accomplished by Ernst deGroot on the boat.

MR. TRAFICANT: What's the exhibit number?

MR. MORFORD: Exhibit Number 8-39.

Q. Would those be the two checks you testified to earlier, the first page of Exhibit 8-38?

A. That is correct.

MR. MORFORD: Your Honor, I'm about to go into a new area.

THE COURT: After the break. We'll take our -- we'll take our half hour break, so we'll see you back here at quarter of 4:00, quarter of 4:00.

(Thereupon, a recess was taken.)

THE COURT: You're still under oath, sir.

THE WITNESS: Yes, ma'am.

BY MR. MORFORD:

Q. I want to ask you a couple questions about a time during the repairs when the boat -- you attempted to put the boat back in the water. Do you recall that incident?

A. Yes, sir.

Q. And could you describe to the jury why you were putting it back in the water at that point and what happened when you tried to put it back in the water?

A. We were putting it back in the water at that point because the lower half of the boat, all the low bearing

surfaces or the buoyancy surfaces were repaired, and we had the boat at low tide, pulled back on its dolly, put it into place so the water could come in and get soaked up into the wood so the wood would expand to make the boat float.

What had happened is that I had the gentleman working on the boat move the boat back to the point where on the dolly or on its cradle where it was -- where I thought it was in a good spot. After I left to go get some dinner, a decision was made to drive it back approximately another eight to ten feet further down on the boat ramp.

During the course of the evening, the tide came up higher than what it was supposed to, so as the water -- as the boat, the water came up on the boat, the boat had -- since it had been out of water for an extended period of time in hot weather, the planks all separated so you had to allow the planks to soak up water again to expand, to close off, to keep the water out.

What happened in the course of that evening was that by moving the boat back further than it should have, the water came up, and some of the water creeped in and got into the engine compartment and was infiltrated into the gears and motor of the engine.

Q. Okay.

Now, what was the shape of the engines prior to that?

A. They turned over, but it was questionable what the

engine repairs were going to be because we could never get the engine started. They had set for years on end without being run, so to say exactly what was wrong with the engines or not wrong with the engines, that was still in question.

Q. Was that a repair project that was going to take place after you got the carpentry work done on the boat?

A. That's correct. Basically, the philosophy was let's get the boat water tight, both on the upper levels and the lower levels, where the main amount of work was going to be accomplished, and as a -- after that was to take place, then we would work on the etchings to get them back in shape.

Q. Now, turning your attention, you have it in front of you, to Government's Exhibit 8-29. You see that?

A. Yeah, I have it in front of me.

Q. Okay. And there's actually -- it's a two-page document and the front and back show the two pages. You don't even have to take it out?

A. Okay.

Q. Do you recognize this fax?

A. Yeah, I've seen it before.

Q. And is this a fax received at USAG?

A. Yes.

MR. MORFORD: Your Honor, may I put this on

the overhead?

THE COURT: Yes.

Q. Let's start with the second page first if we could. What is the second page of this two-page document?

A. It's correspondence between Jim Traficant and Jane Garvey who's the head of the Federal Aviation Administration.

MR. TRAFICANT: Objection as to record only.

THE WITNESS: Excuse me?

THE COURT: Okay. Well, I'll have to handle that when I can deal with what -- what is the basis for your objection?

MR. TRAFICANT: Speech and debate.

THE COURT: Okay. Okay. Give me a minute to read this.

You can proceed. The objection's overruled.

MR. MORFORD: Thank you, your Honor.

Q. I'm sorry. Again, if you could -- this is a letter sent to USAG from Congressman Traficant to Jane Garvey, the administrator of the FAA?

A. Yes.

Q. Was she, as you understood it, the head of the FAA?

A. Yes.

Q. Okay. And could you go ahead and -- well, before you do that, let me flip it over to the other side a moment.

How did USAG obtain this letter?
A. It was faxed to the office at U.S. Aerospace Group and directed to Richard Detore from Paul Marcone.
Q. And there's a notation down there that says, "FYI, please make sure J.J. sees this," do you see that?
A. Yes.
Q. How frequently would you see faxes come into the office from Congressman Traficant's office with notations like that, make sure J.J. sees this?
A. I don't know how many would come in with this particular notation on it, but every time we received a fax from the Congressman or the Congressman's office, we would always forward that fax on to J.J.
Q. Okay. And if you could flip it over then, go ahead and read the body of this out loud if you would.
A. It says "As you know for the past year, I have been advocating the expanded use of enhanced vision technologies at airport runways and helicopter pads. Enhanced vision technologies should be an integral part of the Federal Aviation Administration's ongoing efforts to improve aviation safety.

"I am encouraged by the fact that the FAA is moving forward with the certification of some of the more promising enhanced vision technologies, especially cold cathode lighting. I urge you to continue moving the

certification process forward."

Q. Let me stop you there.

This reference to cold cathode lighting, could you describe for the jury what that is?

A. Cold cathode lighting is more or less a type of fluorescent light bulb in lieu of an incadescent light bulb normally used in an airport runway environment. Cold cathode lighting has superior penetration in obscuring weather conditions, i.e., fog, high humidity, heat dispersion.

It also requires less energy to be used to give the same results as what your normal incadescent bulb would do. So basically, by installing this type of lighting on a runway, operating costs would be reduced because the electric bill would be reduced, and the ability for a pilot to recognize the airport and be able to land safely, the light will penetrate out further into the atmosphere so the pilot can view it and capture it earlier so that he can have more time to make a stabilized approach for landing.

Q. Okay. And to what extent was USAG involved at all with cold cathode lighting enhanced vision technologies?

A. In the cold cathode lighting area, we were in discussions with a company called Light Beams, in an effort to do a -- what started to be a joint venture between -- between Light Beams and U.S. Aerospace Group, which had

touched on J.J. Cafaro actually purchasing the Light Beams Corporation.

Q. Was that taking place at the time Congressman Traficant is highlighting the cold cathode technology with Administrator Garvey?

A. I believe at this point in time, there were talks going on, and I believe the principals from Light Beams had been to our offices on more than one occasion.

Q. If you could continue reading, picking up where you left off, I think it starts "Knowing of your strong" --

A. Okay.

"Knowing of your strong interest in aviation safety initiatives, I would like to invite you to join me for a nighttime demonstration of enhanced vision technologies. I am ready and willing to accommodate your schedule. The demonstration would take place at Manassas Airport in Northern Virginia. I know that you will find a demonstration of this technology to be both fascinating and informative.

"I certainly hope you will find the time in your busy schedule to join me for a demonstration. Should you or your staff have any questions or need additional information, please call my chief of staff, Paul Marcone, at 202-225-5261."

Q. Let me stop you there.

How big a deal was it for your little company, USAG, to be able to get Jane Garvey, the head of the FAA, to come out to the Manassas Airport and view your technology?
A. Very significant.
Q. Why?
A. If we impressed her enough, then we have not only some -- congressional champion but also the highest ranking member of the Federal Aviation Administration championing us to get our technology moved into the marketplace.
Q. And at the time, November 4, 1998, when Paul Marcone is sending this to Richard Detore, this letter and asking him to make sure J.J. sees this, what was the state of the boat situation at that point? We're talking November 1998.
A. Repairs were happening, and money was still flowing in from J.J. Cafaro to make the repairs happen.
Q. Could you take a look at the next Exhibit, 8-44, that's in front of you? Do you see that?
MR. TRAFICANT: 44?
THE WITNESS: Yes, I have it.
Q. Okay.
And is this a record that was made and maintained in the -- what part of the business of U.S. Aerospace Group?
A. Yes. This is part of the flight log that's used every time you did a -- any type of flight on the aircraft.
Q. You had your own aircraft; is that correct?

A. That is correct. There was a Beech 90 that was being leased by the company.
Q. And each time that aircraft was used, was a flight and maintenance log report like this filled out?
A. That was supposed to be standard procedure, yes.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: All right.
BY MR. MORFORD:
Q. Now, can you tell us what this flight log indicates with respect to the date, what was the date the flight that's reflected in this particular log?
A. May 4, 1999.
Q. Okay. And can you tell from this what the purpose of the flight was?
A. It was for an LVLS demo, Laser Visual Landing System demonstration.
Q. And can you tell from the passenger log who actually went on this particular demonstration?
A. That is correct, you have Jane Garvey at the top, who is the Number 1 person at the Federal Aviation Administration. She's the administrator. Loni Czekalski an FAA person who was doing consulting work for us at that time. We have Susan Sullivan who is one of the support people for Jane Garvey, and we had Jim Traficant on that

flight.
Q. So with respect to the last two exhibits you looked at then, November 4, 1998, letter, Congressman Traficant's office was going to try to set up a demonstration for Jane Garvey, correct?
A. That is correct.
Q. And then this document shows that on May 4, 1999, Congressman Traficant actually was able to get Jane Garvey to come out for a demonstration?
A. That is correct.
Q. Moving back to just the month prior to this May 4, 1999, demonstration, so we're talking about April of 1999 now, would you please take a look at Exhibit 8-43, which should be in front of you there. Do you see that?
A. Yes.
Q. And there's a series of documents there. If you'd turn to Page 1, 2 -- Page 5. There's six documents there, but it would be document Number 5, says U.S. Aerospace, LLC purchase order. Do you see that?
A. Yes.
Q. And is this a document that was made and maintained in the ordinary course of business of U.S. Aerospace Group?
A. Yeah, it was part of the purchase order log to keep track of expenditures for the company.
MR. MORFORD: May I put this on the overhead,

your Honor?

THE COURT: Certainly.

BY MR. MORFORD:

Q. Now, with respect to this particular purchase order, there's a date down here at the bottom. Do you see that date?

A. 4-8-99.

Q. That's April 8, 1999; is that correct?

A. Yes.

Q. And can you tell us what was purchased by USAG on April 8, 1999?

A. Yeah. It was a -- it was a welder.

Q. And just -- I'm not going to show you all the documents, but the other, one, two, three, four, five documents in this packet, collectively marked 8-43, are those also business records of USAG?

A. Yes, they are, all except for the two that appear here that are Granger invoices.

Q. Do you know if Granger sent invoices and billed USAG for this purchase?

A. Yes, they did.

Q. Okay.

Now are you familiar with this transaction, the purchase of this particular item?

A. Yes, I am.

Q. And you said this was what, a welder; is that correct?
A. That is correct.
Q. And can you describe to the jury your knowledge of this particular purchase and how it first arose? Strike that question. Let me ask it this way.
What was it that led USAG to purchase this particular welder?
A. What led us to purchase this welder was that Richard Detore and myself accompanied Jim Traficant to dinner at Taverna. During the course of the evening, Jim made mention that he needed to borrow a welder to do some work on a -- a horse trailer that he was either going to build or had built or was in the process of building. He asked if U.S. Aerospace had a welder.
After the -- after the dinner, we drove -- as we were driving home, Richard decided that we were going to purchase the welder so Jim could borrow it.
Q. And following that meeting at Taverna, did USAG purchase the welder?
A. Yes we did. It was delivered to USAG.
Q. And is this the welder that was purchased?
A. That is correct.
Q. Now, you mentioned something called Taverna. What is that?

A. It's a local restaurant that's up on Capitol Hill or in the Capitol Hill area.
Q. And approximately how far is the Taverna Restaurant from the corporate offices of USAG?
A. I don't know. 20, 25 miles.
Q. How close did Rick Detore live to the corporate offices of USAG?
A. Eight miles, I guess.
Q. How far was Taverna from Congressman Traficant's office in the House office building on Capitol Hill?
A. Five blocks, four blocks, something like that.
Q. When you and Rick Detore would go up to Capitol Hill to meet with Congressman Traficant, where would most of those meetings occur?
A. At Taverna.
Q. Are you aware of Rick Detore ever going to Taverna with -- for any purpose other than to go to dinner with Congressman Traficant?
A. I'm not aware of any other.
Q. Who would pay for the bills when you and/or Rick Detore would meet Congressman Traficant for dinner at Taverna?
A. Would come off of Rick Detore's credit card.
Q. Do you know what entity was paying for it? Was Rick Detore paying or was USAG paying?

A. Rick would initially put it on his expense report, and then his expense report would be paid through USAG.
Q. So USAG was paying for these dinners, correct?
A. Correct.
Q. The third page of this group of exhibits is a document that says at the top AP invoice explanation and contracted service report, do you see that?
A. Yes.
Q. And do you recognize this kind of form?
A. That is correct.
Q. And what -- what type of form is this? What was it used by USAG for?
A. This was the -- an accounting form that needed to be filled out by USAG to send back to the Cafaro Company so that the Cafaro Company could keep track of the expenditures that they were in turn sending back to U.S. Aerospace Group.
Q. Okay.
And do you notice a couple signatures on there? One says director of operations. The other says regional manager. Do you recognize the signature of the regional manager?
A. Yes. It's Richard Detore's.
Q. Do you recognize the signature underneath that?
A. I believe it's J. J. Cafaro's.

Q. There was a comment there that says "Preapproved per J.J.."

Do you recognize that writing?

A. That is correct. I do recognize that writing.

Q. Whose writing?

A. Of Richard Detore.

THE COURT: You were both talking at once, I don't know.

Q. Whose writing is that?

A. It's Richard Detore's handwriting.

Q. Now, was the welder ultimately purchased and shipped to USAG?

A. Yes, it was.

Q. And what exactly is Granger?

A. Granger is a catalog house that sells tools, kind of like -- trying to give you an example -- be like a Best Buy or a Radio Shack, but we're dealing with heavy construction tools.

Q. You said, though, it's a catalog shop, so --

A. Yes. They have some -- they have some offices around. I'm not sure where they are, but we receive a nice big 2000, 2500 page book. You can pick and choose what you want, and it's basically they keep the overhead low by keeping it centralized. It's like a catalog sales place.

Q. And if you want to -- you want to order a welder and

have it somewhere other than Manassas, if you wanted to have it in another state, say Ohio, when you make the catalog order, could you have it shipped it anywhere?

A. Anywhere in the United States or overseas.

Q. Where was this particular welder shipped to?

A. 9815 Go win Drive or 9875 Godwin Drive, Manassas, Virginia.

Q. What was that?

A. The headquarters of U.S. Aerospace Group.

Q. What was done with the welder after it arrived at the corporate headquarters of USAG?

A. It was inspected to make sure that all the parts were there, loaded into the back of the company suburban, and delivered to Jim Traficant.

Q. And who actually delivered it to Congressman Traficant?

A. Myself and Richard Detore.

Q. Okay. And can you describe for us where you took it to, if you still recall?

A. There were two different pieces of equipment delivered at different times, and I'm --

Q. Let me stop you there. One is the welder, correct?

A. That is correct.

Q. What is the second piece of equipment that at some point was delivered to Congressman Traficant?

A. It was a gas generator.
Q. Okay.
And how close in time did you deliver the welder and then the generator to Congressman Traficant approximately?
A. I don't know, one month against each other, a month apart, something like that, a month, maybe two months. I'm not sure exactly.
Q. Okay.
What do you recall about the delivery of these items? Do you recall where you delivered them?
A. Yes. One item was delivered into the parking lot of the Rayburn Building.
Q. What is the Rayburn Building?
A. That's the offices that house the Congressmen.
Q. Is that next to the Congress?
A. Within quick walking distance. I believe there's a tunnel -- I know there's a tunnel that connects from the Rayburn Building that goes over to Congress.
Q. Okay. So you took one of these two items to where at the Rayburn Building?
A. To the parking lot and loaded it in the back of Jim's pickup truck.
Q. Can you describe that pickup truck?
A. The pickup truck was called a dually, and it's -- it was white, and you loaded it in the back of the pickup

truck. It's got dual wheels in the back.
Q. Where was he at that time?
A. He was with us.
Q. How about the second item?
A. The second item was delivered -- was transferred into his truck at a gas station out on Route 270 heading towards Ohio in, I think, Maryland.
Q. As you drive from the area of Capitol Hill, if you were going to drive towards Youngstown, Ohio, was 270 one of the routes you would use?
A. Yeah, you would wind up getting on 270.
Q. Was it along that way that you met at a gas station?
A. Actually, we met at the Rayburn Building first and followed him out to a gas station off of 270, to which we transferred the equipment.
Q. Okay. As you sit here today, can you remember which piece of equipment you delivered at which place?
A. No. I just delivered one to the Rayburn Building, and the other piece of equipment we delivered to be put in his truck at the gas station. I don't remember which piece was placed in the trucks where. I'm sorry.
Q. Okay. If you could take a look at what's marked Exhibit 8-46 in front of you, do you see that?
A. Yes, sir.
Q. And there's actually two pages there. Do you see

both pages? I think there's a front and a back. You may not have to take it out.

A. It's for Blalock Cycle.

Q. Do you recognize this document?

A. Yes, I do.

Q. Is this a document that was received at the offices of U.S. Aerospace Group?

A. Yes, it was.

MR. MORFORD: Your Honor, may I put this on the overhead?

THE COURT: Yes.

Q. What exactly is this document and what is it reflecting?

A. It's a sales invoice for the purchase of a gas generator.

Q. Would this be the generator you described a moment ago?

A. Yes, sir.

Q. What was the date the generator was purchased?

A. 5-18-99.

Q. Okay.

And tell us how this transaction came about. Why was USAG purchasing a generator?

A. This particular generator came and was purchased after a dinner with Richard Detore, myself, and Jim

Traficant at Taverna when he asked if he could borrow a generator from us.

Q. Was this the same dinner he asked to borrow the welder?

A. No. It was a different dinner.

Q. Okay. After you left the restaurant, what decision was made regarding a generator?

A. We didn't have a generator on hand that would suit his needs and his particular needs at the time so we went out and purchased a generator.

Q. And what was the purchase price of this generator, do you see that on there?

A. $2,714.91.

Q. And let me take you back to Exhibit 843. I think I neglected to ask you, do you recall what the price was on the welder?

A. The invoice states $2,415.39.

Q. Then was there any extra equipment that went with the welder?

A. Yes, there was. I believe so.

Q. Do you see the second page, the second invoice?

A. Yeah, that says additional $491.74 worth of equipment was purchased, support equipment.

Q. So approximately total between the welder and the equipment, how much are we talking?

A. I forget what the first question -- about $2900.
Q. After you delivered the $2900 worth of welding equipment and the $2700 worth of generator to Congressman Traficant, would you ever see him again?
A. No, sir.
Q. Turning your attention to Exhibit 8-51 in front of you, do you see that?
A. Yes, I do.
Q. And do you recognize this document?
A. Yes, I do.
Q. And it references at the top a September 29, 1999, meeting. Is that correct?
A. Yes.
Q. Do you see your signature on that document?
A. I see my name, yes.
Q. And do you recall attending a meeting on September 29, 1999?
A. Yes, I do.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes.
BY MR. MORFORD:
Q. Can you describe for the jury the nature of this meeting?
A. This meeting was more or less a come to Jesus meeting

held in Jim Traficant's office, to talk to the primary people in the FAA, to help move our certification forward.

Q. What do you mean when you say a come to Jesus meeting?

A. It was to make sure everybody was on the same page in music as far as who needed to do what so we could get the certifications to take place.

Q. What was the problem or the issue that caused you all to get together and Congressman Traficant's office for the purpose of trying to get everybody together on the same page?

A. Rick was not -- Rick Detore was not happy with the progress that was being made towards certification and basically wanted to pull some horsepower into the realm to get the FAA to move faster on their areas of responsibility.

Q. Were you trying to shake up the FAA?

A. Yeah. I would say that we were trying to show that we had some political clout, and that we weren't going to stand to be stonewalled.

Q. Did Congressman Traficant attend the meeting at any point?

A. Congressman Traficant came in from his office. He was still attending to some of his other office duties that he had. He was in periodically, said his pieces, and then

was out again.
Q. When you said he said his pieces, would you describe what you recall of what he said and how he said it and who he said it to?
A. I basically -- I can't exactly remember what it was that he said, but the -- the substance of the conversation that Jim put forth was you need to start playing ball with these people, meaning USAG.
Q. Who needed to play ball with USAG?
A. The Federal Aviation Administration in the way that they needed to support us so that we could get the job done.
Q. What was his tone?
A. Light at times, very stern at other times, basically conversations that were very cyclic. He was very stern to press his point, that this was of important interest to him, and at the same time, he was very cordial in other areas. So it wasn't like it was a let me beat you to death meeting. It was more or less I have strong points to make. I'll make this point strongly, and the rest of it should be a nice, calm and cool, collective meeting.
Q. What was the point he needed to make strongly for the FAA at this meeting?
A. They needed not to stonewall or procrastinate about working with us to get the certification done.

Q. As the chief engineer of USAG at the time, who was in actuality stonewalling and holding up the process?
A. A lot of the problems were coming from USAG itself due to the fact that we didn't have all our paperwork together. We didn't do what -- we didn't have all our ducks lined up for the certification effort to begin with.
Q. I'd like to turn your attention to what's been marked Government's Exhibit 8-52. You see that in front of you?
A. Yes, I do.
Q. And do you recognize this document?
MR. TRAFICANT: 52?
MR. MORFORD: 8-52.
THE WITNESS: Yeah, I've seen this document before.
Q. Okay. And is this a document that was a fax received at USAG from Congressman Traficant?
A. It came out of Congressman Traficant's office. It was sent by Paul Marcone.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Yes.
Q. What's the date of this fax?
A. 10-28-99.
Q. Who is it from, and who is it to?
A. It's to Richard Detore and from Paul Marcone.

Q. And could you read the one line there, please?
A. "Keep me posted on your contacts of the Army on MANIPLIES".
Q. Can you tell us what is a MANIPLIES?
A. MANIPLIES is a acronym from a system we were developing, mobile system. It's a Mobile Expeditionary Accurate Night Vision Compatible Portable Airfield Landing System is what it stands for.
Q. In fact, in reality, what is it in a nutshell?
A. It was a trailer set up with cold cathode lighting and laser technology that had radio controlled output and could be employed on a runway within 45 minutes so the aircraft could start landing in a hostile environment.
Q. And who was the target customer for this product?
A. United States Army, Air Force, and any other foreign national militaries.
Q. How would it be transported out on the battlefield?
A. The piece of equipment was designed to be flown on the -- in the compartment of a Cesena 130 or swing loaded underneath a Black Hawk helicopter.
Q. Now, without telling us whether or not Congressman Traficant actually followed through on any promises regarding MANIPLIES, just focusing on promises themselves, what was Congressman Traficant promising USAG he would do to help you market this MANIPLIES technology?

A. He was promising to work as best he could to develop a budget line in an URD budget for the 2000 -- for the budget for the Army specifically for MANIPLIES.

Q. And how much was he telling you or promising you that he was going to try to get in terms of sales to the Army and such promised legislation?

A. $4 million budget line item.

Q. What would that have done for USAG at that time to have a $4 million line item purchase from the military?

A. First off, we wouldn't get the whole $4 million because you have to put the support infrastructure together with the Army to do the testing so, for example, possession of that $4 million, proposed $4 million would have probably been $2 million, would have gone to the support testing needed by the Army, and we would have wound up with a contract anywhere in the area of $1.3, $1.4, to $1.7 million for our first initial contract.

Q. And how much in sales had USAG had up to that point?

A. We had had one sale to a foreign concern.

Q. And how much was that for?

A. I believe total of $273,000, somewhere in that area.

Q. And at that time. This time around October '99 when this stuff's being discussed, what was the financial condition of USAG, particularly its ability and inability to pay operating expenses?

A. It was becoming very questionable at that time. At that time, the employees of the company had paychecks that had been issued that had bounced. They had subsequently been made good. Invoices were being sent out for payment and not being paid so we were in a cash -- we were cash strangled.

Q. Were there any leasing companies who were threatening to repossess items if you recall?

A. I don't know if there was any leasing companies at that particular point in time other than the aircraft leasing company that was making any kind of threats to repossess.

Q. How about the airplane company?

A. The aircraft company, we did get delinquent on more than one occasion with the lease payments for that aircraft.

Q. How important was this promise by the Congressman to go to bat and try to get you this $4 million promised legislative item?

A. It was very significant.

Q. I'd like to ask you some questions about some automobiles. Are you aware of any involvement between any officials at USAG and Congressman Traficant regarding a jeep?

A. Yes.

Q. And can you describe for the jury, starting with a time frame, the rough time frame period, what you recall about dealings with Congressman Traficant, USAG, and a jeep?

A. I don't remember the year, but it was late fall, and we went to dinner one night at Taverna, and he made mention he was going on a hunting trip and needed to borrow a four-wheel drive vehicle. We subsequently lent him the jeep.

Q. What was -- I'm sorry. What was the jeep?

A. It was a jeep.

Q. Whose jeep was it?

A. CJA 5 jeep. The jeep was titled to, I think, Janet Cafaro. It was given to U.S. Aerospace Group to use as a company vehicle to move -- move and support laser visual technology systems for automobiles and stuff.

Q. Back and forth from Manassas Airport?

A. That's correct.

Q. Who was Janet Cafaro as you understand it?

A. J.J. Cafaro's wife.

Q. Did you lend the jeep to Congressman Traficant?

A. Yes. The jeep was lent to Congressman Traficant.

Q. And to your knowledge, did USAG ever get it back?

A. No.

Q. At the time the jeep was provided to Congressman

Traficant, was it provided for him to buy, or was it provided for him to borrow?
A. I'm not sure.
Q. Well, based on the conversation you had --
A. I thought it was to borrow. Based on the conversation at first, I thought it was just to borrow.
Q. At Taverna, how long did he indicate he wanted to borrow it for?
A. For the duration of his hunting trip he was going to go on.
Q. Did there come a time where you learned about an Avanti automobile?
A. Yes.
Q. And how did you first learn of the Avanti automobile?
A. I had heard from J.J. Cafaro in the past that he had taken and either sold or given Jim --
Q. Without getting into what you heard from J.J. Cafaro, did there come a time you had any conversations with Congressman Traficant about the Avanti?
A. Yes.
Q. Tell the jury about those conversations.
A. We were at dinner at Taverna one night. He asked if we could get work done on an Avanti vehicle that he had and needed an electrical window worked on, that had stains that needed to have some touch up paint. The Congressman said

he was very busy and didn't have time to take care of the issues himself, and if we could help him out by finding someplace locally that would do the repairs.

Q. Was USAG in the business of doing car repairs?

A. No, we were not.

Q. Were you in the business of running around trying to set up car repairs for people?

A. No, we were not.

Q. Did Congressman Traficant tell you why he was asking you, the chief engineer of USAG and Rick Detore, the chief operating officer of USAG, to run around and try to find car repairs for his car?

A. Could you repeat the question, please.

Q. Yes. Did Congressman Traficant tell you why he was asking you and Rick Detore to run around and try to find someone to repair his car?

A. Yeah. He said we were mechanical guys and more mechanical than what he had, and he just -- he was busy with his work and needed somebody to take care of this for him.

Q. And what was the response that you and Rick Detore gave to him?

A. The response was sure, Jim, we'll do it.

Q. Was there any discussion of what kind of vehicle he would use during the time that the Avanti was being

repaired?
A. Yes, there was.
Q. Tell the jury about that.
A. The vehicle discussed for him to use during this time period when his car was -- the Avanti was being repaired was he would like to have some type of a sporty vehicle to drive around because he was going to take a trip south where -- I don't remember exactly where it was.
Q. Let me stop you there.
How did that come up? Did he ask you?
A. Yes.
Q. And what do you recall him asking?
A. He didn't ask me personally. He asked Richard Detore. I'm sorry.
Q. What did he ask Rick Detore in your presence?
A. "Can you give me a car? Can you rent me a car for a month?"
Q. What kind of car did he say he wanted?
A. A nice sporty car. It was agreed upon that a Corvette would be rented for him to take his trip with.
Q. Did there come a time where a Corvette was actually rented for him?
A. Yes.
Q. Do you know who rented the Corvette?
A. Richard Detore put the cost of the Corvette on to his

personal credit card.
Q. And did there come a time when the Corvette was delivered to Congressman Traficant?
A. Yes.
Q. Who delivered the Corvette to Congressman Traficant?
A. Richard Detore and myself.
Q. And where did you take the -- where did you pick up the Corvette, and where did you take it? Describe how you did it.
A. I -- the Corvette was delivered to U.S. Aerospace in its parking lot. The car was gone over. A phone call to coordinate with Mr. Traficant was made, seeing when he was going to be there. I followed Richard Detore over while Richard drove the Corvette, and I was in the Suburban. We parked in the parking lot outside the Rayburn Building.

We went upstairs, got Jim Traficant. Jim came down looked at the car, got in the car. They drove the car into the parking lot, the Rayburn Building, and Rick came out with the Avanti.
Q. What did the Avanti look like? What color was it?
A. It was an orangy red color with a brown or tan convertible top.
Q. And why did you take the Avanti?
A. It was coming back to U.S. Aerospace Group so that repairs could be done on it.

Q. And who was tasked back at U.S. Aerospace Group with trying to set up the repairs?
A. Originally, Richard Detore said he was going to take care of it, but I -- it wound up falling in my lap.
Q. Did anyone assist you in trying to find a place to repair it?
A. Yeah. At the time, Rob Looney, who was working for me as a maintenance supervisor.
Q. And can you describe for the jury what, if anything, you and Mr. Rob Looney did to try to find a place to perform repairs on the Avanti for Congressman Traficant?
A. We called around to local area body shops to see if any of them would take the car in. We found one exotic body shop in Manassas Park that would take it.

They only worked on exotic cars. The Avanti's an exotic car. We dropped it off at the -- I forget the name of the place. It sat there for two and a half weeks; finally asked the guy what was he doing with the vehicle. He said he had opted -- it's too hard to find the parts for this vehicle, and he opted not to do the work.

We went back to the place, picked up the car and parked it out behind U.S. Aerospace Group until such time as we delivered it back to Jim.

Q. Did you ever have any repairs done?
A. No.

Q. And do you recall actually returning the Avanti back to Congressman Traficant?
A. Yes.
Q. Can you describe that for the jury?
A. Basically, I followed Richard Detore back over to the Rayburn Building area, parked the Avanti outside. Then I'm not exactly sure because I was in the Suburban waiting for him. And Rick came back out with the Corvette, and we delivered it back over to the place where he rented it from, Downtown D.C.
Q. Okay. When you returned to the Corvette, where did you and Rick Detore go immediately after he turned the Corvette back over to Millennium Rental Car?
A. We went back to the Rayburn Building so Richard Detore could drop off Mr. Traficant's credit card.
Q. Why did Rick Detore have Congressman Traficant's credit card?
A. He had Congressman Traficant's credit card because Congressman Traficant gave him the credit card when he went up to hand over the cars to the Avanti and get back the keys to the Corvette because at that point in time the rental car was still on Richard Detore's credit card.
Q. And to your knowledge, was this December 1999 -- would it have been when the Corvette was returned?
A. It seems like a reasonable time frame.

Q. To your knowledge, had Congressman Traficant been advised by December of 1999 when the Corvette was returned that he was under investigation by the FBI?

A. That I'm not sure of.

THE COURT: We need to --

MR. MORFORD: I was going to say, your Honor, that completes an area. I have one small area to finish tomorrow if you were to stop.

THE COURT: That's fine. We'll stop now. It's a little after 4:30. We'll send you home and come back here 9:00 in the morning. Remember all your admonitions.

(Proceedings in the absence of the jury:)

THE COURT: Let's start with exhibits.

MR. MORFORD: You were going to have the jury leave first.

THE COURT: I'm sorry. Of course. Okay.

(Pause.)

MR. SMITH: Your Honor, I thought what I would do is start with the series 7 exhibits, which were joint, and just read a list of those that I took notes on to be joint. And then I'll do the ones in series 7 that were not joint.

I'm then going to move to series 8 documents in the same way. And then there are a few cleanup documents in

series 1, and there are a number of documents in Exhibit 6. I think I got a total of about 90 exhibits here your Honor.

THE COURT: Okay. We'll go step by step.

MR. SMITH: In series 7, the items that the Government offers, which we understand that the Congressman has offered to be joint exhibits are 7-1, 7-3, 7-7, 7-8.

THE COURT: Okay. I'm going to -- I'm going to have to respond on these, and I was just watching my clerk. So if he and I are together and there's no dispute with the Congressman, I will just admit these as we go along.

MR. TRAFICANT: Your Honor, I will stipulate. I would agree to all of their exhibits, every single one, except the one I objected to and you overruled for the purposes of speech and debate.

THE COURT: Okay.

MR. TRAFICANT: Save us all a lot of time.

THE COURT: We still have to go through the exhibits.

MR. TRAFICANT: Go through them.

THE COURT: Okay. So I'll have you start, and I'll just at the end of each one clear it on the record.

MR. SMITH: Very good. 7-1.

THE COURT: That'll be admitted without

objection.

MR. SMITH: 7-3.
THE COURT: Admitted without objection.
MR. SMITH: 7-7.
THE COURT: Admitted without objection.
MR. SMITH: 7-8.
THE COURT: Admitted without objection.
MR. SMITH: 7-10.
THE COURT: Admitted without objection.
MR. SMITH: 7-12.
THE COURT: Admitted without objection.
MR. SMITH: 7-14.
THE COURT: Admitted without objection.
MR. SMITH: 7-15.
THE COURT: Admitted without objection.
MR. SMITH: 7-18.
THE COURT: Admitted without objection.
MR. SMITH: 7-19.
THE COURT: Admitted without objection.
MR. SMITH: 7-20.
THE COURT: Admitted without objection.
MR. SMITH: 7-21.
THE COURT: Admitted without objection.
MR. SMITH: 7-22.
THE COURT: Admitted without objection.

MR. SMITH: 7-24(1).
THE COURT: Admitted without objection.
MR. SMITH: 7-24(2).
THE COURT: Admitted without objection.
MR. SMITH: 7-25.
THE COURT: Admitted without objection.
MR. SMITH: 7-26.
THE COURT: Admitted without objection.
MR. SMITH: 7-28.
THE COURT: Admitted without objection.
MR. SMITH: 7-38(1).
THE COURT: Admitted without objection.
MR. SMITH: 7-38(2).
THE COURT: Admitted without objection.
MR. SMITH: 7-39(1).
THE COURT: Admitted without objection.
MR. SMITH: 7-39(2).
THE COURT: Admitted without objection.
MR. TRAFICANT: These are all joint exhibits.
THE COURT: Yes. However, 7-38 -- 38(1) and (2) neither was identified as it turns out. The Congressman did say he wants it to be a joint exhibit by the witness on the stand.
MR. TRAFICANT: It was not identified.
THE COURT: Excuse me. The witness on the

stand was unable to make an identification, so it -- it has not been authenticated or identified.

MR. SMITH: Okay. The reason I mention is because the Congressman during my examination said he wanted it joint. I don't care. If he doesn't want it, it's either way.

THE COURT: So Congressman?

MR. TRAFICANT: If it's not identified, I don't want to make it an exhibit.

THE COURT: Okay.

MR. TRAFICANT: They can bring it in.

THE COURT: Okay. So that means that Exhibit 38(1) and 38(2) shall not be admitted because they've not been authenticated or identified.

MR. SMITH: That's fine.

We'll move on 7-39(1).

THE COURT: That'll be admitted.

MR. SMITH: 7-39(2).

THE COURT: That's admitted without objection.

MR. SMITH: 7-39(3).

THE COURT: That's admitted without objection.

MR. SMITH: 7-39(4).

THE COURT: That's admitted without

objection.

MR. SMITH: 7-39(5).

THE COURT: That'll be admitted without objection.

MR. SMITH: 7-43.

THE COURT: That'll be admitted without objection.

MR. SMITH: 7-44.

THE COURT: That'll be admitted without objection.

MR. SMITH: 7-45.

THE COURT: That'll be admitted without objection.

MR. SMITH: 7-51.

THE COURT: Admitted without objection.

MR. SMITH: 7-52.

THE COURT: Admitted without objection.

MR. SMITH: 7-53.

THE COURT: Admitted without objection.

MR. SMITH: 7-60.

THE COURT: Admitted without objection.

MR. SMITH: 7-62.

THE COURT: Admitted without objection.

MR. SMITH: 7-63.

THE COURT: Admitted without objection.

MR. SMITH: 7-72.
THE COURT: Admitted without objection.
MR. SMITH: 7-73.
THE COURT: Admitted without objection.
MR. SMITH: 7-74.
THE COURT: Admitted without objection.
MR. SMITH: 7-75.
THE COURT: Admitted without objection.
MR. SMITH: Your Honor, I would next move to series 7 items the Congressman did not ask to be joint and would offer those.
THE COURT: Okay. Let me just indicate for the record that everything that we've just admitted between 7-1 and 7-75, all of those that we've just put on the record are joint exhibits.
MR. TRAFICANT: Yes.
THE COURT: Congressman?
MR. TRAFICANT: I did -- that did not include the one I objected to; is that correct?
THE COURT: Yes, that hasn't come up yet.
We have now a series that they propose to read, which you did not ask to be joint, and what I ask is that given your statement a few minutes ago, that the two of you spend a moment and see whether or not you also --
MR. TRAFICANT: If you can show me which one

was the one I objected to, Bernard, I'll just stipulate and give you the rest.

MR. SMITH: The one he objected to today was in series 8. We're not there.

THE COURT: It isn't in this.

MR. TRAFICANT: I agree to all series 7. Go ahead.

THE COURT: You want all those to be joint or not?

MR. TRAFICANT: Joint exhibits.

THE COURT: All right. Fine. So all of the next ones we're about to do in 7 will also be joint exhibits.

MR. SMITH: All right. 7-4.

THE COURT: Admitted without objection.

MR. SMITH: 7-5.

THE COURT: Admitted without objection.

MR. SMITH: 7-9.

THE COURT: Admitted without objection.

MR. SMITH: 7-11.

THE COURT: Admitted without objection.

MR. SMITH: 7-23.

THE COURT: Admitted without objection.

MR. SMITH: And 7-55.

THE COURT: Admitted without objection.

MR. SMITH: I was next going to move to series 8. I need to look at my notes to find the one that was objected to for speech and debate grounds.

MR. TRAFICANT: Those will all be joint exhibits, your Honor?

THE COURT: All of the 7 series we went over that they offered are joint exhibits, except the two which --

MR. TRAFICANT: Were not authenticated.

THE COURT: Authenticated, right.

MR. TRAFICANT: Thank you.

THE COURT: 8-29 is the exhibit that an objection was posed to.

MR. TRAFICANT: And I will continue to oppose that objection.

THE COURT: Okay. Very well.

MR. SMITH: This is not what we're going to ask because most were done today, but I'll start. With respect to items in series 8 that we understand to be joint exhibits that at the Congressman's request, I have 8-10.

THE COURT: That'll be admitted without objection.

MR. TRAFICANT: I will stipulate to anything -- all of them except the one I objected to, if he can just read them off, they can be joint exhibits.

THE COURT: Okay. Is that what you want?
MR. TRAFICANT: In the 8 series, yes, ma'am.
THE COURT: You want them to be joint?
MR. TRAFICANT: Yes, your Honor.
THE COURT: All right. So we'll read these all off as joint exhibits.
MR. SMITH: All right. 8-10.
THE COURT: Joint exhibit admitted without objection.
MR. SMITH: 8-21.
THE COURT: Joint admitted without objection.
MR. SMITH: 8-22.
THE COURT: Joint admitted without objection.
MR. SMITH: 8-26.
THE COURT: Joint admitted without objection.
MR. SMITH: 8-27.
THE COURT: Joint admitted without objection.
MR. SMITH: 8-65.
THE COURT: Joint admitted without objection.
MR. SMITH: 8-59.
THE COURT: Joint admitted without objection.
MR. SMITH: Defendant's DD-2.
MR. TRAFICANT: I ask that that be brought in.
THE COURT: Right.

MR. TRAFICANT: It's Defense Exhibit, and I will offer it.

THE COURT: Well --

MR. SMITH: Agreed.

THE COURT: You can, and they would like it to be a joint exhibit so we have --

MR. TRAFICANT: Fine. But I want to offer it, and they can make it a joint exhibit.

THE COURT: Okay. The Congressman is offering --

MR. TRAFICANT: DD-2.

THE COURT: DD-2, and that will come in and be admitted as a joint exhibit.

MR. TRAFICANT: Joint exhibit.

MR. SMITH: All right.

Continuing on, your Honor, Exhibit 8-12(1).

THE COURT: That'll be admitted as a joint exhibit.

MR. SMITH: 8-18.

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-19.

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-36(1).

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-36(2).

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-36(3).

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-38.

THE COURT: Joint exhibit no objection.

MR. SMITH: 8-69 with all ten of its sub exhibits, 8-69(1) through (10) exclusive.

THE COURT: 8-69(1) through (10) is going to be admitted as a joint exhibit, and there's no objection.

MR. SMITH: Exhibit 8-20.

THE COURT: -- that'll be admitted joint.

MR. SMITH: All right. 8-28.

THE COURT: That'll be admitted joint.

MR. SMITH: 8-33.

THE COURT: That'll be admitted joint.

MR. SMITH: 8-35.

THE COURT: That's admitted joint.

MR. SMITH: 8-23.

THE COURT: That'll be admitted joint exhibit.

MR. SMITH: 8-24.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-63.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-17.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-39.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-44.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-43.

THE COURT: Admitted joint exhibit.

MR. SMITH: 8-46.

THE COURT: Admitted joint exhibit.

MR. SMITH: Although there is an objection, we understand the Government offers 8-29, which is the one the Congressman objected to.

THE COURT: All right. The objection is overruled, and so that'll be admitted over objection.

MR. SMITH: Your Honor, there are a few cleanup documents in series 1 that were -- I apologize not catching with these days ago, but I need to offer them because I missed them.

Exhibit 1-20 is a document that was authenticated by Lisa DiLoreto as being the handwriting of Henry DiBlasio. It's a note from Henry DiBlasio to Marcone concerning the lease, 11 Overhill; is that right? Matt?

MR. KALL: Um-hum.

MR. TRAFICANT: I ask it be a joint exhibit.

THE COURT: Let me find it here. Okay. That

will be admitted as a joint exhibit without objection.

MR. SMITH: Sorry. Exhibit 1-40, which also was authenticated by Lisa DiLoreto as being handwriting of Henry DiBlasio I believe on an envelope.

THE COURT: That's been admitted as a joint exhibit already.

MR. SMITH: I'm sorry.

THE COURT: That's okay.

MR. SMITH: I guess I'd better correct myself on Exhibits 1-41, 1-42. Are we in the same boat there?

THE COURT: Yeah. They were both previously admitted as joint exhibits, Congressman.

MR. SMITH: Next, your Honor, series 6. Exhibits -- and these are all self-authenticating items, the next several that I'm going to do. They are deeds in the general allegations, Paragraphs 3 and 4 of the indictment in the superseding indictment as well.

The indictment alleges both with respect to the farm and with respect to the Congressman's residence, the chain of actual title by deed, and there has been one deed that's already been admitted because the witness identified it, 6-11, but to complete that chain of title on both pieces of property from when they were initially purchased, we offer seven exhibits, which start at 6-4 --

MR. TRAFICANT: Question.

MR. SMITH: Yes, sir.

MR. TRAFICANT: Were they authenticated by witnesses?

MR. SMITH: No. They're self-authenticating documents, your Honor.

THE COURT: Right. They don't need the same kind of treatment because they're deeds.

But if you'd like to look at them, I have them here.

MR. TRAFICANT: Yeah. I'd like to look at them.

MR. SMITH: I've got the originals right here, your Honor.

THE COURT: Okay.

MR. SMITH: They all bear the certification, the corporate custodian.

MR. TRAFICANT: Are these all the documents that you've had and gotten relative to that property from its inception and purpose or just these documents?

MR. MORFORD: Just these documents.

MR. TRAFICANT: I have no objection.

THE COURT: Okay.

MR. TRAFICANT: In fact, I ask to make them joint exhibits.

THE COURT: Okay. Joint exhibits.

MR. SMITH: Well, it's going to be 6-4, 6-5,

6-6, 6-7, 6-8, 6-9, and 6-10. Those are all property deeds.

THE COURT: Okay. So they will come in now as joint Exhibits admitted with no objection. It's 6-4, 6-5, 6-6, 6-7, 6-8, 6-9, and 6-10.

MR. SMITH: Lastly, your Honor, are the series of ethics and Government act forms that were authenticated by Jackie Bobby and Grace Kavulic, which now become relevant now that the Bucheit and Bucci parts of the case, in particular, have been completed.

Specifically, I'll read off the numbers and explain why they're relevant.

Exhibit 6-21, 6-22, 6-23, 6-24, 6-25, 6-26, 6-27, and 6-28.

MR. TRAFICANT: Can you give a brief synopsis of what they were?

MR. SMITH: Yes. Ethics and Government act forms filed between and including the years of -- let me get the years --

MR. TRAFICANT: Are they public record matters?

MR. SMITH: We believe them to be public record matters, starting in 1990 and going all the way through 1997. Here I'll show you.

THE COURT: These are our -- the Congressman

and I have to file these financial disclosure forms. That's what they are. I file them; you file them.

MR. TRAFICANT: You do?

THE COURT: Yeah, we all have to file them. Anyway, there they are, Congressman.

MR. TRAFICANT: They're public -- anything public record I'll admit to as joint exhibit so we don't waste time.

MR. SMITH: Very good. We offer all of them between 6-21 through 6-28 inclusive, the financial disclosure forms.

THE COURT: They were identified by Bobby up through 27.

MR. SMITH: Right, and Kavulic did 28.

MR. TRAFICANT: However, if they're caught lying --

THE COURT: But it's --

MR. TRAFICANT: I want the record to reflect that if they are, in fact, manipulating it through some misrepresentation --

MR. SMITH: If who's caught lying?

MR. MORFORD: They're his forms.

THE COURT: These are your forms, sir.

MR. TRAFICANT: I know.

MR. SMITH: They were authenticated by

witnesses, your Honor.

THE COURT: You don't have to make them joint.

MR. TRAFICANT: I want them to be joint exhibits.

THE COURT: Okay. Then they will be admitted, and they're joint exhibits. And that's they're numbered 6-21, 6-22, 6-23, 6-24, 6-25, 6-27 and 6-28.

MR. SMITH: I didn't hear 6-26.

THE COURT: You listen very well. I forgot it. 6-26.

MR. TRAFICANT: What is 6-26?

THE COURT: Same thing. I just left it out when I tried to read them sequentially. It's a financial disclosure form.

MR. SMITH: For the year 1995.

THE COURT: Yeah.

MR. SMITH: Your Honor, that concludes the offering of exhibits for today.

THE COURT: Okay. Have you any more to offer?

MR. TRAFICANT: I offered DD-2.

THE COURT: Okay. Very well. Yes.

MR. MORFORD: Your Honor, there are a few matters that I think we need to address with the Court

because of the part of the proceedings we're in now.

We're to the point where we only have a couple more witnesses left, and we believe we could rest as early as Monday or Tuesday, and because of that, there's a couple issues I'd like to address now if I could, so we don't have to address them in front of the jury, have them waiting, and waste their time.

THE COURT: Okay.

MR. TRAFICANT: Your Honor, I would like to address them at the end of their Prosecution unless they remain salient to any of the witnesses they have currently coming.

THE COURT: Yeah.

MR. MORFORD: I'd like to address that because my fear is if we wait until then to address it, we may have a down period where the jury's doing nothing because we didn't address it.

THE COURT: Right. I don't know what it is, guys. I mean, you both may know, but I don't know what we're talking about here.

MR. TRAFICANT: Tell me, I already have witnesses subpoenaed. I'm ready to go.

THE COURT: Well, we've got until 6:00 here that we did -- we're leaving at 6:00, but I know you have to work until 6:00 if we have something to work on. So

let's do it today. Tomorrow we let the jury go home at 12:00.

MR. MORFORD: Your Honor, the first one is I understand from court docket entries regarding subpoenas that a number of subpoenas for records have been subpoenaed. I'm not sure whether the Congressman has yet received those documents, but under reciprocal discovery, he needs to provide those to us as soon as they're received.

I asked him about this this morning, and I did not get a straight answer, and if he is obtaining documents that he intends to use as evidence, we have a right under discovery to obtain those. We have given him complete discovery throughout this case, and I would like any documents he has now that he has not given us that he intends to use immediately.

THE COURT: Well, I think he understands reciprocal discovery, but we don't know whether he's got any.

MR. MORFORD: That's what I want to find out.

THE COURT: Okay.

MR. TRAFICANT: Pursuant to witness testimony, there has been service made relative to subpoenas and not all of the information has been received on the subpoenas that I have obtained, and there still are

outstanding parts of those subpoenas that I have not gotten so that I cannot put together that whole document.

Now, as soon as I receive all and any of the matters relevant to those subpoenas, I will turn them over expeditiously to counsel.

THE COURT: So you're -- so you're not waiting to get every subpoena returned before you give an answer?

MR. TRAFICANT: No.

THE COURT: You're just waiting to get all relating to one subpoena?

MR. TRAFICANT: No. I have several subpoenas for records. One fellow I can't reach yet at this point still. Another one I've only gotten partial response and not all of it. And I am not going to be turning over partial response of anything until I have my complete subpoena served and all of the information within it served so that I can, in fact, then put it together and coordinate it. It's not withholding it. It just doesn't fit.

I didn't get all the parts and pieces yet to, in fact, for me to analyze it.

MR. MORFORD: That's not the rule, your Honor. If there's evidence that he has received and has in his possession that he intends to use, he needs to give it to us immediately.

THE COURT: Well, I think he's saying there's nothing he intends to use yet. Is that --

MR. TRAFICANT: No.

THE COURT: Because you have to look at everything to decide.

MR. TRAFICANT: I have to look at the rest of it to see what, if any, I will use.

THE COURT: Okay. Why don't we do this with this issue because I don't think there's confusion about reciprocal discovery. That's really clear. I think it just may be when the discovery has to be made. And the discovery, Congressman, has to be made when you -- when you get them.

Now, what you should do tonight is to organize yourself around what it is you have. But, then you do have to make discovery. You can't just wait --

MR. TRAFICANT: Your Honor, let's say that I have subpoenaed A, B, C and D.

THE COURT: Okay.

MR. TRAFICANT: And I have got A and C without B and D. I don't know if I'm going use it.

THE COURT: They still get the discovery of that.

MR. TRAFICANT: Well, I still have outstanding my subpoenas; aren't completely served yet.

They're not --

THE COURT: You'd better get on with that because they're about to finish their case here I understand.

MR. TRAFICANT: No. I understand what they're saying. But they have given to me -- today they gave me a document before they started that read $13,000 in total monies on a boat, and then I saw $26,000.

MR. MORFORD: That was a document he was given four weeks ago. Your Honor, what we did is give him everything we had, whether we knew we were going to use it or not with the idea that if we weren't going to use it, then he would still have it.

And all I'm asking is that as he obtains documents, which he might use, that he provide them to us upon receipt.

THE COURT: Well. That's his obligation. I think he will, but he doesn't have them right here with him now.

MR. TRAFICANT: I don't have them, and I have not had full cooperation in some areas, and I have to personally go and visit with some people to, in fact, effect my attainment.

THE COURT: It's only when you do get something, then that's when you need to turn it over.

MR. TRAFICANT: I will be organizing and some of those things being delivered, and when I do, I'll be glad to let them come and -- is it my requirement to make copies for them?

THE COURT: You have to provide them. If you want to give them the originals, you can give him the originals. You have to provide something -- work it out. You need to work that out on the other side. They've been giving you discovery for a long time. Now it's your turn to give them discovery.

MR. TRAFICANT: I've given them all kinds of discovery.

THE COURT: Well, great. That's great, but we also have a lawsuit to try and a jury here. We're ready to get it tried. We don't want to delay.

MR. TRAFICANT: I'm not delaying, your Honor, but my subpoenas that are out there --

THE COURT: Okay.

MR. TRAFICANT: I have witnesses ready to go, but they're not subject to the subpoenas where the types of things that Mr. Morford is referring to are now available to me. When they become available, I'll give them to him.

MR. MORFORD: Here's my request: It's very simple, and I am only bringing it to the court's attention because I tried to work it out earlier today and could not.

THE COURT: Okay.

MR. MORFORD: It is any document that he now has in his possession, that he bring it here tomorrow morning and either give us a copy or the original so our agents can copy it. If he has it in his possession, that we have it in the morning, and anything that he has in his possession tomorrow morning or prior to tomorrow morning -- if he doesn't have it now, that we don't get it. And I am going to move that it not be put into evidence because he's not provided it to us when he should.

THE COURT: Yeah. You do have to provide it to them. So you can show them originals tomorrow and make a copy over the break if you need to.

MR. TRAFICANT: I cannot make copies of it. I will have to attend with them and give them the originals. They'll have to make the copies of them. I will not be able to provide that service for them.

THE COURT: Well, well --

MR. TRAFICANT: I assure you of that.

THE COURT: You may be able to do it over the lunch break then, but you've got to make copies for them. You can't just not make copies because you don't want to make copies.

MR. TRAFICANT: I know, your Honor. You also need a copy, don't you?

THE COURT: If you are going to use it, I do. But I don't know if you're going to use it in trial. I don't need things unless you use them at trial.

MR. TRAFICANT: I'm telling you I'm just receiving these because they've been late coming, and I don't know what, if anything, I am going to use.

THE COURT: Well, tomorrow --

MR. TRAFICANT: I think what I plan to use, I won't be able to have them here, but I will bring them here to have them copied. I'm sure as hell not going to let them take them out of here without me escorting them to have them copied. I will not be able to have them copied tomorrow.

MR. MORFORD: You can go with our agents at lunch time, and they will copy them in our office during lunch.

MR. TRAFICANT: Well --

THE COURT: That's a good -- that's a good offer. I will -- I'd take him up on it. I don't know how many papers you have, but that's a good offer.

MR. MORFORD: Or have one of your assistants go with our agents.

THE COURT: You understand discovery, and I'm confident you do. So let's just get it done tomorrow. If you want to wait until -- you can use the lunch hour, 12:00

to 1:30 to get your obligations completed with that, and then you may get a response to a subpoena next Monday. Then that document comes over. It's when you get it that they have a right to see it, whether you're going use it or not. They have a right to see it. That's the discovery part of this. You just are having to do it at the end, whereas they did theirs earlier, but that's because they go first in the trial.

MR. MORFORD: Next, your Honor, again, because we're getting near the end of the case, I just want to advise the Court that based on some of the issues that came up during testimony, we may have a couple supplemental jury instructions that we'll file with the court.

THE COURT: Good.

MR. MORFORD: And second thing, I know that the Court had asked that Congressman Traficant and the Government come up with some kind of language for joint exhibit. He was going to prepare something in writing and give it to us. We don't have that yet, but we need to get that done because we're getting to that point in the case.

THE COURT: Okay.

MR. TRAFICANT: Well, I'm hoping you're not implying I am not cooperating with you because --

THE COURT: No. You know it's not -- I'm not sure we need anything fancy on this. It's just that --

MR. TRAFICANT: Yeah.

THE COURT: You asked that we define for the jury what is a joint exhibit.

MR. TRAFICANT: That means that both sides --

THE COURT: Are offering it.

MR. TRAFICANT: Are offering it, right, that's it.

THE COURT: I'm not sure --

MR. TRAFICANT: I don't think it's rocket science. I think it should say --

THE COURT: Just write it down. You want the instruction. I mean -- and I have never given the jury the instruction before. So if you want --

MR. TRAFICANT: Contrary. This is the first time in the case I've seen where you've instructed a jury twice.

THE COURT: Oh, I instruct them all through.

MR. TRAFICANT: Good.

MR. MORFORD: I'm saying if he has an instruction he wants, if he writes it up, gives it to us so we'll be able to look at it.

MR. TRAFICANT: I would like to mutually work it out with you guys. You have experience.

MR. MORFORD: You have to let us know what you want because I've never seen one, either a joint

exhibit instruction. I have no idea.

MR. TRAFICANT: With your legal background, you want me to instruct you?

MR. MORFORD: I want to know what it is.

MR. TRAFICANT: What I wanted to say, I think we can work it out now, that a joint exhibit means that both parties are offering it in their own behalf. They offer it as a defense exhibit, and they offer it as a Government exhibit.

THE COURT: Okay. You like that one, gentlemen?

MR. MORFORD: That's fine.

THE COURT: Look at this. It's amazing.

MR. TRAFICANT: Wasn't that easy?

THE COURT: Very easy. Okay. We'll give that instruction to the jury.

MR. MORFORD: The third area --

THE COURT: But I also should remind you, Congressman, that at some point, if you have any additional jury instructions to give the Court, you need to get them to me because we start working on jury instructions early in the case so that as soon as everything's finished and you do your closing argument, we can send the jury home.

MR. TRAFICANT: When is the deadline?

THE COURT: Oh, it's past I think, but you

can augment as we go along because of what happens in the case.

MR. TRAFICANT: I see. Thank you.

THE COURT: So if there's anything you want that you think is important as a jury instruction --

MR. TRAFICANT: I would ask that.

THE COURT: Propose it.

MR. TRAFICANT: To look through the notes and find what would be exculpatory for me to help beat them.

THE COURT: Last time you wanted me just to be fair and impartial. What else.

(Laughter.)

MR. MORFORD: We're going to file a request for special verdict form on the RICO count, and we'll file that tomorrow as well.

THE COURT: That'll be good. I hope you attach some samples.

MR. MORFORD: Yes. The next area, your Honor, has to do with tapes.

THE COURT: Okay.

MR. MORFORD: And Congressman Traficant has made some statements recently that he has a number of tapes that he anticipates offering into evidence, and I only bring it up now because I don't want to get to a point on Monday or Tuesday where we rest, we then address the issue

of tapes, and if, in fact, the tapes are not admissible evidence, we object and the Court understands they're not, suddenly Congressman Traficant is expected to go play several hours of tapes and maybe doesn't have witnesses ready. There are nine tapes that he has given us. Two of those tapes are tape recordings he made with Henry DiBlasio. Two of those are tape recordings he made with Rick Detore. Two of those are tape recordings he made with Pete Bucheit. One is with some person named Kerchum; one with someone named Robin Best. One with Harry Maganarro.

From Congressman Traficant's statements about these tapes, it's clear that he believes that these tapes would be admissible. I am not aware of any rule of evidence that would allow him to admit the tapes unless the witness, who's on the tape, is here to testify to it, and even then the tape itself wouldn't come in. It would be the witness' testimony.

So I'm only raising this because I think it's an issue that's going to have to be addressed, or we may have some delays for the jury.

MR. TRAFICANT: I'd like to cite U.S. versus Traficant 1983. And I'd like to state that if a tape can impeach the testimony of a witness, that it is eligible to be used, or if a witness who would then at some particular point change their testimony, which may come about through

whatever means, and if the tape can be used to impeach, it is admissible. One party of a tape must consent to the tape. One of the tape has been consented to; some of them have not.

The bottom line is they deal with issues in this case. One of them deals with an issue that the fellow has taken the Fifth Amendment. He's unavailable.

THE COURT: You can respond.

MR. MORFORD: Your Honor, it's not enough to say he's unavailable. There is a section of the hearsay rules, 804, I believe, that talks about the rules when a witness is unavailable, but the mere fact a witness is unavailable --

THE COURT: We've been through that already in this case. You remember that?

MR. TRAFICANT: That's already been proven.

THE COURT: But not as to your witness.

MR. MORFORD: But, your Honor, here's what I would suggest is, that if the Congressman takes a look at Rule 804 it's the hearsay exceptions for an unavailable declarative assistant, and there are very specific and limited circumstances in which the tape recording of an unavailable witness can be put into evidence.

THE COURT: Right. If we -- we have to go through an area outside of the jury and so forth, we

have --

MR. TRAFICANT: I'd like to respond.

THE COURT: Okay.

MR. TRAFICANT: Isn't it best, any and all best evidence when a witness, for example, takes the Fifth Amendment? Now, the Government gives them proffers.

Now, if I have an individual that's taken the Fifth Amendment in this case, and I have tapes on that individual, there should be no question pursuant to precedence set in U.S. versus Traficant in Cleveland, Ohio, Northern District of Ohio.

THE COURT: Unfortunately, I'm not governed by what another district judge did, but I don't know what that judge did, and I'll be glad to go back and read the orders if you bring them to me.

MR. TRAFICANT: You have the case.

THE COURT: I don't know what you're referring to.

MR. MORFORD: I can address it. What that court did is it put in tapes of conversations Congressman Traficant had with mobsters on the theory that his own statements were admissions by a party opponent, and the other people's statements were put in to put those statements in context. It had nothing to do with the tapes we're talking about, and all I'm suggesting to the court is

that Congressman Traficant should file something with the Court to indicate what tapes he intends to offer and the legal theory under which he believes it's admissible so we don't get to Monday or Tuesday, rest, and suddenly have this issue with the jury sitting in the box.

MR. TRAFICANT: Well, let me respond, your Honor.

I'll take a look at 804, and I understand the great concern that the Prosecution is showing.

Now --

THE COURT: Well, it isn't.

MR. TRAFICANT: I have a question before I go forward on the tapes.

THE COURT: Okay. But if there is a problem, you're just relying on the tapes they're describing and somehow you think you can just bring in something and play them for the jury. These are audio tapes?

MR. TRAFICANT: I am not thinking I can bring them and play them for the jury. I understand they have to be admitted, and you will have to make a decision on them, and they have yet to rest their case. They've now brought the issue. They're aware of nine tapes at least. Did you say nine or ten?

MR. MORFORD: There's nine that you've given us, and I don't see any theory of admissibility on any of

them, which is the only reason I'm addressing it with the court.

MR. TRAFICANT: Well, naturally I would like to keep everything out. You have to rule. That will be your decision, and I will offer an appropriate answer to that. But I am asking the Court this.

If an individual is taking the Fifth Amendment and that individual is taking the Fifth Amendment, if the Government has clearly demonstrated that he's not available and will not be available, then any and all evidence and best evidence shall be admissible.

MR. MORFORD: No.

THE COURT: Okay. That I don't know of any rule like that. I don't know any circumstance that we have that is like that. So --

MR. TRAFICANT: If I have a person taking the Fifth Amendment and if he's not -- doesn't make himself or herself available for testimony, and I have tapes on that individual --

THE COURT: Well, then we have --

MR. TRAFICANT: -- why can't I use it?

THE COURT: Who are you talking about?

MR. TRAFICANT: DiBlasio.

MR. MORFORD: The problem is, your Honor, he has to be subject to cross-examination, or --

THE COURT: Yeah.

MR. MORFORD: -- there has to be a limited situation covered under Rule 804 and a long series of case law that's developed that applies to all people, that there are circumstantial guarantees of trustworthiness and indicia of reliability.

THE COURT: We've been over that. I think we've even written on it.

MR. MORFORD: Yes. And there are Supreme Court cases.

THE COURT: And constitutional issues. And so it's not straight forward, and I think, Congressman, that it would be really important for you and also so that we don't delay this trial that you take this opportunity to consider what it is you're going to need to do in order to have admissible evidence given, what it is that you've supplied, which I have never looked at, to the other side.

Figure that out because you don't want to be left assuming that you're going to be able to rely on something if you can. You can bring witnesses in, that's what people normally do.

MR. TRAFICANT: I've never assumed anything in this case. What I'm saying --

THE COURT: Okay.

MR. TRAFICANT: If a witness is unavailable

and I have that witness on tape, are you saying that I can't use a tape?

MR. MORFORD: That's what the Supreme Court has said, your Honor.

THE COURT: Yeah. I don't make up the rules, really, I just enforce them. I am a trial judge. I am not the somebody who makes the law here.

But the law is available for you to explore. This is one of the things about litigating your own case, even though you do wonderfully well in lot of aspects of it, where it's important that if you -- you take the time you have now, Friday, Saturday, Sunday and I guess Monday, they think they may still be going into this, look at the issues, look at the rules, and figure out how you can get the evidence you want to put in front of this jury in.

The thing that we don't want to have happen is that we shutdown a trial while you go and figure it out because you get rulings that are adverse to you, and I think I can predict that the rulings would probably be adverse right now from what I know right now. I can't imagine how --

MR. TRAFICANT: You're making a prediction already?

THE COURT: Well, from what we've talked about here today, I think you'd better go back to your books.

MR. TRAFICANT: Let's talk about what we talked about today.

Did I make available tapes to the Prosecutor?

THE COURT: Apparently.

MR. MORFORD: That's irrelevant. That doesn't cover the issue. You need to look at the Supreme Court cases that deal with unavailable --

MR. TRAFICANT: Hear me, I'm speaking. I thought I was speaking.

THE COURT: Okay. Speak.

MR. TRAFICANT: I will address the Court, but I am telling you this: If I have a witness who's unavailable and has taken the Fifth Amendment and that tape is exculpatory for the Defendant, and you keep it out on the record, I believe -- I don't care what the Supreme Court has ruled, you have not allowed the Defendant to provide the best possible evidence in his or her defense.

Now, having said that, one of those tapes was consensual.

THE COURT: Okay. Well, I think -- I think this is an area that has a lot of pins and needles in it, and you ought to do your very best to get on top of this and make sure that you have -- that you are bringing in witnesses and evidence that is going to allow you to put before the jury what you want to put there.

I can't try your case, and I can't advise you on how to try your case, but today, this afternoon, I think you have fair warning that you're going to have to be very thorough.

MR. TRAFICANT: Fine.

THE COURT: When you figure it out, because, Congressman, the Rules of Evidence apply to everybody, and they apply in this case. And they apply whether you are on one side or the other side.

MR. TRAFICANT: I know they do, but what I'm telling you is they're bringing up this issue now when they could have brought the issue up as early as July.

THE COURT: They don't have any obligation to bring it up.

MR. MORFORD: That's your job.

THE COURT: They don't have any obligation to bring it up. So let's--

MR. MORFORD: That's your job.

THE COURT: They don't have any obligation to bring it up. So let's --

MR. TRAFICANT: I am not on the Defense yet.

THE COURT: No. But where we are in the case, is that as I understand it, they have -- the witness is on the stand now, and they have a couple of more witnesses, and then they expect that they'll be wanting to

rest, which means by our calendar, that will probably be Monday or Tuesday. It'll be time for you to put on your case. Now, you have some days here, and they're days in which you can probably get this resolved. You can figure out what you want to do.

MR. TRAFICANT: The Government told me they were going to move through three people today, and they took the whole day on direct with one witness.

THE COURT: Well, it's hard to tell in trials, it's really hard. Any time anyone asks me how long something is, I'll say I don't know because I really don't know. But we do know that tomorrow at noon the jury goes home so we've only got a half day tomorrow for them. We may just stay, and then we've got some time on Monday, and you might rest Monday. You might rest?

MR. MORFORD: Depending on how it goes, your Honor.

THE COURT: Okay. And then there you are. Their case is done, and so --

MR. TRAFICANT: I'll present appropriate -- I'll present appropriate response for you.

THE COURT: Okay.

MR. TRAFICANT: And let me just say this, though.

I would hope that I would not take your earlier

comments to be predisposed on the basis of limited argument presented by the --

THE COURT: No, I just --

MR. TRAFICANT: -- already made a decision.

THE COURT: No. I just have to see what you actually present, and then we all have to deal with what the law is. Okay?

MR. TRAFICANT: Thank you.

THE COURT: Yes.

MR. MORFORD: Another issue, your Honor, is right after J.J. Cafaro testifies, we have an IRS agent, Bruce Hess, who will testify, and he will summarize evidence, including the testimony of J.J. Cafaro, as to whether or not certain items are taxable or not for purposes of the false tax return.

Under the Court's prior ruling, he is not sitting in on that, on the testimony of the witnesses, on --

THE COURT: Right.

MR. MORFORD: Who he'll base his testimony, but he's been reading transcripts.

If he has to read the transcript of J.J. Cafaro, we may have downtime while we wait to get the daily copy to get to him.

MR. TRAFICANT: I object to this.

MR. MORFORD: Let me finish, please. You

asked not to be interrupted. I'll ask the same.

THE COURT: It's getting late in the day.

MR. TRAFICANT: You can object when you're speaking, you know.

MR. MORFORD: Are you finished?

MR. TRAFICANT: I object to what you're doing.

THE COURT: Yeah, very well.

MR. MORFORD: I'd like to finish telling the Court --

MR. TRAFICANT: Go right ahead.

MR. MORFORD: -- all I'm telling the Court is that if, when Mr. Cafaro is finished, we have to wait for a transcript and wait for the witness to read the transcript, there may be downtime for the jury, and I'm asking if the Court wants to have Mr. Hess sit in for J.J. Cafaro's testimony so we will not have a delay, and that he'll be our last witness, Mr. Helps.

THE COURT: No. We have a -- that issue came up. We have a separation of witnesses that was asked for by the Congressman, and when he objected to them sitting here, I upheld what he said, and no, they can't come in.

MR. TRAFICANT: Your Honor, for the sake of expedience, I will allow this summary agent to attend if he sits at the Government's table and does not sit in the

audience that may be surrounded by someone.

MR. MORFORD: I don't have a problem with that.

MR. TRAFICANT: He has to sit at the table.

THE COURT: Okay.

MR. MORFORD: That's fine.

THE COURT: That's fine.

MR. TRAFICANT: That's fine with me.

THE COURT: Okay.

MR. MORFORD: Just for the sake of the jury, I don't want to hold them up, your Honor.

THE COURT: All right.

MR. MORFORD: Finally, the two motions that the Congressman has filed on witness intimidation, particularly dealing with one on Mr. Speranza, the other one on alleged witness intimidation by Mr. Pikunas, I'd like to ask the Court if we can deal with those now and get those addressed one way or the other and not leave the agents who have been accused of these accusations just sort of hanging out there to dry.

MR. TRAFICANT: Your Honor, I'd like to respond. I ask that we delay that until tomorrow. I had a phone call this afternoon that one of my process servers happened to notice he was followed. Photographs were taken. He then followed the person, stopped him at a red

light. The fellow pulled out a badge, identified himself as an FBI agent and told him back off, buddy. Now, I'm waiting for an affidavit, and I would like to have all three of those handled at the same time.

I would expect to have that affidavit tomorrow, and if I do not, I think we can handle the case tomorrow.

THE COURT: Here's what I'd like to suggest. Everything that he talked about this morning -- no, yesterday morning, I said he had to do in writing, and so do you, okay? Everything in writing, folks. This is an unusual kind of -- part of this case or not part of this case. I can't tell you, so I'd like everyone to put things in writing, and that way we have everybody's idea written down, not just talked about.

MR. TRAFICANT: Yes. Mine are written in the form of motions.

THE COURT: Yeah, I have them right here.

MR. TRAFICANT: And I hope you can read them. I apologize, but now I want the other affidavit because I want to first of all verify it.

THE COURT: Okay.

MR. TRAFICANT: And I want the opportunity to submit it, and then if you want, you can call the agents, and you can do whatever you want with it.

THE COURT: Well, I don't know whether I'm

even involved in this. So when you have it written down, get it filed, and I'll consider it.

MR. TRAFICANT: I'll try to have it tomorrow.

THE COURT: Fine. When they get their response in, I'll consider their response.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: You're welcome. Okay? Thank you.

MR. TRAFICANT: Now, your Honor, one last thing. Do you assume that we will be out of here near noon tomorrow?

THE COURT: Not us, but the jury goes at noon. I assume we'll be out here.

MR. TRAFICANT: You have any targeted time?

THE COURT: Well, 6:00. That's what we've said from the beginning. We have to be prepared to work until 6:00. We don't always have to. In fact, rarely we've had to, but we have to be ready to.

(Proceedings adjourned.)

CROSS-EXAMINATION OF DOMINIC ROSSELLI..... 3419
DIRECT EXAMINATION OF TRACY SLOAN..... 3452
CROSS-EXAMINATION OF TRACY SLOAN..... 3461
REDIRECT EXAMINATION OF TRACY SLOAN..... 3484
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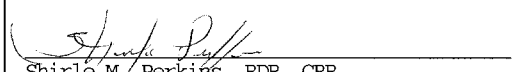
CROSS-EXAMINATION OF MATTHEW HALL..... 3499
DIRECT EXAMINATION OF ALBERT LANGE, JUNIOR..... 3513

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

- - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON FRIDAY, MARCH 15, 2002

Jury Trial

Volume 19

- - - - -

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Friday Session, March 15, 2002, at 8:45 A.M.

THE COURT: You're still under oath, sir.

THE WITNESS: Yes, ma'am.

DIRECT EXAMINATION OF ALBERT LANGE (cont)

BY MR. MORFORD:

Q. Good morning, again, Mr. Lange.

A. Good morning. How are you today?

Q. Good. Thank you.

I just have a few more questions to ask you in one last group before we wrap up here with direct examination, and they're going to deal with questions about unrest at the end of your time with USAG. Okay?

A. Yes, sir.

Q. Did there ever come a time when any of the officials at USAG began to question the value of Congressman Traficant's assistance to USAG?

A. Yes.

Q. And can you explain to the jury when and why that came about?

A. It started to come about around the summer of '99, and it was Capri Cafaro who had a lot of concerns about our involvement with dealings with Mr. Traficant.

Q. And what, if any, plans were discussed in terms of how you would go about your contacts in lobbying with Government officials apart from Congressman Traficant?

A. That Capri Cafaro would be the lead on those areas, and that we were supposed to stay away from him.
Q. Was there ever a time when you began pursuing the idea of hiring professional lobbyists?
A. Yeah. There was a time, but I don't remember who the gentleman was, and I know we never wound up hiring him from as far as I know.
Q. Now, did there ever come a time that officials at USAG began to question the effectiveness of Rick Detore and his leadership as the chief operating officer of USAG?
A. Yes, there was.
Q. And again, could you describe for the jury the nature of that situation?
A. There was a confrontation, a covert type confrontation that started between Capri Cafaro and Rick Detore around the same time frame. Capri would have direction that she'd like to see happen, and Rick would just ignore it, and as time progressed and money started to get a little short, the confrontation and the unrest between the Cafaro family and Richard Detore started to deteriorate in leaps and bounds.
Q. Two years into the project, had USAG obtained FAA certification for this technology?
A. No, it had not.
Q. Two years into the project, had USAG obtained any

contracts for the nautical application?
A. No, it did not.
Q. Was the company losing money?
A. The company was hemorrhaging money.
Q. Was the company having trouble paying its bills?
A. Yes, it was.
Q. Did there come a time where there was a change in leadership at USAG?
A. Yes, there was.
Q. And can you describe for the jury how that came about?
A. It came about, starting in the early December time frame, when Richard Detore missed a few payments by him on his performance bonus or whatever it was supposed to be, that his daily routine was to talk down about the capabilities of the Cafaros, along with carrying his employment agreement, plus some patent applications around the building on a daily basis, just completely disrupting any type of momentum as far as work was concerned.
Q. During that time period, did you enter into discussions with anyone about changes in the structure of leadership at USAG?
A. Yes, I did.
Q. And can you describe those for the jury?
A. I started discussing this with J.J. Cafaro and also

with Capri Cafaro, stating that, you know, you can't run a business and have this kind of turmoil constantly being exposed to the employees of the company.

From that, I -- we started to strike a plan to find what was necessary to remove Richard Detore from -- as the chief operating officer of the company. It was delayed -- the change of the guard was delayed until after Jim Traficant's primary election was held. For what reason, I have no idea.

Q. Did there come a time that Rick Detore was fired?

A. Yes, there was.

Q. And was there any particular event or situation that caused him to be fired at the particular time he was fired?

A. Basically, at that point in time, the final -- the final straw that broke the camel's back was his -- his telling people around the office that Capri Cafaro had left the country to be rehabilitated for drug abuse and all kinds of weird things like that. At that point in time, J.J. Cafaro came in and terminated his employment.

Q. To your knowledge, was there any truth to that allegation by Richard Detore?

A. Not that I'm aware of.

Q. Who actually conveyed to J.J. Cafaro that Rick Detore was making these types of allegations?

A. I did.

Q. And as a result of that, what did J.J. Cafaro do?
A. J.J. Cafaro flew into town and terminated Richard's employment.
Q. Now, on the day that Rick Detore was fired, how much time was he given to remove himself and his stuff from the office?
A. About 45 minutes. Actually, the whole conversation between Richard and the termination period of time I would say from the time J.J. rolled into the office area until the time Richard was escorted out of the building was a total of 45 minutes.
Q. Did you talk to Richard Detore during the time period from the time that J.J. Cafaro told him he was terminated until Richard Detore left the office?
A. Yes, I did.
Q. And what did you tell Rick Detore?
A. I basically told him I was sorry that my hands were tied, that if I didn't go along with this, that I would have been fired myself, and that I didn't agree with it, but I didn't have any choice because I still have to pay my mortgage.
Q. Was that true?
A. No.
Q. Why were you telling Rick Detore those things?
A. I had two reasons: First, I wanted to escort Richard

out of the building prior to him losing his temper and possibly having some kind of physical altercation for one.

Two, Richard had a lot of contacts. We were still in the pursuit of trying to gain contracts, and I wanted to make it appear to him that I wasn't involved so that he wouldn't be making calls around the community that we were doing business, stating that, you know, that he was wrongly terminated, and I just wanted to make it -- I wanted to keep him neutralized as long as possible until such time as we could get a contract.

Q. You were afraid he might hurt the company in his anger?

A. Oh, sure.

Q. Now, did there come a time in the spring of 2000 when you had discussions with a lawyer by the name of Geoff Mearns?

A. Yes, there was.

Q. And who was Geoff Mearns representing at the time that you met with him and talked with him?

A. When I first met Geoff Mearns at the U.S. Aerospace Group the day that I took the -- was probably two days after I took over. The day that I took over, I -- I told J.J. Cafaro that I wanted to have accounting people into the U.S. Aerospace office to get a total accounting of -- from the money where it sat because as -- when I was taking

over the organization, I wanted to have a line drawn and a statement stating that this is all preoutlined problems or what happened here was preoutlined expenditures and what have you, and what kind of business dealings, just to have that line in his hand.

It turned out that he was not there to account for the books, that the books for U.S. Aerospace Group, I believe, were subpoenaed by your office.

Q. Okay. And in what context then were you talking with Geoff Mearns as an attorney for whom?

A. As an attorney for the Cafaro family, U.S. Aerospace Group.

Q. And he was down in your office to go through records to comply with the subpoena; is that correct?

A. That is correct.

Q. Now after you talked with Attorney Mearns, what did you do as a result of that conversation?

A. What did I do? I wound up getting a -- I talked to Geoff Mearns about my involvement with the preceding two years. Geoff made a determination that it would probably be best for me to have my own attorney and introduced me to the attorneys from Latham and Watkins.

Q. Was there this an attorney that was independent and separate from Mr. Mearns and his law firm?

A. That is correct.

Q. Why did you retain your own lawyer separate and apart from the lawyer who was representing USAG and the Cafaro family?
A. I did so at the advice of the attorney, Geoff Mearns, and also the advice of Alan Gardener and Beth Wilkinson.
Q. And who were they?
A. Beth Wilkinson and Alan Gardener are attorneys from Latham and Watkins.
Q. These are the attorneys representing you, correct?
A. That is correct.
Q. Who paid for your legal expenses?
A. U.S. Aerospace Group.
Q. And after you had an opportunity to consult with your lawyers at Latham and Watkins, what did you then do?
A. My -- my attorneys advised me that my best course of action would be to tell the truth, and basically, they advised me that I should come -- seek you out rather than you seek me out, and that's exactly what I did.
Q. And in providing information to the Government, did that include information that was incriminating against yourself?
A. Yes, sir.
Q. Did it involve information that was incriminating against Congressman Traficant?
A. Yes, sir.

Q. Did it involve information that was incriminating against J.J. Cafaro?
A. Yes, sir.
Q. Are you testifying here today under a grant of use of immunity?
A. Yes, sir.
Q. And what is your understanding of the terms and meaning of that use of immunity order?
A. My terms of understanding are basically as long as I tell the truth and be truthful in my testimony, that I can't be prosecuted.
Q. And what ultimately ended up happening to USAG in the final analysis?
A. Basically, the money dried up, and the company folded.

MR. MORFORD: May I have a moment, your Honor? I have nothing further.

THE COURT: Thank you. Congressman, you may inquire.

CROSS-EXAMINATION OF ALBERT LANGE

BY MR. TRAFICANT:

Q. Good morning, Alan.

A. Good morning, Jim. How are you doing today?

Q. Not bad. Did you stay in town overnight?

A. Yes, sir.

Q. Have a sore throat. I can whisper or try to speak a little louder. So don't be offended if my voice is a little loud.

A. That's okay, sir.

Q. I have a number of questions for you.

How long after you became the chief operating officer did U.S. Aerospace Group go bankrupt?

A. Eight months, somewhere in that area, basically in November of 2000.

Q. Now, you did all the engineering?

A. Yes, most of it.

Q. You draw all the drawings and drafting?

A. Drafting was done by a drafter that I had on staff, but basically, he worked off of sketches that I put together.

Q. And as chief engineer, would you have knowledge of all the drafting that was done for the company?

A. Yes.

Q. Would anybody else draft plans and documents of --

for example, trailers and/or equipment that would transport your technology devices?

A. No.

Q. Government's Exhibit 66, Government's Exhibit 67 --

MR. TRAFICANT: Do you have them, your Honor?

THE COURT: I think so.

MR. TRAFICANT: Would you like a copy of mine?

THE COURT: No. That would be all right.

MR. KALL: Did you say 66?

MR. TRAFICANT: Defendant's Exhibit G-66, Defendant's Exhibit G-67.

THE COURT: Oh, I don't have those. Have you given them a copy?

MR. TRAFICANT: Here's 66.

THE COURT: Thank you. I think you don't have copies of these yet.

MR. MORFORD: I don't think so.

THE COURT: You need to give the other side copies before you go any further with this.

MR. TRAFICANT: You don't have copies of these?

MR. MORFORD: No.

MR. TRAFICANT: No, G-66. I don't believe I have G-67.

MR. MORFORD: Our G stops at G-19, your Honor.

THE COURT: Okay. Let the lawyers do that.

MR. TRAFICANT: These are subject to testimony of the witness to date.

THE COURT: Let's just hold on a minute, Congressman, so they'll have a chance to look at them, and I do, too.

MR. TRAFICANT: It is -- let's just at this time go with G-66.

THE COURT: Just wait a minute. We'll look at what you've given us. Okay?

MR. TRAFICANT: Okay. In fact, in that packet is 66, G-67, G-68, G-69, G-70, G-71, G-72, and G-73.

THE COURT: And --

MR. TRAFICANT: G-74.

THE COURT: Thank you. You can hand those to the witness.

MR. TRAFICANT:

Q. Can you look at these, Al?

A. Certainly.

Q. Exhibit G-66.

A. Yep.

Q. Did you draw that?

A. It's a photograph.

Q. Photograph of what?
A. MEANPALS trailer.
Q. Did you do it?
A. Yep, drew it, drew it and put the bid proposal together and sent it out to the trailer companies for them to take and put bids on them so we could get the company to do the manufacturing of it.
Q. Matthew, how long would it take for the screen to come on?
MR. KALL: Ten seconds.
MR. TRAFICANT: Your Honor, can I ask that this be put up on the screen?
THE COURT: Sure. You should put it on the screen. They're letting you use their Elmo, and that's fine.
MR. TRAFICANT: If you gentleman could show me, I'm sure I could --
MR. KALL it's coming up.
MR. TRAFICANT: Thank you. Thank you for your assistance.
BY MR. TRAFICANT:
Q. While that's warming up, what is it?
A. MEANPALS trailer is set up for a 10,000-foot runway, the Mobile Expeditionary Accurate Night Vision Compatible Portable Airfield Landing System.

Q. Did you design the trailer?
A. Yes, I did. I did the conceptual design of the trailer, and interconnecting details of the trailer were accomplished by Trailex out of Canton, Ohio.
Q. Canton, Ohio, or Canfield?
A. Canfield, Ohio. Wherever Trailex is out of.
Q. You know if Trailex is in my district?
A. I believe -- I believe it is.
Q. Isn't it a fact I requested that you do business with a company in my district?
A. You're absolutely correct.
Q. Isn't it a fact I had a deal with the company that eventually all jobs would be relocated to Youngstown if you were, in fact, funded and/or made profitable?
A. That was what the -- that was what my understanding was for a few years, for the time that I was there, yes.
Q. Now, I'd like you to refer now to, if you will, the second one, which is -- see on the top it says MEANPALS?
A. Yes.
Q. And did you, in fact, Albert, did you, in fact, include this to show how your system works?
A. Yes. It's part of the marketing effort that was put together.
Q. Did you do it?
A. I believe the drawing itself was done by Mandy

Simons, but a sketch was put together to show her how to lay this stuff out.

Q. Can you hear me when I walk over here?

A. Yes, sir.

Q. These round circles on the right, they, in fact, represent what?

A. Cold cathode lighting.

Q. Cold cathode lighting, and this down here represents what?

A. Laser localizer unit.

Q. Now, can you describe to the jury the size of that localizer unit, the laser unit? How big is it?

A. Let me see. I think the last note was, it's approximately 73 pounds, it's 26 and a half inches across, 35 and a half inches long, and 70 inches high, somewhere in that area.

Q. Was there one set over here, too?

A. A similar type of unit but not a local localizer unit. It was a laser low slide unit.

Q. Who would set up this unit when you had your test flights?

A. This unit would be set up by myself and Robert Looney, who worked the grounds operations during test flights at U.S. Aerospace Group, but what you have to understand now is that those units were set -- are set in

the ground, and they stayed out there at the runway. What we did was move the generator units in and out of the area so that we could power up those units.

Q. Now, you have a number of black dots on here. What do those black circles signify?

A. They're seven black dots on there and signify the corridors starting in the center, which gives out the information to the pilot to move left or right or to tell him that he's on track.

Q. Well, what is the color of the middle circle?

A. Amber.

Q. What are the colors to the left of the circle?

A. Those are red. Green is to the right.

Q. Green is to the right.

Now, do the aircrafts companies or the aviation companies have to buy this equipment?

A. Aviation companies?

Q. Yeah. Do the airliners have to buy anything to do the --

A. No. The airlines don't buy that piece of equipment. This piece of equipment was targeted for airports.

Q. I notice that -- is this the runway, this line here?

A. Yes, sir. It's supposed to signify the approach of the runway.

Q. What -- are they the cause of most accidents, Albert,

in airlines?
A. Short of the -- pilot stabilization on final approach, which causes the aircraft to either overshoot or undershoot the runway.
Q. If you overshoot a runway, what happens?
A. You usually go off the other end of the runway and have difficulty down at that end.
Q. Are you familiar with the crash in Arkansas?
A. Yes.
Q. What happened?
A. It was in a thunderstorm area that the pilot was unable to stabilize approach and landed long on the runway and went off the end of the runway, hit the flight towers, and burst into flames.
Q. Did everybody die?
A. That I'm not sure of.
Q. Would he have been able to see the runway with MEANPALS, with the laser vision system?
A. He would have had a better opportunity to make a stabilized approach into the area.
Q. Now, I have on the board what is known as Defendant's Exhibit G-68. Is it clear enough to you?
A. Sure.
Q. What is that?
A. That's a back end sketch of a MEANPALS trailer.

Q. Who designed it?
A. I did.
Q. Who drew it?
A. The draftsman after looking at my sketch. I drew a little sketch, and he put pretty in it.
Q. What is the approximate size of the unit?
A. I think -- I don't know exactly what the size is today. I know it's got to stand below 72 and a half inches or something like that, and it's -- I don't remember the exact dimensions of what the unit is. Do you have one of the other brochures that show the dimensions, size, weight of this unit? You would be able to extract it from that.
Q. I ask you to look at what is Exhibit G-70. Can you describe that?
A. It's the right side view of the MEANPALS trailer.
Q. And how was that trailer to be placed, and how was it to be used?
A. The trailer was to be used to house and recharge the battery systems that went along with the lightings that were there. Transport of that trailer was through either the use of a C-130 or sling loaded under an HH 53 helicopter or on to a Black Hawk helicopter.
Q. Would you, for the jury, explain what a C-130 is?
A. C-130 is tactical cargo aircraft that holds five pilot positions of equipment to be deployed into a forward

operating area.
Q. So isn't it a fact that for a helicopter, now, to carry this, it must be as light as possible; is that correct?
A. That is correct. That's why I used Trailex.
Q. Go ahead.
A. That is the second reason I chose Trailex over any other facility. They made the lightest trailer with the strongest weight.
Q. Did you check with other companies?
A. Yes, probably seven other companies.
Q. Where?
A. Everywhere from upstate New York to New Mexico.
Q. Where did Congressman ask you, Congressman Traficant ask you to look for a company?
A. In Canfield, Ohio.
Q. Was Canfield, Ohio, as good as the other companies you looked at?
A. Actually, Canfield, Ohio, was better than the other companies I looked at, and that's why we chose that company.
Q. Now, if one of those other companies was better, would you have still gone to Canfield?
A. No. I would have gone out to the company that was going to put the best piece of equipment out on the market.

Q. Wasn't it a fact you wanted to try and look and find if the Congressman's company could do it in his district?
A. Well, yeah.
Q. Okay.
Now, you're looking at G-71?
A. Excuse me?
Q. You're looking now at G-71?
A. Yes, sir.
Q. Would you explain to the jury what G-71 is?
A. That is a laser visual landing unit, laser -- localizer unit -- excuse me, with portable leg system on it for balancing and securing to the end of the runway.
Q. How much did that weigh?
A. The same amount of weight as the other piece. I don't know, 70 some odd pounds, 73, 75 with another 12 pounds of legs on it.
Q. Now, was that your portable unit you were talking about earlier when the Prosecution was talking to you?
A. I'm not -- I don't know which unit -- I don't remember which unit they were talking to me about, the Prosecutor.
Q. Would it take more than one man to set that up?
A. Yeah, it's a two-man setup unit.
Q. Let's now look to G-72, and can you tell me what G-72 is?

A. Yeah. It's a cold cathode light with a remote control on it.
Q. Now, when you look back to the original, G-67, where were those lights located?
A. Those lights were located on each of the runway edges, signified by your little thing there that says runway edge lights.
Q. So evidently, the lasers itself were then augmented by a company product known as cold cathode lights; is that correct?
A. That's correct, the lights came from Light Beams, Inc. out of California, the L.A. area.
Q. If it was foggy in this room, really foggy, would an incadescent light have a tendency to obliterate and cause you to have blurred vision when you turned away from that light?
A. Yes, it would.
Q. Would a fluorescent light have a same effect?
A. I don't know about the fluorescent, but in the cold cathode with the wave light to the cold cathode, your light scattering would be much less, and your definition to be able to see the ground would be much improved.
Q. Did you, in fact, create that picture?
A. Create the picture?
Q. Did you build the cold cathode light?

A. No. The cold cathode light was built in -- out in Light Beams, out in California. The only thing we did was install the remote control package into the light.
Q. Isn't it a fact that U.S. Aerospace had purchased the rights to the cold cathode lights from Light Beams?
A. Purchased the rights?
Q. Purchased the company?
A. I don't believe that deal ever was secured.
Q. Was that your intention?
A. It wasn't my intention, but I wasn't in charge. It was J.J. and Rick's intention.
Q. It was J.J.'s intention?
A. Okay.
Q. And Rick's?
A. I guess Rick decided that he was going to follow J.J.'s lead, I guess.
Q. Can you see this?
A. Yes, sir.
THE COURT: This is 74?
MR. TRAFICANT: This is 74.
THE COURT: Thank you.
Q. Is that a truthful statement about the technology?
A. I would like to think that it was.
Q. You're an engineer. Was it?
A. I felt it was a valuable product. If I didn't think

it was a valuable product, I wouldn't have wasted my time with it.

Q. Thank you.

A. You're welcome, sir.

Q. Now, the Prosecutor stated that when you first started working for the company was October of '97?

A. Yes, sir.

Q. And you were recruited?

A. I was called by Richard Detore to -- on more than one occasion to come up and market U.S. Aerospace Group as it got off the ground, yes.

Q. Did you call Richard Detore, or he called you?

A. Richard called me. I had no communications from Richard from my part.

Q. Then you were hired after some discussions and involvements?

A. That is correct.

Q. By Mr. Cafaro?

A. That is correct.

Q. Who was the boss of U.S. Aerospace?

A. The ultimate boss of U.S. Aerospace, I would say, was J.J. Cafaro.

Q. Who's the chief operating officer?

A. Richard Detore.

Q. Now, you're director of engineering and

manufacturing; is that correct?
A. Not at U.S. Aerospace Group. I was the chief engineer and put up to the general manager.
Q. And you had known Richard from his previous experiences?
A. That is correct. I worked for Richard in -- when he owned Alliance Avionics and when he ran Alliance Avionics.
Q. Isn't it a fact you said Alliance Avionics went belly up?
A. That is correct.
Q. Did they have any concern for you for going with United States Aerospace?
A. Yes, it did.
Q. And what, in fact, caused you to finally decide to go to work for U.S. Aerospace?
A. I went to work for U.S. Aerospace after I had an interview with two days worth of talking with J.J. Cafaro and was assured that they were billionaires, that they were committed to making the project a go, and that money wasn't an object for him, and that whatever money was going to be needed to bring that product to the market was going to be expended on that.
Q. So you basically took the job on the words of --
A. J.J. Cafaro.
Q. J.J. Cafaro.

Was it understood at that time that you would be working underneath and be supervised by Rick Detore?
A. That is correct.
Q. Who told you that?
A. J.J. Cafaro.
Q. Did J. J. Cafaro say you would report to him at all?
A. No. It wasn't my position to report to him. My position was to report to Richard Detore.
Q. Now, when you got your first paychecks, where did they come from?
A. The Cafaro Company.
Q. Who were they signed by?
A. I'm not sure who was the signator on those.
Q. Was it U.S. Aerospace checks?
A. No. They were Cafaro Company checks.
Q. Did you have insurance benefits?
A. I had insurance benefits only after I pressed the issue for seven and a half months of working at U.S. Aerospace Group that finally funded my insurance benefits and came into effect, yes.
Q. Let me ask you this question: You wouldn't take the job if they didn't relocate your 21-foot boat, right?
A. That is correct.
Q. But you never talked about medical benefits?
A. No. I talked about medical benefits and told them I

was supposed to have medical benefits, and J.J. Cafaro assured me I would have medical benefits within two weeks of being there.

Q. Did you have them within two weeks of being there?

A. No. I did not have them within two weeks of being there, and every week I would make a request to Richard Detore or call up to find out what was going on with my medical benefits, and it was only after my wife was hurt that we needed to have the medical benefits in place, that they finally issued my medical benefits.

Q. But did J.J. continue to promise you for seven months you were going to get medical benefits?

A. That is correct.

Q. Did he lie to you?

A. Well, yeah.

Q. Did he lie to you on more than one occasion?

A. Definitely.

Q. Was he a good businessman?

A. I was impressed at first when I went to the interview, thinking that he was a good businessman. Experience has showed me, no, he's not a good businessman, at least in my opinion.

Q. So when you got started to get your medical insurance, what policy were you under?

A. The Cafaro Company policy from out in Ohio.

Q. Was it a group policy?
A. Yeah, I believe it was.
Q. You know if Mr. Cafaro was covered under it?
A. I'm not sure who his insurance coverage was under. I would assume that it was, but I don't know.
MR. MORFORD: Your Honor, I object. One is assumption, but two, what any of this has to do with this present lawsuit.
THE COURT: Well, let's go back to the question. The question about whether or not Mr. Cafaro was covered under a group policy? This gentleman has no way of answering that question that I'm aware of.
MR. TRAFICANT: Fine.
THE COURT: Fine.
MR. TRAFICANT: The objection is sustained?
THE COURT: That's right.
MR. TRAFICANT: Okay.
BY MR. TRAFICANT:
Q. Did other U.S. Aerospace employees have the same insurance you had?
A. Yes, when they came on board.
Q. Who were -- who covered them?
A. The Cafaro Company.
Q. Now, the discussion of the Traficant boat came up, and when it first come up, was it not a fact it was

discussed about fiberglass?
A. That is correct.
Q. Did you know at that time or have any knowledge of Mr. Cafaro having any understanding of fiberglass?
A. No.
Q. Did you later come to find out that Mr. Cafaro built fiberglass cars?
A. Mr. Cafaro didn't. He had a company that built fiberglass cars, but if he was involved with the Avanti program as much as he was with U.S. Aerospace Group, then I would say that he had no clue what was going on there either.
Q. Thank you.
You know, you need only answer my questions, but thank you.
Did you ever put fiberglass on a boat?
A. I've put fiberglass repairs on boats, yes, I have.
Q. Did you ever put fiberglass on a wooden boat?
A. The only place I ever put fiberglass on a wooden boat was the seam areas on the bow section to keep water out.
Q. Did you ever work at my farm?
A. No, sir. I don't even know where your farm's at.
Q. Do you know who owns the so-called Jim Traficant farm?
A. No, sir.

Q. Now, at some point, you entered into an agreement to do a survey on a boat?
A. Yes.
Q. Who asked you to do that?
A. Basically, I was asked to find out what was wrong with the boat between yourself, Richard Detore, and J. J. Cafaro, to say let's just go forward with that, for which I went out and found a person to do the survey and had the survey done on the boat.
Q. Did you submit a copy of the survey to the Government?
A. Yes, I did.
Q. And how much did the survey cost?
A. $600.
Q. And how much did they project that the cost would be to repair the boat?
A. The survey didn't project any costs itself. The survey projected what the value of the boat after repairs would be.
Q. Now, isn't it a fact when you first visited the boat it was with Rick Detore and me?
A. That is correct.
Q. Where was it located?
A. Eastern Power Boat Club.
Q. Is that a high rent dock or a low rent dock?

A. It's low rent.
Q. You said someone was living on it, didn't you?
A. Yes, I did.
Q. How did you know he was living on it?
A. Because he had told me they were living on it. His girlfriend or wife was present there when we went on board.
Q. Now, would you describe the 37-foot yacht?
A. I would describe it as she was in rough shape.
Q. Well, if they lived on it, would the toilets work?
A. Yeah.
Q. Would the shower work?
A. Sure.
Q. Would the sink work?
A. They were working.
Q. Would the generator work?
A. Yes, sir.
Q. Did the alternate generator work?
A. I don't know if the alternate generator worked or not.
Q. Did it have a fly bridge on it?
A. What do you mean by a fly bridge? You mean the extended bridge they used off of --
Q. On the top where you could drive it from above?
A. Yes, there was a bridge on it.
Q. Did it also have a spot to drive from the inside?

A. That is correct.
Q. What kind of wood was the boat built from or of?
A. I'm not sure what the type of wood was. I would assume it was fir.
Q. Fir?
A. Fir.
Q. Did you or anyone in your family ever work for Egg Harbor?
A. My father may at one time did work at Egg Harbor Boat Works.
Q. To your knowledge of boats, what is a fir piece of wood?
A. It's a type of wood. I don't know what type of wood it was. I didn't take a plug out to have it analyzed.
Q. Is not fir, though, a soft wood?
A. No. Fir is a very durable wood when presented in an environment used for water.
Q. Did J.J. Cafaro own a boat?
A. Yes.
Q. What kind of boat did he own?
A. I was told it was 110-foot Trumpy.
Q. You know if it was fiberglass or wood?
A. It was wood.
Q. Did you ever have discussions of maritime activities and the use of the Cafaro 110-foot boat?

A. Yes, we did.
Q. And what did you decide?
A. I told him he'd have to find somebody to drive it because it was ridiculous to use that much boat to try to do some type of testing.
Q. Well, describe your boat.
A. My boat?
Q. 21 feet, right?
A. That is correct.
Q. Did it have a cabin?
A. It has a cutting cabinet.
Q. What's a cutting cabinet?
A. Small cabin for two people or three people to get in and out of the weather during bad weather.
Q. Was it mostly used for fishing and recreation?
A. Mostly for skiing and recreation, yes.
Q. Could you live on it?
A. No, you could not live on it.
Q. Did you do your own repairs on that boat?
A. Most of the time, yes, except for some engine repairs I had a mechanic come in and do the repairs. There were not a lot needed on a fiberglass boat.
Q. Did you discuss your boat as being used in a possible maritime venture?
A. No.

Q. Did you suggest it?
A. No.
Q. Why not?
A. It was my boat, not theirs.
Q. So you believed that if they were going to have the maritime program, they should have a boat of their own, right?
A. I believed at the time we were not in a position to even venture into the maritime program application --
Q. That's not what I asked you.
Were there conversations about a maritime venture?
A. There were conversations about a maritime venture.
Q. Thank you.
A. You're welcome.
Q. Now, you used the word champion?
A. That's correct.
Q. Why did you refer to me as champion?
A. Because you were championing our cause.
Q. Yeah. But you told the Prosecutor I didn't do anything?
A. No. I never said that you didn't do anything.
Q. His last question: Did you ever get the things done that Jim Traficant said he was going to do?
A. No. I don't remember that being the last question. Could we go back to that so I could refresh my memory?

THE COURT: You've answered it.

BY MR. TRAFICANT:

Q. To your knowledge, were the Cafaro big players in Washington?

A. To my knowledge, yes.

Q. And who told you that?

A. Richard Detore and J.J. Cafaro and Capri Cafaro.

Q. How old was Capri Cafaro?

A. At what time? When I first met her or --

Q. Yeah, when you first met her?

A. I don't know, 18 years old, somewhere in that area.

Q. Now, when you became chief operating officer, how much later was that, how many years later?

A. I guess three years later.

Q. What was the title of Capri Cafaro?

A. I think it was president at that time.

Q. How old was she?

A. I'm not sure. She was 21 or 22.

Q. Could you fire her?

A. No.

Q. Do you know if I ever brought Jane Garvey out to the airport?

A. The airport in Manassas?

Q. Yes.

A. Yes.

Q. Yes. For what purpose?
A. To have a briefing on-site at U.S. Aerospace Group and then to go and do a demonstration flight, to show her the abilities of the laser visual landing system.
Q. Now, when Jane Garvey was there, did she have her assistants with her?
A. Yes.
Q. Was I there?
A. Excuse me?
Q. Was I there?
A. Yes, you were.
Q. Were you there?
A. Yes, I was.
Q. Was Rick Detore there?
A. Yes, he was.
Q. Did you have any other professional staff there?
A. I'm sure that we had professional staff -- what do you mean? Do you mean like --
Q. Any other staff other than you and Rick?
A. Oh, yes. Robert Looney was there that assisted me with setting up the units out on the runway.
I don't know if Loni Czekalski at that time was an actual member of U.S. Aerospace Group or not, but she was also present, and I'm sure that Mandy Simons was there at the time also because she's the co-pilot that flew on the

aircraft with Richard Detore.
Q. Who made the presentation to the FAA?
A. Richard Detore and Capri --
Q. Who made the beginning presentation to the FAA, Al?
A. Capri Cafaro.
Q. Wasn't it a fact that Capri Cafaro didn't know what she was talking about?
A. That is true.
Q. Isn't it a fact I had to suggest in a nice way that maybe you or Rick should describe to the FAA what the project was about?
A. That is correct.
Q. And then when we went up on the airline, can you remember what time of the day it was?
A. It was nighttime. What time it was, I don't remember. The flight log should probably say what time it is.
Q. Were you in the plane?
A. No, sir. I was on the ground taking care of the units.
Q. Now, was Jane Garvey in the plane?
A. From the flight log, yes.
Q. Was I in the plane?
A. Yes.
Q. Who flew the plane?

A. Richard Detore.
Q. Did the plane land exactly where it was supposed to land?
A. As far as I know, yes, it did.
Q. Now, did you have occasion to have another test flight with the chairman of the aviation of the subcommittee by the name of Jimmy Duncan from Tennessee?
A. That is correct.
Q. Did he, in fact, not bring his son with him?
A. I'm not sure if it was his son or not, but, yeah, there was another gentleman accompanying him.
Q. Were you in the plane?
A. No, sir.
Q. Was I in the plane?
A. I don't remember on that flight. I don't know if you had the -- there was room for you on board that aircraft or not. Remember, I was out on the runway well before you guys ever packed over to the airplane setting up all the lasers and stuff.
Q. Wasn't it a fact that that was an excellent demonstration because of the terrible weather conditions?
A. It was an excellent demonstration that evening due to the fact that we were having rainstorms and obscuring weather conditions, you are correct.
Q. Was there not obscuring winds?

A. I don't know if there were sheering winds out there or not.
Q. Was the weather raining or bad or not?
A. The weather was rainy and bad, yes, it was.
Q. Did the plane land exactly where it was supposed to land on the runway?
A. It landed where we usually land the aircraft on the runway.
Q. To the best of your knowledge, did Mrs. Garvey make any comments?
A. Well, we were talking about Mr. Duncan now. Are we back --
Q. No, Mr. Duncan, yeah.
A. Thank you.
Again, I'm sure that there was probably some positive comments made from Mr. Duncan, but I wasn't exactly present there. I was collecting up all the equipment off the runway. By the time I returned back, the group was gone.
Q. Did you know if, in fact, Jim Traficant and Rick Detore were invited to, in fact, offer testimony before the subcommittee on aviation?
A. I'm aware of Rick's testimony to the subcommittee, yes.
Q. Were you present in the room?
A. Yes, sir, I was.

Q. Who was the first to lead the testimony?
A. I believe it was yourself and Richard Detore.
Q. From there, do you know if there was any action taken?
A. That I'm not aware of.
Q. Wasn't there -- didn't there come a time there was a $4 million appropriation passed in an appropriation bill?
A. That is correct.
Q. And wasn't it, in fact, directed for MEANPALS?
A. That is correct.
Q. And wasn't it a fact that MEANPALS had to come up with certain requirements before they could receive the funds?
A. What requirements are you referring to?
Q. Did you have to --
A. Size and weight and stuff like that?
Q. Yes.
A. Yes.
Q. Did you meet with the military?
A. Yes, we did.
Q. Was the money already approved and signed by the president?
A. Yes, it was.
Q. Did you ever get any of that money?
A. We had -- we were awarded the contract after

departure of Richard Detore for $1.3 some odd, yes.
Q. What, if anything, held it up?
A. Nothing held it up other than the lack of funds coming in to support the effort to move forward to perform on the contract.
Q. In other words, you didn't have a trailer?
A. Trailer was sitting downstairs ready to go.
Q. Well, then, how come you couldn't perform on a contract?
A. We couldn't perform on the contract because they couldn't fill up the rest of the lights that went into that unit. The remote control system needed to be revamped with different control cars that were available and supplied. Without having those units, I wasn't going to sell an inferior product to the Government.
Q. Did you, in fact, confer that to Mr. J.J. Cafaro?
A. Yes, I did.
Q. And what, in fact, did he say to you?
A. My --
MR. MORFORD: Objection to what Mr. Cafaro said.
THE COURT: Sustained.
MR. MORFORD: He would have to testify to that.
THE COURT: Right.

Q. Do you have any knowledge if, in fact, money was to be expected from the Cafaro Company?
A. Yes.
Q. And what was that knowledge?
A. That we would be supported to perform on this contract in a monetary way.
Q. And how much money did you request?
A. $750,000.
Q. Did you get a commitment that you would get the money?
A. I was told it was on its way.
Q. Who told you it was on its way?
A. J.J. Cafaro.
Q. Did you ever get it?
A. I got $250,000 out of the $750,000.
Q. Well, you mean he sent $750,000, but you only used $250,000?
A. No. I had a check in that was for $250,000.
Q. Not for $750,000?
A. That is correct.
Q. And that was not enough to go forward?
A. Wasn't enough to make it to the end game.
Q. So now you had a $4 million appropriation?
A. No. What we had was a contract for $1.3 million to $4 million appropriation. Part of that money needed to go

to support the testing by the Government.
Q. That's fine. But let me finish my question.
A. Yes, sir, I'm sorry.
Q. Was there a $4 million appropriations that was specifically designated for MEANPALS?
A. Yes, sir.
Q. Now, wasn't it a fact that the Army needed some of that money for testing and utilization of their own to, in fact, substantiate whether or not you were, Number 1, reliable, or Number 2, your product was worthy?
A. That is correct.
Q. Did you come to have meetings with the Army?
A. Yes, we did.
Q. Did they finally agree to go forward?
A. Yes, they did.
Q. What did they want from you?
A. They wanted one MEANPALS trailer to start. The smaller convert systems we put together and a bunch of other lighting for an all-around test of all the product and equipment that we had available at U.S. Aerospace Group.
Q. Your testimony that $750 was needed to do that, right?
A. Yeah. It was somewhere in that area to pay some of the back bills and -- so I could get -- move it forward

with finishing up the requirements for delivery on the contract.

Q. And if J.J. had given you the $750,000, do you think U.S. Aerospace would have made it?

MR. MORFORD: Objection. That's speculation. They never got the money he testified.

THE COURT: Yes, it is.

BY MR. TRAFICANT:

Q. Would it be fair to ask that without this appropriation you would have gone bankrupt?

MR. MORFORD: Your Honor, he testified they did go bankrupt with it.

MR. TRAFICANT: Not at that time.

THE COURT: Well, maybe if you rephrase the question.

BY MR. TRAFICANT:

Q. What is a champion?

A. A champion is a figurehead that takes a lead to influence others, persuade their decisions, to do the right thing in line of a product.

Q. Did you have any knowledge that the Cafaro family contributed hundreds of thousands of dollars to both political parties?

A. Only from the fact that they told us that.

Q. Did they ever instruct you to go see other

Congressmen?
A. I never went to see other Congressmen, other than you. I don't know what Richard may have done.
Q. Did you believe that tremendous progress was being made in your contact with me? Yes or no.
A. Yes. I thought we were moving forward.
Q. Was I chairman of anything, to the best of your knowledge?
A. I really don't know. I don't know that you were.
Q. Did I fight like hell for you?
A. Yes.
Q. Did J.J. lie to you when he said he was going to send you that $750,000?
A. It never showed up.
Q. Did J.J. lie to you?
A. Yes.
Q. Did the work done on the Traficant boat kill the marine MEANPALS project?
A. Could you repeat that question?
Q. Did any work done on the Traficant boat kill the MEANPALS appropriation?
A. No.
Q. Did it have any impact at all on U.S. Aerospace's appropriation of $1.3 million?
A. You're saying -- could you repeat that question,

please?
Q. Did the work on the Traficant boat have any bearing on or cause you to fail, not gaining that $1.3 million?
A. No.
Q. Now, you testified that you saw a check of $26,000; is that correct?
A. $26,000 and change.
Q. And then you testified what J.J. told you, right?
A. That is correct.
Q. Had J.J. lied to you before?
A. Yes.
Q. Did Jim Traficant accept the $26,000 check from J.J.?
A. No.
Q. How do you know that?
A. Because I was being hammered by Richard and J.J. to make the deal through me.
Q. And why was that?
A. I was told at the time that they had to create some ugly press due to the fact that J.J. was a millionaire living in your district, and you were a Congressman.
Q. So they asked to you do it?
A. That's correct.
Q. What was your position with the company?
A. Chief engineer, general manager.
Q. Let's get a pecking order. Who was the boss?

A. J. J. Was the boss.
Q. Who was next?
A. Richard Detore.
Q. Who was next?
A. Me.
Q. Who did you work for?
A. Richard Detore.
Q. Who did you work for?
A. In the end, I worked for J.J. Cafaro.
Q. Did you not work for U.S. Aerospace?
A. Yes, I did.
Q. Were you a U.S. Aerospace employee?
A. Yes, I was.
Q. Were you, in fact, getting Cafaro Company insurance?
A. Yes, I was.
Q. Now, if it were improper for me to be involved with Mr. Cafaro, did you suggest to him that maybe one of the owners, friends of the malls, buy the Traficant boat?
A. Could you repeat that question, please?
Q. Did you ever suggest to him that look, I'm an employee, too. I work for you, Mr. Cafaro. This is going to look bad if I do it. Why don't you get somebody else to do it? Did you ever suggest that since you told this jury you had so much concerns?
A. I had told J.J. at first that I didn't want to get

involved in this thing. He went out and looked for other people, came back a couple weeks later and decided -- him and Rick pressured me into -- and suggested that I would do it, and I did it.

Q. Do you believe you did something wrong?

A. At first, no. I did not believe I was doing something wrong. I thought I was doing something as a favor, but as time has gone by in retrospect, yes, I know that I did something wrong.

Q. Did you report it?

A. I reported it at a later date, yes, I did, after the fact.

Q. Okay.

Now, you had stated at some point -- and would you agree -- that a picture is worth a thousand words?

A. Yes.

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. I'm going to now put on the screen a number of exhibits that are, in fact, joint exhibits, and I'm going to give a copy --

MR. TRAFICANT: Government's Exhibit, which is a joint exhibit, 8-17, now marked also as a Defense Exhibit C-106.

Q. I'm going to now --

THE COURT: Congressman, let me suggest if it's a joint exhibit, we just give the number whoever had it originally assigned to it, rather than putting up double numbers on it, which makes it complex.

MR. TRAFICANT: Would be 8-17.

THE COURT: Okay. But, it's a joint exhibit?

MR. TRAFICANT: It's a joint exhibit. I put a defense exhibit on to identify it one from another for purposes of his easy reference, but that's fine.

THE COURT: Okay. It --

MR. TRAFICANT: Joint exhibit.

THE COURT: We need to go with one -- one exhibit that it's joint rather than having two separate numbers on it, just to make the record clear.

MR. TRAFICANT: Fine.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Joint Exhibit C-105?

THE COURT: No. It would be the original number, Congressman, not the second -- not the number.

MR. TRAFICANT: I'm sorry, your Honor. Government's Exhibit -- Joint Exhibit 1-73.

MR. MORFORD: It is 8-17, your Honor, is the number.

THE COURT: Okay. Congressman, check it and

see if it's 8-17.

MR. TRAFICANT: Is it a lease agreement 1998, folks? Here's what I have as 1-23. You want to look at it and see if this is what you had.

MR. MORFORD: You started saying 8-17 so I don't know -- we're jumping all over the place.

MR. TRAFICANT: No. I said Joint Exhibit 1-23.

MR. SMITH: Let me find that.

THE COURT: 1-23 was admitted but not as a joint Exhibit. 8-17 is a joint exhibit.

MR. TRAFICANT: Well, I offer it as Defense Exhibit C-105 -- I'll offer it later. It's not a joint Exhibit 1-23.

THE COURT: Okay. Let's just -- you've got a handful of exhibits there. Let me give the jury an earlier break this morning, and let them go and relax while we straighten out the number system. It's -- it seems picky, but it's extremely important to preserve the record. So we'll do that ourselves.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: We'll take a break. Half an hour. I'm going to ask that my law clerk who's a lawyer and here in the room also responsible for exhibits, spend time with both sides, and see if we can work out a system

that will keep the record intact, and failing that, we'll discuss it before you take your breaks. Okay? Thank you.

MR. MORFORD: Your Honor, at the end of the break, I just want to raise the -- if he's going to be asking this witness about Government's Exhibit 1-23, which is an office lease with KAS Enterprises, Allen Sinclair, the congressional office, my understanding this man knows absolutely nothing about that.

MR. TRAFICANT: That is not the purpose of my inquiry, your Honor.

MR. MORFORD: But that he provide the Court with some relevance before we do it in front of the jury.

THE COURT: Okay. We'll do that.

MR. MORFORD: Thank you.

THE COURT: First, let's get the numbering straight.

MR. TRAFICANT: Okay. First of all, C-105 since it's not a joint exhibit.

THE COURT: We're going to go off the record for a moment to see if this can be worked out, and we'll return to the record if it's not worked out. If it's not worked out, we'll also return to the record.

(Thereupon, a recess was taken.)

THE COURT: You're still under oath, sir.

THE WITNESS: Yes, ma'am.

BY MR. TRAFICANT:

Q. Al, getting back to that line of questioning, were there discussions as to who should be the one that should pull the scam on the Traficant boat?

A. I don't understand that question.

Q. Was it a scam?

A. I don't understand what you mean by scam.

Q. Wasn't it a false misrepresentation of what was really happening?

A. That is correct.

Q. And you discussed that with whom?

A. With J.J. and with Rick.

Q. And you were ordered to do that?

A. No, I was persuaded.

Q. And you accepted it?

A. That is correct. That's why I'm here today.

Q. Fine.

We can move along a little quicker if you just respond.

A. Yes, sir.

Q. Did you agree to do it?

A. Yes, I did.

Q. Now, yesterday, you were asked about a welding machine. Do you recall this document?

A. Yes, I saw it.

Q. And what, in fact, is that?

MR. TRAFICANT: That is Exhibit 8-43.

THE COURT: Right.

THE WITNESS: It's a welder.

MR. TRAFICANT: Your Honor, I -- I have this marked as C-6. And I'd like to put this on the screen and show you the original.

THE COURT: Thank you. Okay. You're going give the witness the original?

MR. TRAFICANT: No. I'll put it on the screen. I can let him look at it now and put it on the screen.

Let me put this on the screen for the jury and ask you a question about that. Okay?

THE WITNESS: Okay.

THE COURT: Wait. We'll have to just figure out -- if you want that photograph to be somehow identified by the witness, then you should give him the photograph so that he can do that.

THE WITNESS: Thank you. Okay.

MR. TRAFICANT: Can I put it on the screen now?

THE COURT: Just ask him some questions about it.

BY MR. TRAFICANT:

Q. Is that the welder?
A. I'm not sure if that's the welder or not.
MR. MORFORD: Can I see that, your Honor? I have a copy that's harder to see.
THE COURT: Yes.
Q. I now have Exhibit C-5.
THE COURT: Let's finish with one.
MR. TRAFICANT: Yeah, while they're looking.
THE COURT: Congressman, most of us can only do one thing at a time. So just hold on to that for a second. We need to go slowly enough so that we know what we're dealing with. He has so far not identified the first exhibit.
MR. TRAFICANT: No, they haven't -- he hasn't. They asked to see it.
THE COURT: Right. Just hold on to the next exhibit, and wait a minute. Okay.
MR. TRAFICANT: You're concluded with that?
MR. MORFORD: Yes. Can I see the other photograph to the original? It's hard to see on these black and whites.
MR. TRAFICANT: Can I show it to the judge and the witness first?
THE COURT: Not to the witness. You show it to them first, then you show it to me, and then if

everything is all right, you show it to the witness.

MR. TRAFICANT: All right. Take a look.

MR. MORFORD: Thanks.

MR. TRAFICANT: Your Honor, can I show it to you?

THE COURT: Yes. Okay.

MR. TRAFICANT: May I show it to the witness?

THE COURT: Um-hum.

BY MR. TRAFICANT:

Q. Does that ring a bell?

A. What's the size across here? You know what the size is, how wide it is?

Q. I couldn't tell you. Do you recognize the machine or not?

A. I can't say for sure this is the machine or this isn't a machine.

Q. Okay. Is it a different angle picture from the first?

A. Excuse me?

Q. Let me put them on the board -- on the screen.

THE COURT: No. They haven't been identified. So you can't put them up on the screen.

MR. TRAFICANT: They're at different angles, your Honor.

THE COURT: I know that's what you're saying,

but we need somebody to identify what they are.

Q. So you're not sure. Is that your answer?

A. It's definitely a welding unit. Whether it was the one delivered to you or not, I'm not 100 percent sure on.

Q. You did deliver it, didn't you?

A. Yes, sir, me and Richard Detore.

Q. Fine.

That was how long ago?

A. Was it 2002 now? What was it, 1999? What's that, three years?

Q. Three years ago?

A. Something like that, I guess.

Q. Now, I'm going to ask you a series of questions that deal with Government's Exhibit 8-17.

A. Certainly.

Q. I'm going to put 8-17 on the board. Do you recall that document?

A. Yes, sir.

Q. And is that the sales agreement?

A. That is the sales agreement, yes.

Q. Is that your signature?

A. That is correct.

Q. Did you write this document?

A. Yes, I did.

Q. Is that my signature?

A. Yes, it is.
Q. Did you write the name underneath?
A. Yes, I did.
Q. Where was it signed?
A. Where was it signed? By you? Off of the floor in one of the side offices over at Congress.
Q. Signed in Congress?
A. What do you mean by into Congress? Down on the floor?
Q. What are you talking about?
A. I am talking one of the small areas off the total side.
Q. Small areas of Congress?
THE COURT: Don't talk across the witness.
MR. TRAFICANT: Okay.
THE COURT: Thank you.
Q. I'm now going to show the witness for purposes of document 8-17 Government's Exhibit 1-23?
THE COURT: That's fine.
Q. All I want you to do is read the date. You have to describe nothing else, the bottom left-hand --
A. Okay. I'm looking for the date?
Q. -- bottom left-hand corner?
A. 11th day of December 1998.
Q. Fine. You want to keep a copy of this?

A. No, sir, I don't need one. What is that document?
Q. It happens to be a -- you want to read it? You want to read the -- excuse me.
A. You only asked me to read the date.
Q. Yeah. I just want to you identify the did date. What is it?
A. It says District Office lease agreement.
Q. That's fine.
MR. MORFORD: Your Honor, I'm going to object to any questions about this lease agreement unless and until --
MR. TRAFICANT: It has nothing to do with the lease agreement. It deals with 8-17.
MR. MORFORD: Excuse me, sir.
THE COURT: If you don't stop talking on top of witnesses and lawyers and the Judge, we're going to have to recess the proceedings, Congressman. I can't recapture that off the transcript. It's too many people talking.
MR. MORFORD: First of all, I object to him putting this up on the screen without permission, and I object to this line of questioning until he establishes for the Court, and I would ask outside the presence of the jury, as to where he's going with this --
MR. TRAFICANT: I object.
MR. MORFORD: -- on the ground --

MR. TRAFICANT: I am using a Government document.

THE COURT: You don't ever seem to get the message, do you?

MR. TRAFICANT: I'm getting it.

THE COURT: You're talking right across the middle of somebody else's speech. We have rules in the courtroom, and that's one of them. And you're well aware of it. Let's start again.

Mr. Morford?

MR. MORFORD: First of all, I would object to that being on the screen until he's laid a foundation and have permission to put it on.

THE COURT: Well, that's one thing.

MR. MORFORD: The second thing is until he lays some kind of a foundation to show that this witness either has first-hand knowledge or expertise in an area that he's going to be questioning him on, that it should not be something brought in front of this jury until he can lay that foundation if there is relevance. There's no foundation as to who's on either one of these documents. But I don't know that we want to discuss all this in front of the jury.

MR. TRAFICANT: Well, he has discussed it.

THE COURT: Yeah.

MR. TRAFICANT: I want to make a comment.

THE COURT: No, no, no, no comment yet. No comment yet.

MR. TRAFICANT: You let him comment.

THE COURT: Just a minute.

MR. TRAFICANT: I'd like to set the foundation legally.

THE COURT: Just a minute. I'm going to respond to what he said.

This document does not appear to have any connection with the witness that's on the stand is one thing. And so we will deal with this at noon or at the afternoon break or at -- well, no, you're going home at noon.

We'll deal with this at noon or sometime later because it is not at all apparent why this witness would have any information, and he can't simply read it because he knows how to read. That isn't the way you get evidence in the case.

There were some other problems with it. So let's go on with this witness with things that relate to this witness.

MR. TRAFICANT: Fine.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Sir, is that your signature?

A. The one on the left-hand side, yes, it is.
Q. And you maintain that is my signature?
A. Yes.
Q. So you've identified this and this document as being approved and is, in fact, a Government's Exhibit?
A. Yes.
Q. And I have asked you questions?
MR. MORFORD: Your Honor, I object because he has asked it to be a joint exhibit, and if he wants to do that, it's a joint exhibit.
THE COURT: Right. It is a joint -- it is a joint exhibit, Congressman.
MR. TRAFICANT: It's a joint exhibit, but for the purpose of identification, we agreed we would refer to everything as Government's Exhibit so there would be no confusion with the jury.
THE COURT: Right. It's a joint exhibit.
MR. TRAFICANT: Isn't that correct?
THE COURT: Yes.
Q. Now, do you remember yesterday being questioned -- can you hear me?
A. Yes, sir, very well, sir.
Q. I don't mean to speak loud. I'm a little hoarse.
A. That's okay.
Q. Thank you.

This is a Government's Exhibit, joint exhibit, I think. Can you tell me what it is?

A. It says it's a rental car agreement from Millennium Rental Car.

Q. And did you go with Rick Detore to pick up this car?

A. The car was delivered to U.S. Aerospace Group. I went with Richard Detore to drop the car off to you.

Q. Did you go with him and follow him to, in fact, effect the delivery of this car and return it and pick it up?

A. Yes.

THE COURT: What number are you discussing.

MR. TRAFICANT: This is Exhibit 8-59.

THE COURT: Thank you.

Q. And you said that this was basically a falsehood, that basically the company was going to pay for the car, is that your testimony?

A. That was my understanding.

Q. That was your understanding. Did you have first-hand knowledge?

A. I had knowledge to the fact that Richard said that J.J. was supposed to give him $5,000 to pay for the Corvette.

Q. I'll let that in even though it's hearsay. And now I'll give you what is known as Defense Exhibit C-102.

MR. TRAFICANT: Your Honor, this is C-102. Did I give you the top page there?

MR. MORFORD: I have one page.

MR. TRAFICANT: You have my work product? You should know better than to take my work product.

THE COURT: You have to lay some sort of foundation. I have no idea how he would know about this.

MR. TRAFICANT: He testified that Rick Detore --

THE COURT: We'll handle this one at noon.

MR. TRAFICANT: -- paid for the car.

THE COURT: But this document is something different than that. And so --

MR. TRAFICANT: It proves the case.

MR. MORFORD: Your Honor, that's not what he testified to either.

THE COURT: This is not -- this is not something that, quote -- excuse me. This is not something that, quote, proves a case, and that kind of remark I hope the jury will be able to disregard.

You may bring this up with me at noon. This does not appear to be connected with this witness.

MR. TRAFICANT: I object to the limitation of cross-examination on witnesses for the record.

THE COURT: Just all follow the rules,

everybody, regardless of who they are.
Q. Now, you testified that car was $5,000, is that your testimony?
A. That's what the original cost of the vehicle was supposed to be. What it wound up at for final cost for rental, I'm not sure.
Q. Were you ever instructed by Rick Detore that you had spent too much time at the boat and not enough at the office?
A. No, because of my time at the boat was always after my work was completed at U.S. Aerospace Group for the day.
Q. How many times did we meet with the FBI, Al?
A. Excuse me, sir?
Q. How many times did you meet with the FBI?
A. Two or three times.
Q. Where?
A. Once down in Washington, D.C.
Q. Fine. Where were the agents, FBI agents from? Did they identify themselves?
A. Yeah. I guess they were from Ohio.
Q. Do you remember their names?
A. No.
Q. Were you ever interviewed by the FBI in the presence of the Internal Revenue Service?
A. Yes. At least that's where the gentleman said he was

from, the Internal Revenue Service.
Q. Was there anybody else at that particular meeting?
A. With the Revenue Service?
Q. When the FBI and the IRS agent were there, were there any U.S. attorneys there?
A. Yes. Mr. Morford was there, and my attorney was there. There was other individuals that moved in and out of the room periodically, but I wasn't asking names.
Q. Were you interviewed at the U.S. Attorney's Office in Cleveland?
A. Yes.
Q. Or D.C.?
A. I was here in Cleveland when I got interviewed.
Q. And when you were interviewed in D.C.?
A. I was interviewed at my Attorney's Office.
Q. By Ohio agents?
A. Yes, and Mr. Morford.
Q. Mr. Morford came down, too?
A. Yes, sir.
Q. Did you ever appear before the Grand Jury?
A. No, sir.
Q. Were you ever subpoenaed to appear before the Grand Jury?
A. No, sir.
Q. Isn't it a fact you testified that you backdated

documents?
A. Yes, I did.
Q. And what document was that?
A. I backdated the purchase agreement between you and myself for the purchase of the boat.
Q. Did you know at the time that that was a wrongful act?
A. Yes, I did.
Q. Was there a witness on that document?
A. No. That document was signed between you and myself.
Q. Oh.
Were you advised not to have a witness?
A. I was advised that we needed to make a paper trail so it looked like we had a legitimate deal.
Q. So at what time were you advised that you were to have a legitimate paper trail -- paper trail to look like a legitimate deal?
A. Quite awhile after we were involved in the boat. I don't remember the exact date it was prompted.
Q. Well, didn't you realize it wasn't a legitimate deal from the beginning, wasn't that the testimony?
A. Yes.
Q. Did you take any schooling relative to training to operate a boat, the size of a 37-foot Egg Harbor?
A. What type of training are you talking about?

Q. Like a skipper school or training school?
A. Yeah. I spent a little time in the skipper school, yes, I did.
Q. When?
A. Around the same time as we were doing the initial work on the boat.
Q. Um-hum. Why would you go to learn how to drive such a large boat if you had no intention of doing anything in it, it was a scam, Mr. Lange?
A. The reason I went to the skipper school was for the fact being that I figured we would wind up using the boat in some capacity for some period of time in an effort to do laser visual landing or, excuse me, to do the maritime operation. I was optimistic that we were actually going to do something in that area.
Q. Did you know the year and the make of the boat?
A. Yeah, it was a 70, 1978 Harbor.
Q. Does that make it a classic boat?
A. That's beyond me to decide whether or not it's classic. It's got an aft salon, which is a very desirable type of vessel.
Q. Was Egg Harbor one of the best made boats in America, would you say?
A. They were a good boat.
Q. When they were restored, were they not worth much

more money than many other boats that were wooden?
A. They had a resale value, yes.
Q. Did you ever tell anybody you planned to make a profit after you restored that boat?
A. I thought we could work the deal out so that we could break even on the whole deal after things were done. Whether or not I had considered a profit, what do you mean by profit? You mean a dollar more than what we invested in, or you mean hundreds more or $10,000, what are you --
Q. What did you put in the agreement?
A. I put in the agreement what came in off of the survey that said that the estimated value of the boat's worth after repairs were made kind of matches what's in the agreement.
Q. All right. Then let me ask you this: In the beginning, it wasn't a scam. Why didn't you ask for an agreement at the beginning?
A. I didn't say it wasn't a scam in the beginning. We had already determined that we were going to help you out. Basically, it was after the fact, after you found out down the road or what have you, that this agreement was put in place.
Q. Yes. But were you not the second ranking officer of the U.S. Aerospace?
A. That's correct.

Q. And what would be the difference if the second ranking officer of Mr. Cafaro bought the boat? Wouldn't that be improper?
A. Well, that was a question that I had, but Richard and J.J. seemed to think that it was going to be a clean deal. So --
Q. I'll let that in as hearsay. Keep on.
Now, let me ask you when they said go on, you went forward, didn't you?
A. That's correct.
Q. And you spent a lot of your time down there, didn't you?
A. That is correct.
Q. And when you first saw that boat, was it floating?
A. Yes.
Q. Who took it out of the water?
A. I took it out of the water with a crew, or I ordered the crew to take it out of the water.
Q. Isn't it a fact that you and your crew caused that boat to sink?
A. We had this discussion yesterday, and I told you that it was pushed back further when it was put back into the water, still on the cradle, and the water was allowed to enter up further than what it should have.
Q. What happens to -- to a wooden boat when it comes out

and dries out in the air, Mr. Lange?
A. The planks shrink up, and when it's put back into the water, it needs to have the planks swell back up before it will float.
Q. By shrinking up, you mean there are cracks between the boards?
A. That is correct.
Q. You said you had competent people working on the boat?
A. No. I was told I had competent people working on the boat.
Q. Who hired the people working on the boat?
A. I hired the people working on the boat.
Q. Would you hire incompetent people to work on the boat?
A. They were relatively competent, yes.
Q. Who put the -- go ahead.
A. They needed to be watched, but they were -- they were competent.
Q. Did you ever pay them with cash?
A. Yes.
Q. Now, you said yesterday that you said put the boat here and leave it here, right?
A. That is correct.
Q. And did you tell them do not put the boat in the

water because the boards have shrunk, and it will sink. Did you tell them that?

A. No. They realized that.

Q. So you had nothing to do with the sinking of my boat, right?

A. No, I didn't say that. I said that the boat was moved back further, and as the tide came up, it creeped further into the internal parts of the boat than what it was supposed to.

Q. What part of the boat?

A. It encroached on the engine compartment.

Q. Where is the engine located?

A. Mid ship.

Q. If it's located mid ship, it means it had to almost completely inundate the back to hit the engines, wouldn't it? Where was the engines located in that boat?

A. They were located just in front of the shower on -- in front of the aft salon under where the boat is.

Q. Basically a three-section boat, isn't it?

A. That is correct.

Q. You had an aft-cabin, a front cabin?

A. Yeah.

Q. With a small toilet?

A. Whatever.

Q. Head. You agree?

A. Yes.
Q. To sleep two people?
A. I guess it would sleep two people.
Q. Then you had a main aft-salon, called a main aft-salon in the kitchen, right?
A. That is correct.
Q. And that basically was about what, the kitchen about six-feet wide?
A. Somewhere in that area.
Q. 12-foot wide, six feet deep?
A. Somewhere in that area, yes.
Q. Then the main aft salon is where you walk down into the boat, correct?
A. That's correct.
Q. And did it have sleeping quarters?
A. Yes, it did.
Q. How many?
A. Two bunks, one on the left, one on the right.
Q. That was in the aft cabin. You know if the aft salon had a sleeping quarter?
A. The aft salon, what are you talking about?
Q. When you walk down the steps, what did you walk into, the aft cabin or the middle room?
A. You walk down the steps, you walk into the aft cabin.
Q. What is an after cabin, Mr. Lange?

A. This is what we're trying to determine. There's a bunk on the left-hand side, a bunk on the right-hand side.
Q. In the back of the boat?
A. That is correct.
Q. Now between that cabin and the kitchen, was there another room?
A. That's correct, but -- let's call it a living room where you --
Q. All right. We'll call it living room instead of aft-salon. Now, what room did you walk down into?
A. That was the aft-cabin.
Q. I thought you said there were two beds on the sides ?
A. The aft-bedroom then.
Q. Could you drive the boat from inside the boat if it was raining outside?
A. That is correct.
Q. Could you drive the boat from the top if it wasn't raining outside?
A. That is correct.
Q. Was it known as an aft-salon fly bridge motor yacht?
A. Okay. If that's what you want to call it. I don't know exactly what it was called.
Q. And you're competent people caused it to sink, causing it damage, didn't it?
A. I don't think we caused any more damage than what was

already on the boat.
Q. How did you know? A boat sunk, and it didn't cause damage, is that your testimony?
A. The boat was raised right after the tide receded, pulled back. The water was out of it. The engines were pickled at that point in time to make sure that no additional damage would occur to that boat.
Q. Why did you pickle the engines?
A. Because it's a smart thing to do. You pickle the engines to make sure that any intrusion of water or any other thing that could have gotten into those engines, you replace it with diesel fuel to make sure you have no rusting or any damage to occur to the motor due to intrusion of water into the crane case or what have you.
Q. So evidently, the intrusion of water was enough to worry you to take safeguards to protect the engines, right?
A. That is correct, any amount of water.
Q. How many engines were there?
A. Two engines.
Q. You know what they were made -- what their make was?
A. I don't remember off the top --
Q. Big engines or small engines?
A. Good sized engines. It's a big boat.
Q. Now, at some point, you walked off that job, didn't you?

A. At some point, I did, yes, I did.
Q. Did you ever notify me who was working on your boat?
A. Nope.
Q. Did you ever ask me, since we were in this deal, who was going to be doing the work?
A. Nope.
Q. Now, when you met with the Government, relative to your agreement with them, what deal did you make?
A. What do you mean by deal?
Q. Well, what was the deal? You do something; they do something. What was it?
A. I guess you could say the deal was I would be given immunity, which took place yesterday morning.
Q. But they didn't invite you to the Grand Jury, right?
A. No. I never saw the Grand Jury.
Q. Now, did you happen to know an attorney associated with U.S. Aerospace by the name of J. Harney?
A. Yes.
Q. And what was his role with the company?
A. He acted as the company attorney for matters inside of Virginia.
Q. Would you know if he was a witness for the Government?
A. No. I was told by my attorneys when this all started that I was not to do any investigating into what's going on

with this trial, what's been filed, and what not.
Q. Did Mr. Harney -- you ever discuss buying the boat with Mr. Harney?
A. I can't say I ever discussed buying this boat with Mr. Harney.
Q. Do you know if Mr. Detore has been indicted in this case?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Now, you said when Mr. Detore was fired, you sent him an E-mail?
A. Excuse me?
Q. Did you send him an E-mail?
A. No. I never sent Mr. Detore an E-mail. What E-mail are you talking about? When he was fired?
Q. Or was it your testimony that you walked him out and apologized and comforted him and said you felt bad about it?
A. That's correct. I talked to him, walked him out, and told him I felt bad.
Q. Were you ever warned against entering into any legal contracts with J.J. Cafaro?
A. Could you repeat that question, please?
Q. Were you ever warned by anybody about entering into any legal contracts with J.J. Cafaro?

A. I don't recall any warnings.
Q. Now, when Detore was fired, who replaced him?
A. I did.
Q. Who was the boss?
A. Capri Cafaro was the president of the company at that time, and J.J. was in the thing, and I gave direction on the day-to-day operations that went on at U.S. Aerospace.
Q. Could you fire J.J.?
A. No, I could not fire J.J.
Q. Could you fire Capri?
A. No. I could not fire Capri.
Q. How old was Capri?
A. 21 or 22. I am not quite sure exactly what her age is.
Q. How much time did she spend in the office, Al?
A. What point in time?
Q. Any time you were there?
A. In the early days of the U.S. Aerospace Group was going, she spent little time. As we got towards the end of being involved with U.S. Aerospace Group, she spent more and more time there at the office. To say whether or not she spent a 40-hour work week there, I don't think that she did.
Q. In the beginning, how much time did she spend in the office?

A. Not very much.
Q. Was she on the payroll?
A. I don't know what payroll she was on.
Q. Did you have the same health insurance she had?
A. I have no clue if I had the same health insurance she had.
Q. Did you have the same health insurance Richard Detore had?
A. I don't know if Richard had health insurance through U.S. Aerospace Group or not.
Q. Who did you have health insurance through?
MR. MORFORD: Objection, your Honor. Relevance and asked and answered. We've gone all the way through this.
THE COURT: Sustained.
Q. Was Capri Cafaro lobbying for this project on Capitol Hill?
A. She lacked technical merit needed to truly market the product.
Q. Isn't it a fact that I advised you and Rick Detore to make presentations and to limit her appearances at specific professional events?
A. Yes, you did.
Q. Why?
A. Because she lacked the technical knowledge to market

the product properly.
Q. Now, when we met and there was a meeting in the office, my congressional office with FAA officials, who was doing most of the talking?
A. I believe it was Richard Detore.
Q. Was it not a fact that Capri Cafaro had started the presentation off?
A. Where at? Was she even there at the office?
Q. You don't remember the meeting in Paul's office that you testified to yesterday?
A. Yeah, I remember that meeting. I don't remember whether or not Capri Cafaro was at that meeting. Was her name on the attendance list?
Q. I'll come back to that because I doubt if I'll finish you today.
Now, at some point, there became an issue over patents.
A. Okay.
Q. Who owned the patents to the laser technology?
A. Which laser technology patents are you talking about?
Q. Well, let's start with the laser vision square box runway equipment with the three different color lights.
A. The assignee on that patent was the Cafaro Company, I believe.
Q. Cafaro Company?

A. I'm not sure. I don't have the patent in front of me. If the patent is available, we can figure out who the assignee is on the patent in less than ten seconds.

Q. Did anyone ever tell you who held the patent?

MR. MORFORD: Objection. That would go to hearsay. He just said he has no firsthand knowledge.

THE COURT: Right.

Q. Do you know who owned the patent on MEANPALS?

A. The patents were in process on MEANPALS, and to my knowledge, no patents have been issued on that equipment or that technology to this point in time.

Q. Do you know who was, in fact, attempting to have them patented in their names?

A. Well, with every patent, the two inventors of that equipment names go on the patent, but due to the fact they're being paid by the corporation, once the patent is issued, they assign the rights of that patent over to the company.

Q. Were you one of the inventors of MEANPALS?

A. That's correct.

Q. Who was the other?

A. Richard Detore put his name on that application, also.

Q. But he wasn't the inventor?

A. Richard Detore never drew a line on a piece of paper

to help develop the MEANPALS trailer.
Q. So it was your patent?
A. I was the designer of that. Richard and I put our names down on the patent together. Richard was my boss. That's the way it works.
Q. Well, did you ever confer with J.J. about the patents of a project that the military may use?
A. How do you mean confer?
Q. Did you say, "Look, you know, we have an invention here. It's worth a lot of money, J.J."? Did you ever talk to him about patent rights?
A. No. Any place that I've ever worked for any kind of patent work, the engineer -- while you're getting paid to do a job for them, any patent, any type of new inventions that come out of that work that you're being paid for by the company is products that are owned by the company.
Q. What company are you talking about?
A. U.S. Aerospace Group, Raytheon, Lucky, Martin, you name it. Everything that's out there doing any kind of design or invention, unless done on personal funds, winds up being the ownership of the company that's paying for the work.
Q. Unless an individual had a very wealthy patent and decided he would retire from the company and go in business on his own, did he have that choice?

A. If the patent was developed before he was hired by the -- at the company, yes, then he has that right as long as he signed a statement at employment stating that these were discoveries that he made prior to his employment with the company.

Q. Wasn't it a fact that there was legislation passed for the Coast Guard to study the use of vision laser technology?

A. In the maritime application, yes.

Q. Do you know who was responsible for that?

A. I would say that it was you.

Q. Did the Cafaros know the Kennedys to the best of your knowledge?

A. They told me they did. I never seen them at the Kennedys' house or at our office or anything like that.

Q. Were you ever at J.J.'s homes?

A. Yes, I was.

Q. What home were you at?

A. I was at the home of Chevy Chase Circle for a -- an Italian American festival night, and I was in his home out in Youngstown, Ohio, for Capri's 21st birthday.

Q. Was I at that birthday?

A. I don't remember if you were there or not.

Q. Did you ever see me at any social function at either houses?

A. I've only been to two social functions, and no, you weren't at either one those two.
Q. Now, you remember I was not, right?
A. I don't remember seeing you at either one of those two.
Q. Okay, fine.
Were you there?
THE COURT: No, you can't ask that.
THE WITNESS: I'm sorry. Excuse me.
MR. TRAFICANT: Hey, you're talking to me.
THE WITNESS: I'm sorry. I was.
MR. TRAFICANT: I asked --
THE WITNESS: It was an error on my part.
MR. TRAFICANT: You answered.
THE COURT: I think it's time for a break. We're going to take our weekend break now.
The lawyers are going to stay here and do work with me. We'll see you at 9:00 on Monday morning. Enjoy yourselves, and remember all your admonitions. It looks like it's going to be a beautiful weekend. Okay? We'll see you Monday.
(Proceedings in the absence of the jury:)
THE COURT: We have some issues over objections first. I understand the Government has a concern about something, and I also have something I want

to put on the record. So let's start with the objections. I need to go back on the record to find the place I guess where the objections were made. Do you know?

MR. MORFORD: I do not. I'm sorry, your Honor. I'm not sure what area it was.

THE COURT: Okay.

MR. MORFORD: Yes, I do remember now.

THE COURT: Okay.

MR. MORFORD: My objection was the Congressman was attempting to have this witness, who was not an expert, without establishing any foundation about this witness' ability to recognize his handwriting or not recognize his handwriting, compare two documents, and I don't believe there was ever a foundation laid by the Congressman that the document he was attempting to show this witness to do the comparison on, which was 1-23, was his original signature.

What he has brought out throughout this trial is that his staff had had authority to sign his signature on various documents. This 1-23 was a lease that was done at the time he brought Alan Sinclair into the office, and to my knowledge, there's been no foundation laid as to who signed it.

And so whether or not, if he was trying to do a handwriting comparison, that's a known sample or not, but

even if it is, this man is not a handwriting expert, and it would be improper to have this man that worked for USAG testifying about a boat deal sit there and do a handwriting analysis.

MR. TRAFICANT: When someone speaks so long, they don't really have the facts. They had introduced as an exhibit an agreement that was backdated. Subject to ten years in prison --

THE COURT: Wait a minute, what are you talking about?

MR. TRAFICANT: The agreement on the boat. What I was attempting to show was I was introducing exhibits that have already either been joint exhibits or already brought into -- and testified they were, in fact, my signatures to Secretary Baker and to others.

And I was going to put simply the signatures that were testified to on Government's Exhibits, and the signature that purportedly I signed on that agreement and showed the comparison to the --

THE COURT: But you have a witness on the stand who doesn't -- isn't in any better shape than the jurors are to make any kind of comparisons. You haven't established anything about his expertise, in comparing signatures, and unlike some of the testimony we've had earlier in the case where the witness on the stand was

working for you and may have been someone who signed some of your documents, this witness doesn't have any of those connections to it. So the objection's well taken. And you can't pursue with witnesses just anything you want to have the jury hear. There has to be a connection with it.

MR. TRAFICANT: Okay. I'd like to explain and object to your rulings.

THE COURT: You can object to the ruling.

MR. TRAFICANT: Fine. I will, but I want to explain.

Does he have two eyes?

THE COURT: Congressman, I don't think that'll be real useful to you, to me.

MR. TRAFICANT: I think it's very useful.

THE COURT: We'll leave that record right there, does he have two eyes.

MR. TRAFICANT: Can he see? Can I ask him if he has bad memory?

THE COURT: Let's go to the next objection. Let's go to the next objection.

MR. TRAFICANT: Are you saying I cannot use handwriting that has been -- that has been testified to as being my own to impeach this witness' testimony?

THE COURT: This was not a proper use of the documents you were using with this witness for anything

that you've been able to establish. Now, let's go on to the next objection.

MR. MORFORD: Next objection, I believe, your Honor, was Congressman Traficant was attempting to show this witness a copy of his credit card statement -- Congressman Traficant's credit card statement --

THE COURT: It appears, sir, to be your credit card statement, not the witness' credit card statement.

MR. MORFORD: Without any foundation that this witness ever saw this credit card statement, this witness' testimony was he didn't know how it was paid.

His testimony was he knows he was told in the beginning that it was going to be $5,000, and he has no idea what it ended up being. Again, what it is is it's an attempt to argue points through a witness, which is the purpose of closing argument, where the witness has no knowledge of the facts, and there has to be some firsthand knowledge or some rational connection between this witness and the documents and the questions being asked. You can't simply argue through a witness what you want the jury to hear.

MR. TRAFICANT: Your Honor, did the witness not testify -- excuse me -- if I get loud, I'll have to whisper. You won't hear me. So I don't mean to be

demeaning -- did the witness not testify yesterday that they had taken Traficant's credit card down to pay the account?

THE COURT: I think so, yeah.

MR. TRAFICANT: Did Rick Detore testify in this case? I even let the hearsay in for this purpose.

THE COURT: Well, I don't know about your letting hearsay in. Usually, it's the Judge who decides.

MR. TRAFICANT: No. He said they took Traficant's credit card down.

THE COURT: Okay. But so what? The document you handed him, from its appearance, is your own statement.

MR. TRAFICANT: But I was --

THE COURT: You're trying to put apparently your -- something you can testify to if you choose to.

MR. TRAFICANT: I was going to ask him to identify the credit card number and then show him the credit card and see if he remembers the credit card. You have -- you have limited my cross-examination before I can get to the point.

THE COURT: Right.

MR. TRAFICANT: Well, you objected to my business.

THE COURT: Well, you still have to follow rules. Let's take this --

MR. TRAFICANT: How do you rule on it?

MR. MORFORD: If I can address one thing, your Honor.

The witness testified that Mr. Detore came back with a credit card, which he took the money. This is a bill that comes out a month later. I'm willing to stipulate and let this bill be admitted into evidence, but even if that happens and it comes into evidence, this witness knows nothing about this bill, and he can't testify about this bill. But, Congressman Traficant --

MR. TRAFICANT: I move it be made a joint exhibit. You want to put a number on it?

MR. MORFORD: Yeah. I'll -- this is a business record. I believe it's a legitimate one. I don't want to waste the jury's time. I'll stipulate to the admissibility.

MR. TRAFICANT: Terrific.

THE COURT: Terrific.

MR. MORFORD: But --

MR. TRAFICANT: No, no.

MR. MORFORD: No, please.

Having done that, he still can't ask this witness about this document unless this witness has seen it.

THE COURT: Now, you understand that, Congressman?

MR. TRAFICANT: I do understand that, but I also understand that I can show this witness my credit card and see if he can identify it, and if he can't, he can't. Now, isn't that reasonable?

MR. MORFORD: First, you'd have to testify whether the witness ever saw the credit card and saw the number.

MR. TRAFICANT: Fine.

MR. MORFORD: If he says no, there's no point.

MR. TRAFICANT: Okay. We have enough time. What's next?

MR. SMITH: Those are the only two, I think.

THE COURT: Those were the two objections.

MR. TRAFICANT: Okay. Your Honor, I have a matter before the Court.

THE COURT: Okay.

MR. TRAFICANT: I have submitted on March 14th a motion dealing with the harassment of particular staff members and associates.

Yesterday afternoon, I told you that I -- I asked you to hold up, and I've submitted that and filed it this morning with the court and gave a copy to Lynn.

THE COURT: Right, we have that. We'll let the Government respond to it.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: But, not right now. You just can't have oral motions to it. You put in a written motion, I accept it.

MR. TRAFICANT: It is an attachment --

THE COURT: Wait a minute. I have to find out what we're talking about. You have a new one, right?

MR. TRAFICANT: No. This is simply an attachment to the motion that was offered on the 14th as an additional attachment, wherein an FBI agent followed and photographed one of the process servers in my case clearly showing a pattern of misconduct.

THE COURT: Is it this you're talking about that you filed today? Is that what you're talking about?

MR. TRAFICANT: I filed this today as an attachment, put on the front sheet so you can identify it.

THE COURT: Is this it? Is that what you want?

MR. TRAFICANT: Yes.

THE COURT: You filed it. It's filed. I'll consider it when they've had a chance to look at it and respond to it. We don't do these things just because you talk about them.

MR. TRAFICANT: I thought you wanted to deal with it today.

THE COURT: You just filed it this morning, sir.

MR. TRAFICANT: Okay. Thank you.

THE COURT: You're welcome.

MR. TRAFICANT: I have no other business. I have some things I'd like to put on record for admission into evidence, but I'll have to go over them and do it Monday.

THE COURT: You want to do it Monday? Okay. Stay here awhile. We have a few other things. You have something else?

MR. MORFORD: Yes, your Honor. I wanted to address some issues that arose through the Congressman's cross-examination regarding speech or debate. As the Court knows, the Congressman objected to us bringing out certain facts through our witnesses and certain documents regarding his legislative activities. Two of those items were the fact that Congressman Traficant not only promised legislation involving the Coast Guard but had actually gone out and offered some legislation.

The second had to do with the MEANPALS issue and this $4 million appropriation from the Army.

Based on Congressman Traficant's objection, which we agreed those would be speech or debate matters, we agreed not to go into those. We did not go into those on direct.

THE COURT: That's right.

MR. MORFORD: Several weeks ago when Congressman Traficant started to drift into an area that would constitute waiver, there was not an objection, but I asked the Court if we could have a side bar so we could explain to him the danger of what he was doing.

He said he knew. He said he understood, and I made it very clear that our position on the record is that if on cross-examination he brought out through witnesses the fact that he had, in fact, gone out and introduced legislation or attempted to obtain legislation for hearings or testify at hearings or obtain appropriations, that he would be waiving the speech or debate privilege that he had raised because the Supreme Court has made it clear that privilege cannot be used as a shield and a sword.

It's my position now that based on what he did here today on cross-examination that he has waived his speech or debate privilege as to the Coast Guard legislation, as to the MEANPAAS legislation, and as to those hearings, and there are a number of relevant documents, which we were not going to use because of speech or debate privilege that are now fully admissible, because he knowingly and purposefully asked very direct questions to bring out the fact that, in fact, he had obtained legislation.

MR. TRAFICANT: The questions that I was

asking were in relation to Government's Exhibits and Government's Exhibits that had already been admitted by this Court. The Court has already ruled on the speech and debate clause. I am not bound by anything other than what the Court had ruled on speech and debate. You had let it in.

Now, if you're saying that I'm --

THE COURT: Actually, we didn't let in all the speech and debate. We did make a ruling, and all of those rulings are subject to what happens at trial, and the issue of waiver is a very significant issue to you. What I'm going do with this is ask you to think about this over the weekend, and I'll give you an opportunity to respond to it.

And you can respond to this issue, which is the kind of issue that frequently arises in trial, but I don't want you to respond right here on your feet only. You need to think hard about this because this is not a new proposition that's being proposed to you.

MR. TRAFICANT: Your Honor --

THE COURT: We're not -- we're concerned now with whether or not there's been a waiver.

MR. TRAFICANT: I want on the record --

THE COURT: That's what you need to look at --

MR. TRAFICANT: I want on the record they brought up MEANPALS --

THE COURT: Well, the record is here.

MR. TRAFICANT: You can look through the record.

THE COURT: The record has occurred. I suggest you look through the record yourself.

MR. TRAFICANT: I'm not going to spend any more on the record. I don't have to buy a record. I know that witness testified to MEANPALS.

THE COURT: Congressman, this is a really significant part of this litigation.

MR. TRAFICANT: Your Honor, let me tell it like it is. This is the only way I can do this. Okay? I know what you're going to do. Go ahead and do it. Let them bring in whatever they want, but I am telling you this: You are limiting my cross-examination of witnesses, and you're being unfair. This is not a level playing field. You know it, and you're catering to these prosecutors on everything they ask for, and I've had it.

THE COURT: You've had it. I haven't ruled, and I won't rule. I'll give you until Monday morning to come back with a response.

MR. TRAFICANT: I don't know if I'll be prepared legally Monday morning to do it. I will respond

in a timely manner, whether it be Monday morning or Tuesday. I can't promise a Monday morning commitment.

MR. MORFORD: Your Honor, these things have all been briefed long before this trial. We briefed Supreme Court cases that had questions about what the Congressman promises are not speech or debate. We prefaced all our questions with what promises were made.

Please do not talk about what, if anything, was done, and I purposefully put the Congressman on notice two or three weeks ago on the record, that if he continued to bring out things that were done, he would waive the speech or debate. He said he understood. He didn't care or whatever, but the point is all this has been in writing. It's all been briefed.

He knows the rules, and if he doesn't know the rules, then he should have had an attorney here. But he made the decision to go without an attorney, and I also -- well, I can't do that because I would ask that he stop making these demeaning statements about the Court, which is what --

THE COURT: I've become accustomed to --

MR. TRAFICANT: You're letting him speak.

THE COURT: -- his style. I'm going let him finish.

MR. TRAFICANT: Thank you.

MR. MORFORD: All I was going to say, he has

a pattern of doing this. He accused Judge Aldrich in the first trial, Judge Williams in the tax trial. Every trial he's in it's an unfair playing field. The rules are different, but the fact is the Court has applied the rule of law as it does to any other Defendant.

He's not above the law. He doesn't get special rules, and the fact that he doesn't understand the rules doesn't mean that he can constantly be talking about the Prosecution and the court treating him unfairly.

MR. TRAFICANT: This Court, in my opinion, has bent over backwards for the Prosecution. Now, if that demeans you, I apologize, but for the record, I'm saying it.

THE COURT: I think and I have been saying it for a long time --

MR. TRAFICANT: I've said it very often. Here's what I'm saying: Do I have anybody following their process servers around? Do I have any of my people intimidating their people? I have given you case after case of prosecutorial misconduct. Why would an FBI agent stop and take photographs of a home where a wife becomes nervous, tells --

THE COURT: I think you're talking about what you filed with me this morning, and I'll consider it once I've had an opportunity.

MR. TRAFICANT: You'd better take a good look at this. You're taking it very lightly, including the rape of one of my constituents --

THE COURT: Come on, Congressman.

MR. TRAFICANT: -- that you've taken very lightly. You say I'm making light allegation, serious allegations on matters.

THE COURT: I did say they were serious.

MR. TRAFICANT: And you've taken that lightly.

THE COURT: Congressman, we're going to turn to another topic right now, and it's another important one for you.

The Government appears to be left with just a couple of more witnesses, and so your next week may include the time arriving when you put on your defense, and I want to talk to you because you're a Pro Se Defendant about just one aspect of that so you've got lots of time before you get to the point where you're putting on your defense to consider the procedure that --

MR. TRAFICANT: Your Honor --

THE COURT: -- that you undertake, and I do not want you to interrupt me. I want you to listen. You need to hear.

MR. TRAFICANT: I will, but I want to ask one

question first. I would like for you to do that in writing, not tell me.

THE COURT: Well, I will tell you, and it's part of the record in the case.

MR. TRAFICANT: Yes. I would rather you do it in writing.

THE COURT: Okay. I am not going to do it in writing. I'm going to tell you about it. You can listen or not listen as you choose. I'll tell about it now.

MR. TRAFICANT: Let me ask you, why are you telling me?

THE COURT: Because you're a Pro Se Defendant. We always tell pro se defendants how to do this or pro se plaintiffs.

MR. TRAFICANT: I thought the Judge's job was to treat me as an attorney.

THE COURT: You wear two hats here. You're a defendant in a case, and you have certain rights and obligations because of that. You're also an attorney representing someone in the case. And so the only time that really requires that you follow procedures that I want to make sure you understand well in advance is when it comes to a place where you make a decision, and I don't know which way you're going to decide. As you know, you've got a constitutional right not to testify in this case.

And --

MR. TRAFICANT: Why are you making an issue of it?

THE COURT: I am not.

MR. TRAFICANT: You're already starting a --

THE COURT: No. The jury's not here, and we're talking --

MR. TRAFICANT: You're talking to the press.

THE COURT: I'm talking to you.

MR. TRAFICANT: I understand the Rules of Criminal Procedure. If I didn't, I should have hired an attorney.

THE COURT: Yeah.

MR. TRAFICANT: And if I make a mistake, it's my fault.

THE COURT: No, but you --

MR. TRAFICANT: You are not to advise me of my defense, nor, in fact, inform me of the law.

THE COURT: I am not.

MR. TRAFICANT: So why are we doing this?

THE COURT: I don't know, but you haven't heard what it is I'm going say, and so it's really hard for you to characterize it.

MR. TRAFICANT: Is that why you got unusually my records of the 1983 trial held in Judge Ann Aldrich's

court?

THE COURT: I don't know what you're talking about.

MR. TRAFICANT: Are you worried I have skills to get to, in fact, become acquitted?

THE COURT: No. I'm not worried about that.

MR. TRAFICANT: What are you worried about how I behave in a courtroom? Why did you get the '83 record?

THE COURT: Because you raised the issue whether or not you can use things in a prior trial.

MR. TRAFICANT: You ruled on it. You said no vendetta.

THE COURT: No, that's a different topic.

MR. TRAFICANT: Well, what does -- what does vendetta relate to?

THE COURT: We've got your records way before the trial began because we had to get them available to you if you needed them, and as a matter of fact --

MR. TRAFICANT: Why did you say it was unusual?

THE COURT: I don't know who said that or what they knew.

MR. TRAFICANT: They told me that you talked

to them.

THE COURT: Well --

MR. TRAFICANT: Said we find it very unusual. They're not in the archives, they're in Cleveland, judge Lesley Brooks' office.

THE COURT: Okay. Now, I'm going read some things for you. These are from regular instructions that I read, and I'm going to read them to you, so --

MR. TRAFICANT: Could I ask one last question? Could you please give me a copy of what you read to me?

THE COURT: I'm going to read it to you. I am not going to give you a copy. I'm going to read it to you. Do you want to stand there, or you want to sit? Why don't you sit down and relax and listen?

MR. TRAFICANT: I want to look at you, and I want to listen to you.

THE COURT: All right. Very well.

This is on pro se examinations if you decide to testify. Because you're representing yourself, I will explain to you well in advance the procedure of pro se party follows if he or she decides to testify.

As you know, you have a constitutional right to not testify, and the jury will be so instructed and will be instructed that if you choose not to testify, that cannot

be used against you in any way. If, however, you decide to testify as a pro se representing yourself, this is the procedure:

You'll be put under oath or affirmation like any other witness and take the witness stand. Then for your direct examination of yourself, you will ask yourself a question. You must give the other side an opportunity to object and the Court a chance to rule before you answer each question.

When you ask a question, you first say question, and then you ask the question. Then you pause so the other side can object to your question, and the Court can rule. When you answer your question, you first say answer, then you give your answer. Remember that your answers are not the time for argument or speeches. That comes later.

Like every other witness who takes the stand, just answer the question asked. This process may seem awkward at first, but we find pro se parties are able to adapt to this procedure quickly, and it goes along easily.

Cross-examination, if there is any, proceeds just like other cross-examination of a witness. So that's so that you know in advance if you decide that you want to testify in this case, that you have to go through this procedure of being both the lawyer who asks the question and the witness who answers it and give time for the other

side and the Court to deal with whatever may come up because of the question or an answer.

So now you know that. You may never need to use it, Congressman, but you're entitled to know about it.

MR. TRAFICANT: Let me ask you this: What if I say "Mr. Traficant, did you know Mr. Jones," and then I think about a picture in a Playboy magazine and I forget what my question was. Do I say would you please repeat the question?

THE COURT: You really have to handle both the lawyer's side of it, which a lawyer will probably do --

MR. TRAFICANT: I understand that.

THE COURT: -- and the other side. I think you do understand.

MR. TRAFICANT: But what I'm concerned about here --

THE COURT: Well, you're very articulate so I don't think you're going to have trouble with it, but it is not maybe what you anticipated, and this is what I always tell people.

MR. TRAFICANT: What I'm very concerned about here, they have yet to conclude their case, and you're now instructing me on what I can or cannot do in my defense.

THE COURT: Well, no, I'm not.

MR. TRAFICANT: First of all --

THE COURT: I am not instructing you in that I'm giving you lot of warning because you are pro se.

MR. TRAFICANT: I take that back. I didn't mean it in that form. You are informing me, and I appreciate that, and you have a right to do that. But I already know that.

THE COURT: Good.

MR. TRAFICANT: You knew I knew that.

THE COURT: I didn't know you knew it. Most pro ses don't know it.

MR. TRAFICANT: I've already handled a RICO trial in 1983. You have my case, don't you?

THE COURT: I didn't really read your case. I brought your case here. You can look at it.

MR. TRAFICANT: If I would have been convicted, would I be standing before you today?

THE COURT: Did you look at the case?

MR. TRAFICANT: I never even looked at the transcript of the case.

THE COURT: Okay.

MR. TRAFICANT: Never listened to their tapes.

THE COURT: Then you could probably send it back then.

MR. TRAFICANT: Only thing I did was a

forensic study of their so-called confession.

THE COURT: Okay.

MR. TRAFICANT: That's why I'm standing here. But here's what I'm saying here before I leave here today. I submit an affidavit today and you're going to respond, understand that. If there's one more incident involving FBI intrusion into any of my constituents, I'm not Defendant now; I'm the Congressman, I will come up to your office. I want you to understand that. You photograph my people. I want to see the warrant for the photograph made on Antonoff's home.

THE COURT: We have lot of allegations flying around here, and I'm --

MR. TRAFICANT: No. You have a motion before you.

THE COURT: I'm sure they're very interesting, but you --

MR. TRAFICANT: I don't want them damaging or harming my constituents. I'm a congressman while I'm on trial here as well.

MR. MORFORD: Your Honor --

MR. TRAFICANT: I want the Court to understand that.

MR. MORFORD: Your Honor --

MR. TRAFICANT: And I conduct my business

here.

Now, I've concluded mine.

MR. MORFORD: Your Honor, we will respond in writing, but before we leave today, because we may not get it in, yet, I don't know how long it'll take us, I do want to know, despite what the Congressman said yesterday, this professional investigator says he was flashed a law enforcement badge that appears to be an FBI badge.

He can't say for sure. He's following a car; can't say what make or model it is. He never wrote down the license plate, and there's no evidence at all it was even an FBI agent, but we'll address it.

THE COURT: I'm not sure we're in the right place for this to be addressed.

MR. TRAFICANT: Since he brought it up, I would like photographs of all the FBI agents in the Northern District of Ohio in Cleveland.

THE COURT: Why don't you deal with the FBI about their agents, Congressman?

MR. TRAFICANT: Because I believe the U.S. Attorney has been, in fact, conducting this investigation and has assigned the FBI to find out who's going to testify for Traficant, and what can we get on him so we can impeach their testimony or demean them when they're on the stand.

THE COURT: We'll see you on Monday morning

at a quarter of 9:00.

MR. TRAFICANT: Your Honor --

THE COURT: Is that enough for your exhibits?

MR. TRAFICANT: Your Honor, if I did demean you in any way, I apologize. I mean that.

THE COURT: Congressman --

MR. TRAFICANT: I'll try not to do it again.

THE COURT: Congressman, how much time do you need for your exhibits on Monday morning?

MR. TRAFICANT: I'm going to have to go through because I have to try to remember.

THE COURT: Then we'll see you at 8:30 so we have enough time. How's that? Is that good? You want quarter to 9:00?

MR. TRAFICANT: I think quarter to 9:00 would be good enough.

THE COURT: Quarter to 9:00.

MR. TRAFICANT: Thank you.

(Proceedings adjourned.)

DIRECT EXAMINATION OF ALBERT LANGE..... 3666
CROSS-EXAMINATION OF ALBERT LANGE..... 3675

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
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Cleveland, Ohio 44114-1201
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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON MONDAY, MARCH 18, 2002

Jury Trial

Volume 20

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APPEARANCES:

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Monday Session, March 18, 2002, at 8:45 A.M.

(Proceedings in the absence of the jury:)

THE COURT: We have just one matter.

On Friday, there was a brief discussion initiated by the Government regarding the speech or debate clause and whether or not there had been a waiver, and, Mr. Morford, you argued that the Congressman had waived his speech or debate privilege as to the Coast Guard legislation, the MEANPALS legislation, and as to these hearings.

I assume that means the hearings that were related to those pieces of legislation.

And that there was Supreme Court precedent established that that would constitute a waiver. But I'm not aware of what case or cases you're referring to regarding a waiver of the speech or debate clause, and so I ask that you advise us as to what they are. You don't have to do it right this moment.

But we need to -- to know that, and certainly, you should not get into any areas that we have not gotten into so far in this case and that we have precluded your getting into regarding speech or debate unless or until the Court issues some sort of opinion regarding waiver.

MR. MORFORD: Your Honor, when we were addressing -- when I said Supreme Court, I misspoke. There are three Court of Appeals cases, Rostenkowski, McDade and

Meyers.

MR. SMITH: 635 second.

MR. MORFORD: Which goes to the issue of the fact that although the Government is precluded from putting in evidence as to the speech or debate regarding legislative acts of the Congressman, the Congressman is free to do so, but once he does so, he may be questioned about those.

THE COURT: Okay. Well I think the best thing to do -- because this is an important matter, as I said on Friday -- is for you, before we require the Congressman to really respond to it, to give us the law because I looked at the Supreme Court cases and didn't find anything that would support this. So you can respond once we've seen something in writing from them, Congressman. You don't need to now, but you can't go into anything.

MR. MORFORD: I understand that.

MR. TRAFICANT: I have an inquiry.

MR. MORFORD: If I can finish, it is our intention not to go -- not to offer any documents the Court has not already ruled are admissible without fully addressing it with the court, and we may not even get there because I don't know that it's necessary.

THE COURT: All right. I didn't want us to stumble into anything unnecessarily.

MR. MORFORD: I understand.

MR. TRAFICANT: I would like to now inquire of the court, there was much made over this. The MEANPALS, the Coast Guard authorization, and other items were brought forward in questioning by the Prosecution, showing that certain particular actions taken by the Congressman were, in fact, to benefit his constituents through certain legislative processes.

Now, I'm aware that the Court has ruled and asked the Magistrate to have, in fact, make a recommendation to the court on the speech and debate clause. And the speech and debate clause matter has, in fact, been ruled on by this Court.

THE COURT: Well --

MR. TRAFICANT: Having said that, if they offer a document, for example, Document X, that has a third and fourth paragraph redacted, in my opinion, that whole document should have been redacted, and they were allowed to do that. I want that placed on the record.

In my opinion, it's clearly a violation of the speech and debate clause, and no matter what happened with Rostenkowski, McDade, Jones, or Rambo, they have no rights nor do they have a right to question me now once the Judge has ruled on materials that the General Counsel of the House had recommended were to be protected under speech and

debate clause. I understand the Court has the power.

I'm not questioning the Court's power one bit, but for them now to try to harness the Congressman on issues they opened up is a moot point and should be disregarded by the court.

THE COURT: Thank you, Congressman. Let's bring in the jury.

(Proceedings resumed in the presence of the jury:)

THE COURT: Sir, you're still under oath.

THE WITNESS: Yes, your Honor.

CROSS-EXAMINATION OF ALBERT LANGE (cont.)

BY MR. TRAFICANT:

Q. Good morning, Albert.

A. Good morning. How are you doing today?

Q. Did you stay in Cleveland?

A. Went home, spent time with my family, and came back last night. How about yourself?

Q. I ask the question.

A. I'm sorry. Excuse me.

Q. You answer.

A. I'll try.

Q. Now, at some particular point, U.S. Aerospace agreed to pay your legal fees?

A. That is correct.

Q. And what was that incident? Would you explain it?

A. The incident was that they -- the subpoenas were drawn to secure the records from U.S. Aerospace Group and the Cafaro Company. I'd taken over as chief operating officer, and they came into the office and secured all these records, and I talked to Geoff Mearns, who was representing the Cafaro family or company, whatever, and he decided that I should have a separate counsel, and that's when I picked up separate counsel.

Q. Were you the boss of U.S. Aerospace?

A. I was second in command at that time.

Q. To whom?

A. Capri Cafaro, who was then acting -- was then the president of the company.

Q. Why didn't the president of the company handle the matter?

A. She handled what areas she could handle, and I handled the other areas.

Q. Who, in fact, determined that you were the custodian of records?

A. I don't know which individual decided that I was the custodian of records.

Q. Is U.S. Aerospace a corporation, sir?

A. As far as I know, yes.

Q. Were you under one of the officers?

A. I was the chief operating officer of the company. I

don't -- I can't say that I was deemed a buy-in officer of the company or what have you.

Q. Under law, weren't you required to have meetings, at least annual meetings and records and minutes of those meetings?

A. That is correct.

Q. Was it ever determined who was to be the custodian of records at any meetings that were memorialized in the records?

A. I believe J.J. Cafaro was that man.

Q. Well, if J.J. Cafaro was the custodian of records, why were you handling the records?

A. These were records that were local to U.S. Aerospace Group in our office.

Q. Did you object to that when they said you would be the custodian of records?

A. No one ever came to me and said that I was the custodian of records. I was asked to take over as chief operating officer of the company, and if one of the duties as chief operating officer is to take care of the records, then, yeah, I took care of the records.

Q. Did you have a job description?

A. A formalized one? No, I did not.

Q. I didn't hear you.

A. I said as far as a formalized job description, no, I

did not.
Q. So what did they say? Go to work and throw out the ball, Al? What did you do?
A. I did what any normal human being would do. I took and cut down the expenditures going out of the office and focused on bringing forth a contract.
Q. And wasn't it a fact one of the main duties you had was to try and reduce expenses?
A. That is correct.
Q. Who was the highest paid employee at the time before you took over?
A. At U.S. Aerospace Group group? I believe it was Richard Detore.
Q. Was Mr. Detore fired?
A. Yes, he was.
Q. Did that reduce expenses significantly?
A. Not really.
Q. How much was he paid?
A. I have no idea. That's his business, not mine.
Q. Well, you were COO, and you don't have records and corporate board records to show who was paid what, is that your testimony?
A. No, I'm telling you that I did not know what the total compensation package for Richard Detore was.
Q. Well, did you know what his base salary was?

A. $200,000 a year.
Q. Do you know if he had a bonus clause?
A. He said he had a bonus clause.
Q. Did you have a bonus clause?
A. Yes, I did.
Q. Now, when you were first hired, did you sign a contract agreement with the Cafaros?
A. No, I did not.
Q. Did you ever have any written agreement with the Cafaros?
A. The only kind of agreement that I had was a statement of base salary and bonus for performing my duties in a formalized fax.
Q. Did you retain a copy of that in your personnel records?
A. I don't believe so.
Q. You were the custodian of records, and you didn't keep personnel records?
A. I turned out to be custodian of records two and a half years after U.S. Aerospace Group came to be formed. I picked up the pieces of what was there, left in the company, and tried to make a go.
Q. When you tried to make it go, did you establish a policy of having a personnel file on your employees?
A. Yes.

Q. Did you retain those for the records?
A. They were personnel files, and everything else were gathered up when the subpoena was served, yes.
Q. And did you have a personnel file in it?
A. Yes, I did.
Q. And what was your bonus to be when you were COO?
A. Same as it was before I was COO. I was supposed to receive $50,000 as a bonus.
Q. What was your salary as COO?
A. Same as it was before I turned -- became the COO, $105,000.
Q. So there was no change in your pay, was there?
A. No, there wasn't.
Q. There was just a promotion in your duties and expansion of your duties?
A. That is correct.
Q. And you didn't ask for a raise?
A. It was agreed that if I could pull things around and get a contract in, then we would renegotiate my position and my financial position in the company.
Q. Now, does the company Latham and Watkins mean anything to you?
A. Latham and Watkins?
Q. Latham and Watkins.
A. Yes, it does.

Q. Explain who they are.
A. Latham and Watkins, I have representation, legal representation from Latham and Watkins.
Q. Who were they affiliated with?
A. I don't know.
Q. Did you sign an agreement with them?
A. What kind of agreement?
Q. To represent you or to handle --
A. Yeah, I signed a -- some type of agreement, yeah.
Q. Some type? What type of agreement?
A. That they would be retained as my counsel.
Q. Who was to pay for them?
A. U.S. Aerospace Group.
Q. Was there anybody present with you when you signed that agreement with Latham and Watkins?
A. Just my attorneys from Latham and Watkins.
Q. Who authorized you to sign that agreement?
A. J.J. Cafaro.
Q. Did you have anybody else you had to report to?
A. Capri Cafaro.
Q. What was the title of Capri Cafaro?
A. President of the company.
Q. Did anybody from the company witness that contract?
A. I don't remember if they did or didn't.
Q. Did you maintain a copy of that contract for your

records?
A. I may have it at home somewhere. I don't know.
Q. You mean you didn't turn it over to the FBI?
A. No, I did not.
Q. Didn't they ask for every and all records?
A. Pertaining to what?
Q. U.S. Aerospace?
A. This was after the subpoena was served and the records were pulled from U.S. Aerospace Group that I signed this agreement.
Q. Who's paying for your current attorneys?
A. U.S. Aerospace Group.
Q. The current -- the attorney you have now is being paid by U.S. Aerospace?
A. As far as I know. U.S. Aerospace Group or some entity that has come about since U.S. Aerospace Group, I don't know.
Q. You have an attorney, and you don't know who's paying your attorney?
A. I have an attorney that was originally being paid for by U.S. Aerospace funds, and at this point in time, I do not know who's paying for my attorney.
Q. Is Santa Claus paying for your attorney, Al, or are you paying for your attorney? Yes or no?
A. No.

Q. Are you paying?
A. No.
Q. So you're up there free of charge, right?
A. Yes.
Q. And you have immunity, right?
A. That is correct.
Q. Now, you said some entity. You don't even know who's paying your attorney?
A. No. As long as my attorney shows up, I really don't care.
Q. And you've had know conversations with the Cafaro Company relative to your representation?
A. No, I have not.
Q. When was the last time you talked with J.J. Cafaro?
A. Somewhere around two years ago, I guess.
Q. Give me an idea, a month. 18 months ago, two months ago?
A. Somewhere in that area.
Q. Say that --
A. 18 months ago, I would say.
Q. The middle of 2000. Would that be a fair guesstimate?
A. I believe it was earlier -- no, it wasn't the middle of 2000. It was earlier than that. Just right after --
Q. After what?

A. January, February time frame of 2000, maybe.
Q. Early 2000.
So now it's two years. When was the last paycheck you got from U.S. Aerospace?
A. October of 2000 -- was it 2000? Yeah, 2000.
Q. Now, the last paycheck you got from -- was October of 2000, and you're telling me that U.S. Aerospace or some entity connected with U.S. Aerospace is paying your attorney?
A. That is correct.
Q. Who are you protecting, Al?
A. I'm not protecting anybody.
Q. Then why are they paying for your attorney fees?
A. I guess they feel obligated because I was a member of U.S. Aerospace Group when this whole thing erupted, and I don't know, I haven't asked them why they're paying for it.
Q. Did the Government ever tell you what crime you committed to deserve immunity? Are you okay? You want to take a drink of water? Go ahead.
A. No. I'm trying to decide whether or not I was ever informed of whether or not I was -- no, I don't believe the -- I don't believe the U.S. Attorney ever told me what charge -- what crimes I committed.
Q. Well, then, why did you need immunity?
A. Because my lawyer said that I would get immunity.

Q. So your lawyer made an agreement with the attorney -- with the U.S. prosecutors, right?
A. I would say that's what they did.
Q. Did your attorney instruct you as to what the terms were?
A. I was told by my attorneys as long as I told the truth, that I would -- that that was what the U.S. Attorney wanted me to do.
Q. I'm sure of that.
Now --
THE COURT: Excuse me. You disregard comments from anybody who's asking questions. All right?
BY MR. TRAFICANT:
Q. Did you keep records of your payments to deGroot? Was his name deGroot? I'm trying to figure out --
A. Ernst deGroot, and, yes.
Q. Did he have a company?
A. No.
Q. Did he have men working for him?
A. There was a guy from time to time.
Q. Did you have a signed contract with him?
A. Yeah.
Q. Did you keep a copy of that contract?
A. Yes.
Q. Did you turn it over to the prosecutors?

A. Yes.
Q. Who monitored his time?
A. Time was monitored by me --
Q. Did you work during the day or night?
A. I worked during the evening.
Q. On what?
A. The boat.
Q. When did Mr. DeGroot work on the boat?
A. Sometimes during the day; sometimes during the evening.
Q. Who monitored when he worked during the day?
A. He was allowed to work on it on his own pace. When he'd go down there, you can either see there's been work accomplished or not work accomplished. If there hadn't been work accomplished from the previous day, then put in the hours that he worked, I would question that.
Q. Now, for the year 1999 -- when did you start this so-called boat deal? What year?
A. 1998 July time frame, June, July time frame.
Q. Did he carry on into 1999?
A. Periodically. Some of the -- some of the major work wasn't done in 1999. Basically, he was trying to catch up to guys that -- on incidentals on the boat.
Q. Did you file a joint return with your wife, tax return?

A. Yes, I did.
Q. Did you take the standard deduction out?
A. Yes.
Q. You did not itemize?
A. Well, I had itemization.
Q. Now, you made payments to Eastern Power Boat Club, didn't you?
A. Yes, I did.
Q. Did you make payments to deGroot?
A. Yes, I did.
Q. Did you make them by check?
A. Some of them.
Q. Did you itemize them on your tax return?
A. No, I did not.
Q. Why not?
A. It wasn't my money, so how can I take it as an itemized deduction.
Q. Who took it as a deduction?
A. I have no clue.
Q. Now, do you know if Mr. Cafaro has been indicted in this case?
A. Yes. I am aware that Mr. Cafaro had been indicted on this case.
Q. Do you know if Mr. Detore has been indicted in this case?

A. I am not certain whether or not Mr. Detore has been indicted on this case.
Q. You pled to an information charge, was that it?
A. I didn't plead to any charge.
Q. Okay.
Do you know if Capri Cafaro was indicted in this case?
A. I have no idea.
Q. At the time you were working on the boat, did you place insurance on the boat?
A. No, I did not.
Q. Did U.S. Aerospace put insurance on the boat?
A. Not to my knowledge.
Q. Now, you had stated that the boat was a real disaster; is that correct?
A. No. I did not say the boat was a real disaster. I said the boat was in rough shape.
Q. And you did have a survey, right?
A. That is correct.
Q. And what, in fact, did the survey show?
A. It itemized areas that needed to be repaired.
Q. Did they give an estimated value what the boat's worth was before you started working on it, Al?
A. I don't remember if there was a value of the boat to the present day and present condition, but there was a

value placed on the boat for when the repairs would be completed.

MR. TRAFICANT: Page 4, Page 4, first paragraph.

MR. MORFORD: I have your notes on this one. Did you put notes on all of them?

MR. TRAFICANT: No. I don't believe I did. Would you like one without notes?

MR. MORFORD: It's up to you.

MR. TRAFICANT: You don't want my notes. Take that.

THE COURT: Would you put the Exhibit Number on the record?

MR. TRAFICANT: The Exhibit Number is defendant's Exhibit AL-101.

THE COURT: Thank you.

MR. TRAFICANT: Can I show this to the Defendant -- to the witness?

THE COURT: Are you going to show it -- is this the right page?

MR. MORFORD: You say Page 4. I don't know if you're including the fax cover sheet on the front.

MR. TRAFICANT: Page 4 listed in his -- where it calls for conclusions, which would be evidently Page 3, not counting the --

THE COURT: Okay. I see it. At the bottom, it says 3 and --

MR. TRAFICANT: Can I put this on the board, your Honor, on the screen?

THE COURT: We need to find out what it is.

MR. TRAFICANT: It's the second paragraph. Can I put it on the screen?

THE COURT: Okay. You would need to just ask him some questions about it so that we know what his connection with this is, if any.

MR. TRAFICANT: Okay.

BY MR. TRAFICANT:

Q. Did you, in fact, engage in a survey process on the boat?

A. Yes, I did.

Q. And do you know what company that was with, Mr. Lange?

A. The guy's name was Bruce Sannino. I don't know what company he was.

Q. Was he a friend of yours?

A. I never met him before the survey.

Q. Was he in on the boat deal?

A. No, he wasn't. He was there to be -- to give me an estimate of what the boat was going to be worth and what kind of repairs needed to go on the boat.

Q. Did you see the survey?
A. The physical copy of the survey or see it physically surveyed?
Q. Yes. Did you see him physically survey the boat?
A. Yes, I did.
Q. Did he at some point submit a survey on the boat?
A. That is correct.
Q. Would you look at this, and tell me if that is the survey that he performed.
A. This looks to be the survey that he performed.
MR. TRAFICANT: Can you put the machine on for me, fellows?
Q. Not counting the cover sheet, we'll hold off until we get some of this Japanese stuff off the air.
A. Okay.
Q. I don't know if it's warmed up yet. Is it ready, Matthew?
MR. KALL: Yes.
Q. Would you read Paragraph 2, starting with on the basis?
A. On which page?
Q. Page 3 of the document, right above your repairs and corrections, starting with conclusions at the top, would you read the second paragraph?
A. "The surveyor recommends that port risk only

insurance be granted until repairs" --

Q. No. I'm talking about Page 3 where it says conclusions, sir. Do you see conclusions?

A. That is correct.

Q. Okay.

Now, is the first paragraph starting with this classic wooden yacht --

A. Okay.

Q. Now, read the second paragraph.

A. Okay.

"On the basis of this survey, BUD Research material, my own experience, and other offerings by area brokers, I believe the fair market value of this vessel to be between $30,000 and $35,000 as is and between $38,000 and $42,000 with repairs and corrections completed."

Q. It wasn't exactly a sinker, was it, Mr. Lange?

A. I never said it was exactly a sinker.

Q. It was a valuable boat, wasn't it?

A. It had a significant amount of work that needed to be done on the boat.

Q. Isn't it a fact that you told others that you were going to rent it to USAG and make a profit with it?

A. Yeah, that was all part of the story.

Q. Oh, it was a story?

Now, you said you took a skipper course; is that

correct?
A. I started a skipper's course.
Q. What was the name of the skipper's course?
A. Preliminary stuff from Virginia Marine Institute to obtain a captain's license or obtain the knowledge to be able to go take the captain's test.
Q. Now, a Virginia -- did you say Virginia?
A. Virginia Marine Institute.
Q. How long a course was that?
A. I don't know, nine weeks.
Q. Did you complete the course?
A. No, I did not.
Q. How many weeks did you attend?
A. Three or four weeks.
Q. Did you get a certificate?
A. No, I did not.
Q. Who paid for that?
A. J.J. Cafaro, out of part of the money that was put here.
Q. Was it paid for by check?
A. Yes, it was.
Q. Did J.J. Cafaro instruct you to go ahead and take that course?
A. No, he did not.
Q. Well, if you had no intention of using the boat, why

did you want to learn how to operate such a large boat?
A. At that time, I was told that U.S. Aerospace Group was going to wind up using that boat to do maritime testing. I wanted to take the course so that I could become more familiar with navigational aids, navigation of the boat, and things like that so that -- because I knew that I would wind up being the one driving the boat.
Q. Who told you they were going to use that boat for maritime activities?
A. Both J. J. Cafaro and Richard Detore.
Q. I thought you just testified that this boat was a scam from the beginning?
A. No. I -- it may have been a scam from the beginning, but I didn't realize it was a scam until we were starting down the road with it.
Q. I see. You're now starting to catch up with some of the facts. That's good.
MR. MORFORD: Again, I'm going to object to these editorial comments. He's been admonished many times, and he knows better.
THE COURT: Are you folks going to be able to put that aside? Okay. Would you, please, Congressman, not continue?
MR. TRAFICANT: I'll try.
THE COURT: No, trying -- we're.

MR. TRAFICANT: I will --

THE COURT: Sir, don't interrupt.

I think we've been in the trial now for weeks, and you're doing a very good job in many aspects of this, but don't try to do something that you very well know you're not permitted to do. It burdens the jury and the Court. Thank you.

MR. TRAFICANT: Thank you, your Honor.

BY MR. TRAFICANT:

Q. Were you ever recorded by the FBI at any of your interviews?

A. Not to my knowledge.

Q. Did you ever see a recorder?

A. Excuse me?

Q. Did you ever see a recording device?

A. Not that I'm aware of.

Q. Did you ever see a video device?

A. Not that I'm aware of.

Q. Now, you said you left in mid 2000, early 2000, right?

A. Excuse me?

Q. You said you left the company's employ in early 2000?

A. No.

Q. When did you leave the company's employ?

A. November of 2000.

Q. November of 2000.

When did you sign your proffer agreement with the Government?

A. I don't know, sometime around March or April or May of 2000.

Q. When were you first interviewed by the Government, best of your knowledge?

A. I don't know, I guess April, May, sometime in that area, March, April, May of 2000.

Q. Between May of 2000 and the proffer agreement that you made, did you ever attempt to contact me?

A. No. I was advised by my attorney once I was brought under counsel to cease and desist all contact.

Q. Were you and I -- did we leave on friendly terms or hostile terms?

A. I had hoped that we left on friendly terms.

Q. Had you called me, would we have met?

MR. MORFORD: Objection as to what would have happened. It's speculation.

THE COURT: Yes. Don't answer that.

Q. Did the FBI ask you to meet with me for the purpose of recording my voice?

A. No, sir.

Q. Did you ever make any tapes of your own when this scam was going on?

A. No, sir.
Q. Isn't it a fact you talked with me on the phone often?
A. We've had conversations, yes.
Q. Isn't it a fact we had meetings many times?
A. That is correct.
Q. Dinners?
A. That is correct.
Q. And isn't it a fact you drank Zinfindel?
A. That's correct, and you drank Merlot.
Q. I ask the questions.
A. Yes, sir. Sorry.
Q. Now, did you discuss daily with Mr. Detore when he was COO, your boss, you have discussions with him daily?
A. Yes.
Q. And did you, in fact, communicate with him on the phone often when you had personal things that you have to accomplish?
A. Yes. We've had conversations, yes, on the phone.
Q. And would you say you talked often?
A. Fairly often, yeah.
MR. TRAFICANT: Your Honor, I offer this man has knowledge of Mr. Detore's voice and my voice and now attempt to introduce DD-1, which is a tape.
MR. MORFORD: Objection. It's hearsay, and

we've covered that before, your Honor.

THE COURT: Many times.

MR. TRAFICANT: I ask for a side bar.

THE COURT: Guess what. At the noon break -- or the morning break, we'll discuss this and anything else you need to discuss that relates to evidence that you think you may want to offer, which is regarding some kind of tape situation. We've talked about that.

MR. MORFORD: I'm also going to object to doing this here today because we talked about this the other day, and he was instructed not to do that.

THE COURT: Right. Let's move on now. Just go to the next question.

MR. TRAFICANT: I object to their objection.

THE COURT: Fine.

MR. TRAFICANT: For the record.

THE COURT: Fine.

Q. Did you see J.J. ever hand me any money?

A. No, I did not.

Q. Did you see him hand me a check?

A. No, I did not.

Q. Did you ever check with anybody on my staff about the legal proprieties of you buying that boat?

A. No, I did not.

Q. You didn't ask anyone to inquire what the legal or

ethical status would be of your ownership or participation in that boat, Mr. Lange?

A. No, I did not.

Q. Well, at some point, you recognized that it was an illegal act, right?

A. That is correct.

Q. Did you have a duty to report that?

A. That is correct.

Q. Did you report it?

A. At a later date, I sure did.

Q. At a later date?

A. That is correct.

Q. Was that before or after the FBI came to you?

A. The FBI never came to me. I went to the FBI.

Q. Was the IRS present?

A. On the first go-around?

Q. On any go-around.

A. The IRS was present for one meeting.

Q. You recall the name of the agent?

A. No, I do not.

Q. Now, you said that this so-called contract agreement that you backdated was signed somewhere in the Capital?

A. It was signed off of the -- the gallery in a room up above the -- the gallery outside.

Q. Was it on the desk?

A. Excuse me?
Q. Was it signed on the desk?
A. No, on a coffee table in one of the room offices off on the other side. I don't remember what the name of the room was.
Q. You know what time it was?
A. Late in the evening.
Q. And you brought no one with you to witness it?
A. No, I did not.
Q. And you only signed your own name, Mr. Lange?
A. That is correct.
Q. If that boat contract was to protect you, why didn't you have a witness?
A. Because you called me up and told me I needed to come over to the Capitol to take care of getting the paperwork together for the boat.
Q. It's your testimony I called you?
A. Yes. That's what prompted me to come over to the Capitol that evening, maybe not your -- personally it may have been one of your staff members to say that the Congressman wanted to see me.
Q. Did I have one of my -- one of my staff call you and say why don't you come over about a written agreement?
A. No.
Q. Why did you bring a written agreement?

A. Because J.J. had been on me before about getting the agreement over there so we could close the loop on the paperwork for the boat.
Q. Who was supposedly paying for the boat?
A. J.J. Cafaro.
Q. Why didn't you tell him to get the agreement?
A. Because he said to me that you and him had a meeting and decided it would look better if I had handwritten a note to -- handwritten note agreement.
MR. TRAFICANT: I object for the record only but will allow his answer to stand. But I make an objection for the record --
THE COURT: All right.
MR. TRAFICANT: -of this hearsay.
THE COURT: This is one of those you can't have it both ways situation.
MR. TRAFICANT: Yeah. I want to hear what he has to say really.
THE COURT: If you put it out there, then you put it out there.
MR. TRAFICANT: An objection for the record is an objection, your Honor.
THE COURT: Well, then, let's go forward without the answer.
MR. TRAFICANT: I will.

BY MR. TRAFICANT:

Q. Did you record this contract with the proper authorities in Virginia?

A. No, I did not.

Q. What county is Manassas located?

A. In the City of Manassas.

Q. What county is the City of Manassas in?

A. It's a stand-alone city. The surrounding county is Prince William County.

Q. Do they have a recorders' office?

A. I'm sure they do.

Q. Well, if you wanted today to make this thing look legal, why didn't you record it?

A. I'm not in the habit of writing contracts.

Q. If you really wanted to make it look good, why didn't you have it notarized?

A. Because that would mean the boat that was -- would have to show up in the same place together, and you're a busy man.

Q. Oh. Isn't it a fact that you destroyed that boat when you allowed it to sink in the Anacosta River?

A. No. The boat never left the cradle.

The boat was only submerged in the water for a period of time that would allow the water to come all the ways up to crest and come back down.

As soon as the water -- during that period of time, there was pumps going to keep the water -- to try to keep up with the water coming in. So when the tide went out, the boat became dry again. The boat at that point in time was moved back up. I called in all the guys who had been working on the boat and immediately went to pumping out the engines and replacing it with diesel fuel.

Q. Um-hum. Who notified you the boat sunk?

A. I was there. I couldn't get the boat up because of the water that was already introduced into the boat.

Q. What time of the day was it?

A. 9:30, 10:00 at night.

Q. Were the workers still there?

A. No.

Q. Did you have to call workers to get the boat back up?

A. No. At that point in time, I just put some pumps into it and kept monitoring it and stayed with the boat all evening.

Q. Um-hum.

How long did it stay on the far end of the ramp, Mr. Lange?

A. Five hours, six hours.

Q. When did your workers show up?

A. The next morning.

Q. When was it finally completely removed from the

water, the next morning?
A. No, earlier in the evening. The tide comes in; the tide goes out. When the tide went out, we were below -- the bow was on the cradle, and the waterline was well below the bottom of the boat.
Q. You testified yesterday that you had the boat on the cradle so that if the tide did come in, there could be no damage to the boat because the boat had shrunk from the wood drying and cracks separated the boards on the hull, was that correct, was that your testimony?
A. Could you repeat it? I'm not quite --
Q. Did you not testify yesterday that it dried out, the boards separated, and you had it in a spot where even if the tide came in, it couldn't be patched?
A. That is correct.
Q. Then how did it get into a position where it got damaged?
A. I told you, I went away to get dinner, they moved the boat back five or eight feet from where I originally said to put the boat. They were gone. At the time I came back, I didn't know that the tide was going to quite come up that far, and it did.
Q. What time did you go to eat?
A. I don't know, 5:30, 6:00.
Q. What time did you get there?

A. I don't remember. 3:00 in the afternoon. I don't know.
Q. Wasn't it a fact you were having problems with Mr. Detore about the fact that you were spending too much time on the boat?
A. No.
Q. Did you turn over the boat agreement to the FBI at that first meeting or their second meeting?
A. The first meeting.
Q. Do you know what, if any, company paid to repair the damage as a result of that boat sinking?
A. No.
Q. Did you pay out of your pocket?
A. Could you repeat the question, please?
Q. What company paid for the damage affected by that boat sinking?
A. There was no significant damage done on it. It was just pumped out, and if you want today call it pumping out the engines and pumping out the water inside of it, being paid for by U.S. Aerospace Group group, then, yeah, that's what --
Q. Who moved it back up the track if you were there by yourself?
A. It got moved back up the track in the morning when the guys from the yard, who owned the yard, came in so that

they could pull -- run the equipment to pull the boat back up.

Q. So how long was the boat sitting in the high tide?

A. Like I told you before, two or three hours, because the tide comes in, travels about six to eight feet up, comes back out, and there you have it.

Q. Did you report that to me, Mr. Lange?

A. No, I did not.

Q. Why didn't you?

A. Because you weren't interested in having -- what was going on with your boat just as long as it was --

MR. TRAFICANT: I object.

Q. You don't know what my thinking is. Answer the question. Did you report it to me? Yes or no.

MR. MORFORD: Your Honor, I object.

THE COURT: He said no.

MR. MORFORD: He asks him open-ended wide questions, and when the witness tries to answer, cuts him off as though the witness has done something wrong. I object to it.

MR. TRAFICANT: I object to the objection.

THE COURT: Why don't you just go ahead, and ask your questions, and wait for his answer?

MR. TRAFICANT: I would like the gentleman to answer my questions.

THE COURT: He did.

MR. TRAFICANT: Directly.

THE WITNESS: He did.

MR. TRAFICANT: Now, I'm not quite clear because Mr. Morford jumped up on his feet.

THE COURT: Well, that's what he's supposed to do if he has an objection.

MR. TRAFICANT: I am sure.

BY MR. TRAFICANT;

Q. Did you call me and tell me that my boat had sunk?

A. No.

Q. Isn't it a fact that that was not my boat, and it was intended to be your boat, Al?

A. No.

Q. Then why didn't you call me?

MR. MORFORD: Your Honor, I object to the last question. He asked two questions. One was no. I don't know which part he's answering no to.

THE COURT: Just ask a question one at a time. Ask it again.

MR. TRAFICANT: I am.

THE COURT: Good.

MR. TRAFICANT: I thought he did answer. I'll ask it again.

BY MR. TRAFICANT:

Q. You didn't own the boat?
A. No, I did not.
Q. I owned the boat?
A. That is correct.
Q. And you didn't call me?
A. That is correct.
Q. Did you tell me you pickled the engines?
A. At a later date, when we were discussing it at dinner one night.
Q. Isn't it a fact, Al, you never discussed any time of that boat sinking, and the first I heard about it was today?
A. No, sir. We had dinner one night and laughed about the fact the boat sinking at Taverna.
Q. Laughed over a $40,000 boat sinking over dinner, is that your testimony?
A. Yes, sir. You asked me if there was any --
Q. I'll ask the questions, sir.
A. Yes, sir.
Q. Did you have a contract with the workers on the boat?
A. A formalized contract? I had a memorialized statement of work or memorialized statement of work that was signed by myself, Ernst deGroot and Bruce Sannino to accomplish the tasks set forth from the survey.
Q. Now, did the surveyor oversee some of the work with

you?
A. He spent little time on the job.
Q. Isn't it a fact he estimated the cost of repairs to that boat would make it up into the $42 to $50,000 bracket?
A. The repairs themselves?
Q. Yes.
A. No.
MR. TRAFICANT: I'd like to refer to --
A. You said the value of the boat would be $40 to $50,000 after the repairs were made. He did not say the repairs would cost $40 to $50,000.
Q. That's what I asked you about the value.
A. Well, I was confused then. I'm sorry.
Q. I understand that.
Now, did you ever write to Mr. Cafaro, or did you ever have Mr. Detore write to Mr. Cafaro relative to your salary and your bonus structure?
A. Yes.
Q. Who did the writing?
A. Sometimes I did. I guess sometimes Rick did.
Q. Were you to receive a bonus on your anniversary date?
A. Yes.
Q. How much?
A. Which year?
Q. End of the first year?

A. I was supposed to receive a $35,000 bonus in October of that year.
Q. Did you get the $35,000 bonus?
A. Not at that time.
Q. Was there ever a new pay in bonus established for you?
A. That is correct.
Q. Who at that time was the COO?
A. The chief operating officer of the company at that time was Richard Detore.
Q. And what was your pay raised to?
A. $105,000 a year and a $50,000 bonus.
Q. Was it a fact you were to be included in the company's profit sharing program?
A. That's what it said.
Q. What company?
A. U.S. Aerospace Group.
Q. What profit did they have?
A. None.
Q. And that was about the end of '98. Would you agree with that when that was memorialized in writing, roughly?
A. What do you mean by memorialized in writing? It was a fax that was sent, said I would get a pay raise to $105,000 and a $50,000 bonus. If that's --
Q. Memorialized, was it written down, is there a record

of it?
A. Yes.
Q. Where was it maintained, in what file?
A. I guess it was maintained in my personnel file.
Q. Wasn't it a fact that you wanted a bonus to buy that boat, Al?
A. No.
Q. Then why did you say it in the beginning?
A. When did I say it? At the beginning when we first started the go on this?
Q. Yes. Did you ever tell Richard Detore that you wanted the bonus money, that you were going to buy the Traficant boat?
A. No, this was the story that we developed so that it would look like it was a legitimate deal.
Q. You and Richard developed?
A. No. J.J., Richard and -- developed it, I just facilitated it.
Q. J.J. and Richard made the deal for the scam, right?
A. Yes.
Q. And you were just the mule that carried it out, right?
A. That is correct.
Q. How close were you with Mr. Cafaro, J.J.?
A. When you say close, you mean our relationship?

Q. Yes. I would say your relationship.
A. Not very close. He was the owner of the company. It was like I do what he says.
Q. Who gave you your orders?
A. Richard Detore.
Q. And when Richard Detore left, you became COO, who gave you the orders?
A. My orders then started coming from J.J. Cafaro.
Q. Did they come from anybody else?
A. Probably Capri Cafaro, also.
Q. What was her title then?
A. President of the company.
Q. What was Mr. Cafaro's title?
A. I'm not certain.
Q. You know who the incorporators of the company were?
A. The incorporators of the company?
Q. Yes.
A. I guess the Cafaro family.
Q. Did you ever see, as the chief operating officer, see the corporation papers?
A. Yes, I saw them once.
Q. Who were the officers?
A. Richard Detore -- I don't know, there's a ton of them.
Q. You said for half the time approximately you worked

there your paycheck came from the Cafaro Company, didn't it?

A. Yes.

Q. And your insurance was part of their -- their group insurance, correct?

A. That is correct.

Q. And then at some point it changed to U.S. Aerospace, right?

A. That is correct.

Q. Was there something wrong with you being paid by the Cafaro Company?

A. No.

Q. Were you still under the group insurance plan?

A. When we changed over and started doing work as a -- as an individual company at U.S. Aerospace Group, we had our own insurance.

Q. When you say you had your own insurance, who guaranteed that insurance policy?

A. U.S. Aerospace Group, I guess. What do you mean by guarantee it?

Q. When you were chief operating officer, did you keep track of liabilities and assets, Mr. Lange?

A. Yeah.

Q. Did you have liabilities or assets?

A. We had both, liabilities and assets.

Q. Which was heavier?
A. Liabilities.
Q. Did you have loans?
A. To the Cafaro Company, as far as I know, that's the only place we had loans at.
Q. So if the Cafaro Company was providing the loans to the company and you were originally getting the paycheck and insurance from the Cafaro Company, who was really your employer, Mr. Lange?
MR. MORFORD: Objection, your Honor, as to what any of this has to do with this present lawsuit.
THE COURT: You can answer.
THE WITNESS: Could you repeat the question, please?
MR. TRAFICANT: I think the Court Reporter can repeat it.
THE COURT: Well, I'm the one who decides whether the Court Reporter is going to read it. Can you just ask him the question?
Q. You're the COO. You know now that the loans that are coming into the company to keep it running are coming from the Cafaro Company. Your checks may be signed by U.S. Aerospace, but isn't it a fact that you were an employee of the Cafaro Company?
A. I was an employee of U.S. Aerospace Group, and the

Cafaro Company was financing our organization.
Q. Did any of your staff ever question who their real boss was?
A. No.
Q. Was your staff dissatisfied with late paychecks?
A. Most definitely.
Q. Bounced checks?
A. Most definitely.
Q. Unmet promises?
A. Yes.
Q. Lies?
A. Yes.
Q. From Mr. Cafaro?
A. Yes.
Q. Are you familiar with the Avanti car?
A. On a cursory point, yeah.
Q. You know what they looked like?
A. Yes, I do.
Q. You have any idea how they're made?
A. Fiberglass ball, just form it and go with it.
Q. Are you aware of the fact Mr. Cafaro sold the entire rights of the company for less than $100,000?
A. I wasn't aware of that.
Q. Were you aware Avanti was a failed venture?
A. I am aware of that.

Q. Did you ever have discussions with Anthony Cafaro?
A. No. Excuse me. What type of discussions, any --
Q. Any type of discussions?
A. Other than a cursory hello or good-bye, none.
Q. Where were those cursory good-byes and hellos made?
A. Once at J. J.'s house in Youngstown and once during his father's funeral, Tony's father's funeral.
Q. Did you ever see me at J.J.'s house?
A. No, sir.
Q. Now, no one in your family worked for Egg Harbor Boat Company, was that your testimony?
A. Once or twice a day, my father was a day worker there at the boat company, but, no, no real employment.
Q. Your father?
A. I said he may have been a day worker once or twice.
Q. Where was Egg Harbor Boat Company located?
A. Egg Harbor, New Jersey.
Q. Was Egg Harbor regarded as one of their better boats built?
A. Yes, it was.
Q. Whose idea was it to use the boat for the maritime business?
A. Richard Detore's.
Q. Why didn't he use Mr. Cafaro's boat?
A. Because it was 110-foot Trumpy. It was just

ridiculous to use that type of boat.
Q. Why didn't you use your boat? It was only 21 feet, right?
A. That's correct, deemed unsuitable because it didn't have a real cabin area for people to get into.
Q. Were you familiar with the fact the Coast Guard was looking at laser devices?
A. I am familiar with that.
Q. Did you and the company ever discuss the profitability of the potential business in the maritime activities?
A. Yes. I'm sure that there was discussions about that.
Q. Did you discuss every and all options of marketing?
A. Yes, we did.
Q. Did Mr. Cafaro and his family, to the best of your knowledge, make huge contributions, the boat, to the Democrat, Republican parties?
A. I was told that they were contributors, yes, both parties.
Q. Did you know if they had their pictures taken personally with every president?
MR. MORFORD: Objection, unless he has some kind of firsthand knowledge on any of these types of questions, your Honor.
THE COURT: Right.

THE WITNESS: Do I answer the question?

THE COURT: No, don't answer.

THE WITNESS: Oh.

Q. Did Mr. Cafaro ever talk about his relationships with politicians?

A. Oh, yes, on occasions.

Q. What politicians did he mention, Al?

MR. MORFORD: Objection. That's hearsay again.

THE COURT: You understand that. Just move on.

Q. Did you have knowledge of the politicians that Mr. Cafaro lobbied?

A. Not firsthand knowledge.

Q. When you become the COO, you then know what the plans were promulgated to develop a lobbying effort?

A. Not exactly. I don't know if there was some -- I don't know if there was a real plan for lobbying or not.

Q. Why did they come to me?

A. They were coming to you a long time before I ever knew you existed.

Q. Isn't it a fact the only money that was gotten for that company was gotten by Jim Traficant?

A. That is correct.

Q. And isn't it a fact that the company blew it?

A. The company had an opportunity to excel, and yes, it did not do it.
Q. Who presented that opportunity for the company?
A. Jim Traficant.
Q. Isn't it a fact you did not meet even the testing requirements that the respective organizations had asked you to meet, such as FAA? Was it Volpe, the Volpe Center?
A. I'm confused by your question.
Q. Did you have to, in fact, come up with so much money to have the test done for the Volpe -- at the Volpe Center? Was it the Volpe Center, or I have the wrong name?
A. You have the right name. Yes, we were going to have to pay for some of the Volpe Center support.
Q. And how much money was that?
A. That had never been completely determined. It ranged from $100,000 to $500,000 of what the estimates were for the cost of the FAA support for certification.
Q. Did there come a time when the company and the FAA sort of fell out?
A. Yes.
Q. When, in fact, did the FAA first test the laser system?
A. You mean test, you mean in a formalized test or come in for a static --
Q. Come in with a flight right now?

A. I don't know.
Q. Was it during the day or night?
A. It was during the day.
Q. Now --
A. Or are you talking about when Jane Garvey came?
Q. No. I'm asking the questions, sir.
A. Okay.
Q. Isn't it a fact that the FAA came out and evaluated a laser light project in daylight?
A. Yes, sir.
Q. Are you an engineer?
A. Yes, sir.
Q. Do you need the laser light in daytime?
A. No, sir, not unless you have obscuring weather conditions during the day.
Q. Was it that type of experience during the day, Al?
A. No.
Q. Do you think it was a fair test?
A. No, sir.
Q. You think you got screwed?
A. Yes, sir.
Q. Did you tell me about it?
A. Yes, sir.
Q. Did I do something about it?
A. Yes, sir.

Q. What, if anything, did I do?
A. You had the meeting to come to the Jesus meeting in your office.
Q. And what, if anything, happened as a result of that?
A. We started moving down the line again.
Q. Who came out to, in fact, inspect and review your project?
A. On which occasion?
Q. Did -- did the administrator, the chief boss of the Federal Aviation Administration, come out?
A. Yes.
Q. Do you know if President Clinton asked her to come out?
A. No. I do not know President Clinton --
Q. You know who asked her to come out?
A. Jim Traficant.
Q. Did the chairman of the committee, subcommittee, responsible for that come out and also test flight?
A. That is correct.
Q. What time of the day did they come out?
A. At nighttime.
Q. What were the conditions when the Duncan chairman came out there with his son?
A. There was obscuring weather conditions. There was rainy periods of -- I don't remember what the visibility

was, but it was below normal.
Q. Was it a fair test?
A. Yes, it was.
Q. Did the plane land exactly where it was supposed to?
A. It landed on the runway.
Q. Was Jane Garvey impressed?
A. Are we still talking about Jimmy Duncan's flight or Jane Garvey's flight?
Q. Was Jane Garvey impressed?
A. Yes.
Q. Was Jimmy Duncan really impressed?
A. Yes, as far as I know. That's what I heard.
Q. Wasn't it a fact there was a deal made up front that if this company got started, they would relocate their operation to Youngstown, Ohio?
A. That was the -- that was the intention from what I gathered from J.J. Cafaro.
Q. And wasn't it a fact that even the headquarters was to be eventually located in Youngstown, Ohio?
A. That's what had been said.
Q. Wasn't it a fact that they already selected Ross Industrial Park?
A. That I'm not aware of.
Q. Did you tell the FBI that Paul Marcone got all over you for not helping Richard Detore?

A. That is correct.
Q. Who was the first to talk to you about Richard Detore being fired?
A. Paul Marcone was first, and then I talked to you.
Q. And what, if anything, did I ask you to do?
MR. MORFORD: Objection, hearsay.
THE COURT: Sustained. Don't answer.
Q. As a result of the conversations we had, what, if anything, did you do?
A. In relation to what?
Q. In relation to Richard Detore?
A. I did nothing.
Q. Now, he was getting $150,000 or $200,000?
A. $200,000.
Q. And his bonus was $50,000?
A. I believe so.
Q. And you took the same job at $105,000?
A. Yeah.
Q. Did you remove any other staff, Mr. Lange?
A. Prior to or --
Q. After Richard -- when you became COO, did you get rid of other staff?
A. Yes.
Q. How many?
A. I'm not quite certain how many people were in the

NAVCOM area at that time. I don't know, seven or eight. I stopped paying NAVCOM's bills and everything else.

Q. How could you build a product to satisfy a military appropriation with these seven or eight workers, Al?

A. It's called a subcontracting network. The trailer was subcontracted out and produced -- the lights were subcontracted out and produced. The only thing was produced on-site was the laser system.

Q. And you had the staff to produce the laser system?

A. That is correct.

Q. If your payroll was so low and you had $1.3 million available for you, why didn't you go forward with the $500,000 with the Volpe Center?

A. At the time that I took over U.S. Aerospace Group, the monthly burn rate was over $270,000 a month. We were in a $55,000 a month rental lease for the location. We had an airplane that needed to be returned because it was not being properly utilized. We had another subgroup with NAVCOM systems that were in there that was drawing money down in a tremendous fashion.

Q. Did you have lawsuits coming against the company?

A. I believe that there was one lawsuit coming against the company at that time.

Q. Did you have attorneys on staff?

A. On staff? We had -- we had maintained retainers for

attorneys, but on staff at U.S. Aerospace Group, no.
Q. Give me a ball park figure. What were your legal fees per year when you were COO?
A. I have no idea.
Q. Who would know?
A. I guess the Cafaros.
Q. Then, Al, you had a title, COO, but you didn't even know who the incorporators were, how much the attorneys were paid. Is that your testimony?
A. First off, on the incorporation, it was incorporated years before my -- or when I first got there. The business was operating on a daily business. It wasn't part of my daily operations to go back and review the points of incorporation to find out who it was. The bottom line is, I was trying to move the company forward.
Q. Did you take over a troubled company in danger of going bankrupt?
A. Yes, I did.
Q. Did you do research on your company?
A. In what fashion are you talking about?
Q. To learn everything you could about it?
A. I've been there since the day it was started.
Q. Were you an administrator now or an engineer?
A. I'm administrator and an engineer at that point.
Q. What were you as COO?

A. As administrator of the company plus doing the engineer.
Q. Do you have permission and authority to fire people?
A. Yes.
Q. Who gave you that permission?
A. Capri Cafaro.
Q. Was Capri Cafaro your boss?
A. Yes.
Q. She was president of the corporation, right?
A. That is correct.
Q. You were chief operating officer of the company, correct?
A. That's correct.
Q. Did you ever see anybody give me any money?
A. I saw Richard Detore one time attempt to give you money that you refused.
Q. Al, was Richard Detore, or was it Al Lange that gave me the money and said it was on the back seat?
A. It was Richard Detore.
Q. Now, wasn't it a fact that Mr. Cafaro fell out with Mr. Detore over supposedly comments made about his daughter?
A. That is correct.
Q. Wasn't it a fact it was over a newspaper article that questioned some of her activities?

A. I'm not sure. I never saw the newspaper article that you're referring to.
Q. Is it your statement that Mr. Detore personally went out of his way to demean Capri Cafaro and to hurt her reputation?
A. In front of the people that were working at U.S. Aerospace Group, yes.
Q. In what way?
A. In what way? He was daily walking up and down the halls, stopping at everybody's office to say -- to have new information to shed in the light of how J. J. Cafaro was or how he was being mistreated by the Cafaros or what Capri was doing or wasn't doing or has done in the past or what have you.
This was a common occurrence that went on for a month or month and a half.
Q. Did Capri have any engineer understanding of your project at all?
A. No.
Q. Did she make many of the presentations?
A. She made a few presentations.
Q. Isn't it a fact she made the presentation that Jane Garvey attended, the administrator of FAA?
A. That's correct. We went over this the other day. That is correct. She started it. Then we finished it up.

Q. At whose suggestion?
A. At your suggestion.
MR. MORFORD: Okay. Your Honor, we did have cross-examination on this on Friday at length.
THE COURT: All right. Let's go to a new topic, sir.
BY MR. TRAFICANT:
Q. Now, after Detore left, isn't it a fact I said I would still help the company?
A. That is correct.
Q. Did you call for my help?
A. I believe I did. I believe we did call for your help to ask for another appropriations.
Q. How could, in fact, an appropriations be given if you, in fact, didn't use the first appropriation, Al?
A. Could you repeat the question?
Q. How could I have gotten any more help for you if you had blown the first shot you had, right to the point?
A. We didn't blow the first shot. We wound up with a contract with the first shot, and yours was the second shot going to the Air Force, which was another company inside the military base.
Q. What happened then to the $1.3 million?
A. We started down the road and signed a contract and didn't have the money to finance the end product.

Q. Now that you had appropriations though, did anybody call the real boss, Anthony Cafaro, and say look, we've got money now. These aren't just words.
A. I am sure J.J. Cafaro did. I wasn't in the line of communications line with Anthony --
Q. Did you have conversations with Mr. Cafaro?
THE COURT: Don't interrupt the witness. Seriously. Don't interrupt the witness.
MR. TRAFICANT: Okay. Did you have conversations --
THE COURT: No. We'll go back to the other question because we never heard the end of it.
Q. Go ahead with the answer. I'm sorry?
A. You're going to have to repeat.
THE COURT: You were not in the line of is, what you were --
THE WITNESS: Oh, I wasn't in the direct line of communications with Anthony Cafaro
BY MR. TRAFICANT:
Q. Did you recommend to the company that they ask for additional loans on the strength of an appropriation?
A. No, I asked --
Q. Real dollars?
A. I asked for the loan on the strength of the fact that we had a signed contract.

Q. And what was needed to fulfill that signed contract?
A. $500 to $750,000.
Q. Did you recommend to anybody that you get an additional loan now that there's money on the table, Al?
A. Yes.
Q. To whom?
A. J.J. Cafaro.
Q. Wasn't it a fact the money was cut off?
A. Yes.
Q. Did the Cafaro Company -- did J.J. Cafaro have an understanding of fiberglass activity?
A. I do not know.
Q. Did he build the Avanti car?
A. He had the company that built the Avanti car. Whether or not he built it himself, I don't know.
Q. What was the Avanti built out of?
A. Fiberglass.
Q. You have a fiberglass boat, don't you?
A. That is correct.
Q. Are you familiar with fiberglass?
A. Fairly.
Q. Did at any time you decide to hire another lobbyist?
A. There was a time that another lobbyist was brought into U.S. Aerospace Group to talk about what they could do.
Q. Were they paid?

A. I have no idea.
Q. Who hired him?
A. I have -- I don't believe that they were hired. I don't know that they were hired.
Q. Were you COO when that happened?
A. No, no. It was way before.
Q. After you became the COO, did you recommend getting some other help on the Hill?
A. There had been talk about that, but we had -- we hadn't committed any funds to it.
Q. So Mr. Detore was the real culprit in the deal, right?
A. In which deal?
Q. The scam with the boat.
A. I would say it was both Richard Detore and J.J. Cafaro.
Q. Did you tell Mr. Cafaro that the Traficant boat had sunk?
A. No.
Q. Did you tell Mr. Detore?
A. Yeah.
Q. Why did you tell Mr. Detore and didn't tell the owner?
A. Because by that time, I realized J.J. really didn't care whether the boat was good, bad, or indifferent.

Q. Isn't it a fact you just testified you were my friend?
A. That is correct.
Q. Were you friends with me at the time?
A. That is correct.
Q. Even though we've had some heated interchanges, you considered us to be friendly?
A. I still consider that. I just wish I didn't have to be here today.
Q. But you didn't tell me, did you, Al?
A. No, I did not.
Q. Everybody got indicted but you and Capri, right?
A. I have no idea what Capri's status is.
Q. Now, we went to Taverna restaurant. The Government put up a number of meals. Is Washington a place where food is more expensive than it is in, for example, Manassas?
A. It's about the same price, $1 or two difference.
Q. Would you say it's a little higher?
A. It's quite possible.
Q. How many people were usually at those meetings?
A. With us?
Q. Yeah.
A. Myself, you, and Rick.
Q. Were there times when the Cafaro daughters were there?

A. There's been more than one occasion that Cafaro's daughter showed up.
Q. Both daughters?
A. That's correct. I remember one occasion when that happened.
Q. Do you know what kind of wine Richard Detore drank?
A. Richard Detore doesn't drink wine.
Q. Do you know what the Cafaro girls drank?
A. No, I'm not -- I don't remember what they drank.
Q. Well, if the boat was appraised at $32,000, rough condition you said it was in, what was wrong with $26,000 buying it? Why did you have to go through all this big scam?
A. I don't know. I didn't set up the scam. I worked off the direction of others.
Q. Albert, you're the top man, you're the COO, you're the boss, right?
A. When? That's correct.
Q. At that point?
A. At what point?
Q. At some point in that boat deal.
A. No. At some point in that boat deal, when all the decisions were being made of who, what, when, where, and why of the boat deal, I was working for Richard Detore, not as a COO of that company.

Q. But you were the chief engineer of U.S. Aerospace Group, right?
A. That is correct.
Q. And you took on the boat deal?
A. That is correct.
Q. Did you report to the dock often to fix that boat?
A. When we started that boat deal, I spent three days a week and a lot of weekends down there on that boat.
Q. Do you have a full accounting of what you paid Ernst deGroot?
A. These records should have been turned over to the U.S. Attorney.
Q. You said you paid them in cash. Did you turn those over?
A. Any time that I had a cash transaction I got a receipt.
Q. Did you get one from Ernst deGroot?
A. I just said I did.
Q. How did you know I owned the boat, Al?
A. Well, from the first time when you took me down there to show me your boat, that's when I assumed it was your boat.
Q. Did you ever ask for any documentation?
A. No.
Q. Did you ask for an agreement up front?

A. No.
Q. Is that why you backdated one?
A. That is correct.
Q. Did you know that backdating a document carries up to a ten-year sentence with a $250,000 fine and three years of unsupervised release?
A. I was not aware of that.
Q. Did you talk to your attorney about that?
A. Nope; didn't have a one at that time.
THE COURT: You know what, that is -- that is a sort of statement in that question, which cannot be correct. This is certainly not a witness who knows how to answer that.
MR. TRAFICANT: I would like to take a break, your Honor. If you want me to keep going, I will.
THE COURT: It is time to take a break. I thought maybe you were -- how many more questions do you have now?
MR. TRAFICANT: I still have some questions of this witness.
THE COURT: Very well. We'll take our break now. Half an hour break. Thank you very much.
(Thereupon, a recess was taken.)
THE COURT: You're still under oath, sir.
THE WITNESS: Yes, ma'am

BY MR. TRAFICANT:

Q. Al, were you aware there was legislation passed to study the use of the laser system by the Coast Guard in Coast Guard legislation?

A. That is correct, yes.

Q. Did you have to meet certain requirements to, in fact, effect that study?

A. That is correct.

Q. Did you meet them?

A. No.

Q. Without a test and a study, could there be a first market product produced?

A. No.

Q. What's the difference between an appropriation, if you know, and an authorization?

A. From my understanding, an appropriation is money being set aside for a specific project; an authorization is the go-ahead to use that money for the appropriation as far as I know.

Q. You have some understanding?

A. Excuse me?

Q. You have some understanding?

It is a fact that the appropriation means that the money is available to be spent.

MR. MORFORD: Objection. It's only what this

witness knows.

THE COURT: Right.

Q. Do you have knowledge that an appropriation means that the money is set to be spent --

THE COURT: The objection is sustained.

Q. Did you tell the FBI that I wanted a welder?

A. Yes.

Q. You tell the FBI that I wanted a generator?

A. Yes.

Q. Did you actually know what happened to the generator and the welder?

A. I'd delivered it to the back of your vehicle.

Q. Is that the last time you saw it?

A. That is correct.

Q. Did you ever call and check on that product, on those products?

A. No.

Q. Those machines?

So it's your testimony that I got a generator as a gift?

A. It was my testimony we bought a generator, and that you used it.

Q. Was it a gift or not, Al?

A. It was never returned, as far as I know, the U.S. Aerospace Group. So I would assume that it's a gift.

Q. Were you the COO at the time?
A. No, sir, I was not.
Q. Were you aware of any arrangements relative to the generator or the welder?
A. Not exclusive other than knowing that it was delivered to the back of your truck.
Q. And did you help to do that?
A. Yes, sir, I did.
Q. And did I take it?
A. Yes, sir, you did.
Q. Is it your testimony that the cars were gifts?
A. Which cars?
Q. Any cars.
A. The only vehicle that I have intimate knowledge about is the jeep that was given -- was lent to you to -- for a hunting trip. Where that jeep is now, I do not know.
Q. Isn't it a fact that the company was only offered $1,500 as a trade in for that jeep? Yes or no.
A. I have no knowledge of that.
Q. Were you COO at the time?
A. No, I was not.
Q. Is it your testimony that I conspired with Rick Detore to, in fact, obtain favors?
A. Repeat the question, please.
Q. Is it your testimony that I conspired knowingly and

willingly with Mr. Detore to obtain favors?

THE COURT: Don't answer the question. The objection is sustained.

Q. Now, I want to talk about the backdated contract.

Did you bring the contract already written up with you?

A. That is correct.

Q. Was it on a pad, or did you have it in an envelope?

A. I don't know if I had it in either. It was on a yellow piece of paper. Whether it was in an envelope or not, I don't remember.

Q. Do you know if it was signed on a pad?

A. It was signed on a coffee table.

Q. A hard surface?

A. It was the coffee table in that room. I don't remember if -- I'm sure it -- I guess it had a hard surface. I don't know if it was a padded coffee table or not.

Q. So you came prepared with the document to be signed; is that correct?

A. That is correct.

Q. And you fashioned the language in the document; is that correct?

A. That is correct.

Q. Did Mr. Cafaro and Mr. Detore help you fashion the

language in that contract?
A. No, they did not.
Q. Did they order you to do that?
A. I was told by J.J. Cafaro that I needed to put together --
MR. TRAFICANT: Objection as to hearsay.
MR. MORFORD: If we have the question read back, he asked for hearsay, your Honor.
MR. TRAFICANT: Your Honor, do you --
THE COURT: Do you wish -- you want to rephrase the question?
MR. TRAFICANT: If he had knowledge.
Q. Were you ordered by anybody?
MR. MORFORD: That's calling for hearsay, what someone else said.
THE COURT: Right.
Q. Did you tell the FBI that I wanted a welder to build a horse trailer?
A. Yes.
Q. Did you have knowledge that I owned two horse trailers?
A. No.
Q. Did you tell the FBI that I had two Avantis?
A. No.
Q. Did you actually know who paid for the Corvette

rental?
A. From my understanding, the Corvette rental at the end was put on your credit card.
Q. Now, about the Avanti, isn't it a fact they could not find parts for it?
A. That is correct.
Q. If it was a production car, would they not have been able to find parts for it?
MR. MORFORD: Objection to this witness' knowledge.
THE COURT: Do you know?
THE WITNESS: Repeat the question, please.
Q. If it was a production car, would they not have been able to find parts for it?
A. I would assume that you could.
MR. MORFORD: Objection as to what he assumes. It's speculation.
THE COURT: Overruled. Go forward.
MR. TRAFICANT: Thank you.
BY MR. TRAFICANT:
Q. Isn't it a fact you tried hard to get parts for that car?
A. We found an exotic car place that specialized in exotic cars like the Avanti would be. We set it there and I put it on their shoulders to find the parts and do

whatever they needed to do to repair the vehicle.
Q. And what, if anything, did they tell you?
A. They called us up, called me up about a week and a half later, said come pick it up. They weren't going to touch it.
Q. Why was the rented Corvette charged on Detore's credit card?
A. That's something you need to ask Mr. Detore.
Q. Now, if this Corvette deal was supposed to have been a gift, why wasn't it paid in cash with my name on it?
MR. MORFORD: Objection. He can only testify to the facts that he knows.
THE COURT: You can proceed. I -- ask -- can you remember the way the question was put? Shall I have it read back?
BY MR. TRAFICANT:
Q. To the best of your knowledge, if this Corvette was to be paid by the company, why didn't you guys pay it in cash so there would be no paper trail?
THE COURT: You can answer.
THE WITNESS: I can answer that. It's simple. You can't rent a car without having a credit card.
Q. Did you have my credit card?
A. I didn't have your credit card.
Q. Whose credit card did you have?

A. I had my own credit card, and Richard had his.
Q. What credit card was used?
A. Richard Detore's credit card.
Q. Was it necessary to have the use of a credit card to rent that car?
A. Yes, it was.
Q. Did you ever tell the FBI that the Avanti business went belly up and J.J. told -- sold two Avantis to Jim Traficant?
A. I don't recollect ever saying that.
MR. TRAFICANT: 302, 8-10-2000, transcribed 8-21. I don't have a clean issue.
THE COURT: What page, sir?
MR. TRAFICANT: The last page, first paragraph. Mine is all marked up.
THE COURT: You can use this one.
THE WITNESS: Is it this one here, or is this a different document?
MR. TRAFICANT: No. I'll take that off your hands.
THE WITNESS: Thank you.
THE COURT: I'll switch this with you.
MR. TRAFICANT: Thank you, your Honor.
THE COURT: Okay. Don't read that out loud. Just read it to yourself.

THE WITNESS: Okay.

Q. I want you to start on the bottom of Page 13. Read the last sentence and then the first remaining part of the paragraph on the next page. And then hand me the document back.

THE COURT: Here, Congressman, this is your copy.

MR. TRAFICANT: Thank you, your Honor.

Q. Does that refresh your memory, Al?

A. Yes, sir. Thank you.

Q. Now, did that say I was given the cars or I bought the cars?

A. It said it was bought.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you, sir. You may inquire.

MR. MORFORD: Thank you, your Honor.

REDIRECT EXAMINATION OF ALBERT LANGE

BY MR. MORFORD:

Q. Mr. Lange, you were asked during cross-examination about the fact that USAG has paid for your attorney expenses in this case. Do you recall that?

A. Yes, sir.

Q. I'd like to show you a document.

MR. MORFORD: Congressman, this is a

document. You have a copy of that?

MR. TRAFICANT: I may. You can put it on. I'd appreciate it.

MR. MORFORD: Your Honor, this is Government's Exhibit 8-71.

THE COURT: Thank you.

BY MR. MORFORD:

Q. Ask you to take a look at that document, and can you tell us what that is, sir?

A. It's in an agreement to Latham and Watkins for USAG to pick up my legal expenses.

Q. And what is the date of that document?

A. The date at the top of the document is 31 July 2000. The signature's 3 August 2000.

Q. Who actually signed the document?

A. Beth Wilkinson and Geoffrey Mearns.

MR. MORFORD: Your Honor, may I place this on the overhead?

THE COURT: Yes.

BY MR. MORFORD:

Q. Now, this is a letter; is that correct?

A. Yes, sir.

Q. And it's from your attorney, Beth Wilkinson of Latham and Watkins, to Geoffrey Mearns at Thompson Hine; is that correct?

A. Yes, sir.
Q. It says down here regarding agreement for paying of Albert Lange's legal expenses, fees and expenses; is that correct?
A. Yes.
Q. And I'd like to ask you, if you will, to go ahead and read the body of this letter, please.
A. Where would you look me to start?
Q. Starting with this letter will confirm.
A. "This letter will confirm that Latham and Watkins has been retained by Albert Lange to represent him in connection with the Government's investigation of the alleged improprieties of Representative James A. Traficant.

"This letter will also confirm that U.S. Aerospace Group, LLC, (USAG), has agreed to pay the legal fees and expenses Mr. Lange incurs in connection with Latham and Watkins' representation in connection with this matter. USAG has agreed to pay Mr. Lange's legal fees and expenses because Mr. Lange is an employee of USAG, and the conduct under investigation occurred during the course of his employment.

"Statements detailing the legal fees and expenses incurred will be provided to Mr. Lange and USAG on a monthly basis. USAG will pay us directly for all fees and charges incurred by Mr. Lange. Payment of our statements

is due promptly upon receipt.

"This agreement does not alter Latham and Watkins' obligation to zealously represent Mr. Lange to the exclusion of all other interests."

Q. Let me stop you there. I want to ask you about that where it states this agreement does not alter your attorney's obligations to zealously represent you to the exclusion of all other interests.

Do you recall during your cross-examination when Congressman Traficant asked you this question "Who are you protecting, Al? You recall that question?

A. Yes, sir.

Q. Let me ask you follow-up questions to that question.

Under the representation of Latham and Watkins under this indictment, did you provide incriminating information against J.J. Cafaro to the FBI despite the fact that your attorney fees were being paid?

A. That is correct.

Q. And was J. J. Cafaro charged as a result of incriminating information that you provided to the FBI?

A. That is correct.

Q. And did J.J. Cafaro plead guilty, in part, as a result of the incriminating information that you provided to the FBI against him?

A. That is correct.

MR. TRAFICANT: What's the last one, 71?

MR. MORFORD: This is a document.

MR. TRAFICANT: That's fine.

MR. MORFORD: Your Honor, I'd like permission to show this to the witness to refresh his memory on the date if that's okay.

THE COURT: Fine.

This is 8-72.

Q. Handing you what is marked Government's Exhibit 8-72, Congressman Traficant asked you a number of questions about a proffer letter, proffered agreement you reached with the Government, and asked you if that was reached in April of 2000. I'd like you to take a look at that document, and tell me if that refreshes your recollection as to when you actually signed the proffer letter in the presence of your attorneys and the Government?

A. Says 1 August 2000.

Q. Okay. And how long was that after you formally retained the services of lawyers at Latham and Watkins?

A. The next day.

MR. TRAFICANT: Pardon?

THE WITNESS: The next day.

Q. Congressman Traficant asked you a number of questions regarding boat repairs that were funded by J.J. Cafaro and the value of the boat prior to the time that you began

making those repairs. As I understand your testimony, there was approximately $26,000 in repairs, slip fees, and other expenses paid by J.J. Cafaro to repair the boat; is that correct?

A. Somewhere in that area. I'm not sure of the exact amount.

Q. And was there also an agreement that on top of those repairs, that J.J. Cafaro would pay Congressman Traficant through you a certain amount of money for the purchase of that boat?

A. That is correct.

Q. And what was that amount of money?

A. The remaining balance of the mortgage that Jim Traficant had on his boat.

Q. Which was approximately how much?

A. $26,000 and change.

Q. So we're talking somewhere around $52,000 total that J.J. Cafaro was going to pay for this boat?

A. Somewhere in that area.

Q. Congressman Traficant showed you a survey and asked you if you understood that according to your survey or after all the work was completed and the repairs were made the boat would be worth somewhere between $38,000 and $42000; is that correct?

A. I don't remember the exact amount that's on the

survey, whatever that is. I would say it's in the ballpark area.

Q. Let me ask you this:

After the $26,000 or so of repairs and slip fees and other expenses had been expended, were the repairs at that point fully completed, or there were -- were there still repairs that needed to be done?

A. There were still repairs that needed to be done.

Q. When the Congressman asked you a number of questions about what he phrased as the quote boat scam." Do you recall those questions?

A. Yes, sir.

Q. Who was it at all times who was funding all of the boat repairs?

A. J.J. Cafaro.

Q. And who was ultimately going to have to fund the remaining payment to pay off the balance on the mortgage?

A. J.J. Cafaro.

Q. And who was it that wanted to conceal the fact that J.J. Cafaro was, in fact, a person coming up with the funds to pay for the repairs and to ultimately pay off the mortgage?

A. J.J. Cafaro, Richard Detore, and I believe Jim Traficant.

Q. Who was the person who initially said it can't be

done this way, it has to be done in a way that doesn't show that J.J. Cafaro was involved?

A. I was told that that was Jim Traficant --

MR. TRAFICANT: Objection as to hearsay.

MR. MORFORD: It would be a statement in furtherance of the conspiracy. That's how we would offer it.

THE COURT: Fine. You can proceed.

BY MR. MORFORD:

Q. I'm sorry. Go ahead --

THE COURT: No, you can't. No, you can't. We'll have to take it up at noon. Thank you.

MR. MORFORD: Thank you.

Q. Why were you used as a strong man in this transaction to have the money funneled through to make it appear you were, in fact, the person buying the boat?

A. So it would look like a prominent businessman in Jim Traficant's district was doing direct business with him. They were afraid of -- I was told it was because the lawyers may construe something differently than what it was.

Q. In the end, when all was said and done, who ended up with the boat?

A. Jim Traficant still has the boat as far as I know.

Q. One last area I want to follow-up on:

Congressman Traficant asked you some questions about USAG losing the opportunity to pursue the $1.3 million contract with the Army. You recall those questions?
A. Yes.
Q. To what extent, if any, did the FBI's investigation into allegations that USAG had given illegal gratuities to Congressman Traficant affect the ability of USAG to go forward on that $1.3 million contract?
A. I don't know what the motivation was behind them -- them no longer sending funds.
Q. What was the timing of the $1.3 million contract in comparison with the ongoing investigation by the FBI?
A. I believe the contract was signed in early May of 2000, somewhere in that time frame. So the investigation had already been ongoing when the contract was signed.
MR. MORFORD: Just one moment, your Honor. Nothing further.
THE COURT: Thank you. Congressman

RECROSS-EXAMINATION OF ALBERT LANGE

BY MR. TRAFICANT:

Q. Al, let's start with where we left off. You said you heard about an investigation going on before, but you still got the $1.3 million in appropriation, didn't you?
A. That's correct.
Q. So the investigation and allegations did what to the

appropriation?
A. Harmed it in no way.
Q. The money was there, wasn't it?
A. That is correct.
Q. Now, you say J.T. got the boat. Did the appraisal that you hired say it was worth $32,000 as is? You want to see it again?
A. Whatever the survey says is what it is, somewhere in that area.
Q. Now, would it have been illegal for me to accept $26,000 from you?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Okay. Let me ask you this.
Who determined how much the expenses were going to be on the boat?
A. They were determined from the cost estimates that I gathered from the guys that were going to work on the boat plus the guy that did the survey.
Q. Well, when they told you it was going to be -- did they tell you it was going to be $26,000?
A. No, sir.
Q. What did they tell you it was going to be?
A. Somewhere in the area of 11 to $12,000 to repair the boat.

Q. So now, if, in fact, what the surveyor said after he looked at it, he thought it was an $11,000 job, now it turned out to be a $26,000 job -- isn't it a fact that the boat had sunk?

A. No. The fact was is that the surveyor and the people that were working on the boat put the low quote, figuring that once it got committed to the boat, no matter how much cost overruns would be, they would complete the boat and gain extra funds.

Q. So then Jim Traficant didn't rip you off; the people working on the boat milked the money that they could get out of the boat; is that your testimony?

A. To some extent, possibly, yes. There was cost overruns that any boat that ever gets repaired, there's always cost overruns.

Q. Did you ever have your boat repaired?

A. Yes.

Q. Did you get a contract signed on it?

A. Standard issue that comes along with any place that maps out what the cost of repairs are going to be.

Q. Did you say to Mr. DeGroot, look, what's it going to cost, and can we come to an agreement on cost, or shall I get some bids? Did you ever say that to Mr. DeGroot?

A. We came to an agreement. They signed the statements, stating that these costs for these repairs, the reasonable

repairs, would be made under this amount of money.
Q. What amount of money?
A. $11,000 some odd dollars.
Q. How much was owed on the boat?
A. I assumed $26,000 in change from the certified check that J.J. presented.
Q. Now, Al, did you ask Mr. DeGroot to sign a contract for $11,000?
A. Yes.
Q. And what, if anything, happened?
A. We started in cost overruns before the boat ever got pushed back into the water.
Q. Why then didn't you stop it?
A. It wasn't my job to stop it. J.J. said we're doing you a favor, and I was to continue on.
Q. That's hearsay, but we'll let it in.
J.J. was really only helped on Capitol Hill by Jim Traficant, wasn't he?
A. In regards to U.S. Aerospace?
Q. Yes.
A. As far as I know, yes.
Q. Did he know the Kennedys?
A. He says he does.
Q. Did he know the Corsellis?
A. He says he knew.

Q. Did he know Gephart?
A. He says he does.
Q. Did he entertain them in his house?
A. I don't know. He may have. I've only been to J.J.'s house --
Q. Why did they come to me, Al?
A. Because you're in his district. I don't know.
Q. Do you know if he was a friend of Vice-President Al Gore and President Clinton?
A. He says that he was.
Q. Did he contribute hundreds and hundreds of thousands of dollars to both parties?
THE COURT: Unless he has personal knowledge about this, he can't answer.
Q. Do you have knowledge?
A. Only what I was told by J.J., that he was a big contributor.
Q. Wasn't he a member of that special club that was invited in with the president?
MR. MORFORD: Objection. This witness would not know except for hearsay.
MR. TRAFICANT: To your knowledge.
THE COURT: Well, I think there may be another witness you can ask the question of who would have knowledge, but this witness, you haven't established he has

knowledge of whether or not he was a --

Q. So the appraiser said this boat could be worth up to $48,000 when completed?

A. That's correct.

Q. It had a $26,000 mortgage, right?

A. That is correct.

Q. And you and deGroot come to an agreement. You said look, the surveyor in the group said $11,000. What is $26,000 and $11?

A. $37 and change.

Q. Was there value for the dollars, Albert?

A. There was -- yes, there was perceived value for the dollar on the boat.

Q. Was it Jim Traficant's fault for the overruns, or was it your fault?

A. I would say it was my fault for the overruns.

Q. Did you report overruns to me and complain to me?

A. No, sir, I did not.

Q. Isn't it a fact you abandoned that boat?

A. The fact being was that J.J. Cafaro didn't pay me and after paying --

Q. I didn't ask you that.

Did you abandon the boat? Yes or no.

A. I -- I no longer took a part in the boat.

Q. And did you know that every item on that boat, other

than the generator, was stolen, Albert?
A. No, sir, I do not know that.
Q. And did you tell me you abandoned the boat, Al?
A. No, I did not.
Q. So you didn't tell me about the pickled engines; you didn't tell me about the cracks in the boat; you didn't tell me about the damage to it; you didn't tell me that you abandoned it, and you didn't tell me there were overruns, did you?
MR. MORFORD: There's got to be ten questions in there, your Honor.
THE COURT: That's all right. He can answer it.
Q. Let's ask them one at a time.
THE COURT: No.
Q. Answer them all.
A. I told J. J. Cafaro about that and, it was J. J. Cafaro's responsibility since the deal was really between you and J.J. Cafaro, and all I was was a mule to do the work.
So I called J. J. Cafaro, and if J.J. Cafaro never informed you, then that's -- that's something you need to take up with J.J. Cafaro.
Q. Were you a friend of J.J.?
A. I had a working relationship with J.J. Cafaro.

Q. Do you consider him a friend?
A. No, I do not.
Q. Did you consider me a friend?
A. Yes, sir, I did.
Q. And you didn't give me a courtesy call and say Jim, I left your boat down here. Maybe you'd better go down and secure it. Is that your testimony?
A. I told J.J. Cafaro, and I assumed J.J. Cafaro would call you.
Q. What was the words you used, assumed?
A. Assumed.
Q. And if you break that down to small parts --
A. I know what it means.
Q. As long as you've known me, have I ever threatened anybody?
A. Not to my knowledge.
Q. Anybody fear me in Washington, D.C., Albert?
A. Fear you?
Q. Yeah.
A. I would say that you were a man that could get things done, yes. I would say that you had some political clout.
Q. But did I do it through fear and intimidation, Albert?
A. I don't believe so.
Q. Wasn't it a fact that the company could get nowhere

with anybody else, and they came to me?
A. That could be a true statement.
Q. Was J. J. Cafaro my constituent?
A. Yes, he was.
Q. Was Capri Cafaro my constituent?
A. Yes, she was.
Q. Did they move the company to Youngstown?
A. At some point in time, that's what they said they would do.
Q. Were they going to move headquarters and all?
A. That's what they said.
Q. Now, I'd like to put 8-71 back up on the board here. Can I use your document? You have such clean forms.
MR. MORFORD: Yes.
MR. TRAFICANT: Give me the proffer, whatever that is, 8-72, maybe. Thank you, Matthew.
Q. July 31, 2000, were you in the employ of U.S. Aerospace?
A. Yes, sir.
Q. Okay.
MR. TRAFICANT: Give me 8-72.
MR. KALL: The witness has it.
Q. So you have this attorney by U.S. Aerospace on one day, which was the end of July, right?
A. Yes. We had met beforehand, but the -- the complete

financial, who was going to pay what didn't work out until then.

Q. So you met one day, and then the next day your attorney made a deal with the Government. Is a proffer a deal?

A. Sure.

Q. Okay. Now, are you an employee of U.S. Aerospace now?

A. No, I am not.

Q. Are you an employee of the Cafaro Company now?

A. No, I am not.

Q. In God's name, tell me why she's being paid by them?

A. You need to ask J.J. Cafaro that.

Q. Do you know what J. J. Cafaro's prison sentence is?

A. I have no idea.

Q. Do you know that he wears a wrist bracelet and goes to lunch every afternoon --

MR. MORFORD: Objection. He just said he has no idea.

THE COURT: The jury knows that this is not the testimony when it comes from there. Okay. Congressman, remember that. Okay? So they don't have to sit through all this.

MR. TRAFICANT: I'm just getting a little worked up at times.

THE COURT: Okay. Take a breath.

MR. TRAFICANT: I'm fine.

THE COURT: Thank you.

Q. Albert, as COO -- and you no longer had an employee, and you fired an employee, would you pay the legal expenses?

MR. MORFORD: Objection, speculation.

THE COURT: Sustained.

Q. Did you ever talk to Mr. Cafaro about paying the legal expenses? You're under oath, Al.

A. I'm trying to remember if I had that conversation of him paying -- asking for him to pay my legal expenses or not. I don't believe that I did.

Q. Mr. Cafaro just says, Al, you know, he did a great job bankrupting my company. So I'm going pay for your legal expenses even though I'm going to plead guilty to a crime, is that your testimony?

A. Well, first, I didn't bankrupt the company. And second, I was an employee at the time when it all came about. I was under -- I was -- I had my attorney well before I left that corporation. I was not fired from that corporation. I walked out the door.

Q. You left it, didn't you?

A. That is correct.

Q. You abandoned them, didn't you?

A. Well, it's kind of hard, Jim, when you're not getting paid to stay working in a facility. I did it for two months. I just didn't think I could maintain paying my bills with no paycheck.

Q. Albert, no one has accused you of bankrupting the company, but you are having your legal expenses paid by the Cafaros. Are you not?

A. That's already been established more than once.

Q. Someone had to make a deal. Who made the deal, Albert?

A. I do not know who made the deal.

Q. Do you have an attorney?

A. I have an attorney.

Q. Did your attorney meet with the Prosecutors?

A. My attorney met with the prosecutors.

Q. Which prosecutors did he meet with?

A. Mr. Morford.

Q. Mr. Who?

A. Mr. -- excuse me, Morford, excuse me.

Q. So Mr. Morford and your attorney sat down and made a plea agreement, a proffer on you, right?

A. That is correct.

Q. And you accepted it, right?

A. That is correct.

Q. And are you telling me that your attorney didn't know

who was paying him?
A. My attorney knew who was paying him.
Q. Now, in this proffer agreement that you made, what penalties are you subject to?
A. I was told as long as I tell the truth about the subject matter that I know about, that I would -- that no action would be taken against me.
Q. No action at all?
A. As far as I'm concerned, no.
Q. And you backdated documents?
A. At your request.
Q. And you furthered the conspiracy?
A. At the request of Jim Traficant -- at the request of J. J. And Richard Detore, yeah.
Q. Do you have any knowledge as to what Mr. Cafaro's charged with?
A. I believe it's a bribery charge.
Q. Isn't it a fact it carries misdemeanor time?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Are the Cafaros a very powerful family, Albert?
A. They appear to be.
Q. Is Anthony Cafaro one of the more powerful men you have ever met in business?
A. I've only said hello to him on two occasions. So I

don't know how his business dealings are truly. I can only assume that, yes, he's a powerful man.

Q. Was his brother J.J.?

A. Was his brother J.J. what?

Q. Was J.J. his brother?

A. J.J. is his brother as far as I know.

Q. Do you think it would be wise for me to hire your attorney and have Mr. Cafaro pay my expenses?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Back to the document--

THE COURT: Which document, Congressman?

MR. TRAFICANT: The so-called contract.

THE WITNESS: Okay.

Q. Was it on a hard flat surface?

MR. MORFORD: Objection. Asked and answered.

THE COURT: He's answered it more than once.

Q. Isn't it a fact when you abandoned that boat, I had a boat that was worth less than what it was worth than when you started with it?

A. No.

Q. Did you survey it?

A. After the repairs?

Q. Yes.

A. No.

Q. Then how do you know it, Albert?
A. Well, because the transmural had been completely replaced. The shaft log on the left side of the boat had been replaced. The bow sections no longer leaked. The back section of the boat where the fly bridge was had already had been replaced, and the boat was being put back into condition.
Q. Was those major expensive repairs?
A. The shaft log, most people told me we should burn the boat down rather than put six feet worth of shaft log into the boat.
Q. Why did the surveyor say the -- figured it would cost $11,000? You hired him.
A. The shaft log became apparent that it was more damaged than what it appeared after opening up some of the areas in the boat.
Q. Did you tell me that you hired a surveyor that didn't go in with drilling and boring instruments to test the tenacity, the strength, the tension and torque of the respective ribs and items that held the hull and the boat together?
A. Why would you want to bore out one of your ribs that's going to degrade the structural integrity of that piece? You do a physical and a probe, and he did a physical and a probe. He was a surveyor. He has a license

as a surveyor, and I assumed that he was the man that needed to be looking at the boat.

Q. Probe, what does probe mean?

A. Means get down, look around. You also said drill and pull plugs out of the boat.

Q. Okay. You said probe. Is probe look, or is probe to, in fact, test by inserting?

A. I don't know.

Q. You're an engineer. You're telling me you don't know the difference between a probe and a look?

A. Probing around means looking around and touching and feeling to see what's there.

Q. How much did you pay for that survey, Al?

A. $600.

Q. Was it certified?

A. I think there's -- an attestment page on the survey.

Q. Was he a part of the boat scam?

A. No, he wasn't part of a boat scam.

Q. Did he do an honest survey?

A. I assumed at the time, yes, he did an honest survey .

Q. Did you ever report to me what his survey was?

A. Yes.

Q. Did I ever see this survey before the Government sent it to me? Yes or no.

A. Yes, you did. I brought it to you at Taverna. We

looked it over, and you said this should be kept as part of the boat's paperwork to show in the future.

Q. And was there somebody there to witness that?

A. Richard Detore was there that evening, also.

Q. And he heard you say that?

A. Sure.

Q. And he saw you show the document to me?

A. That is correct.

Q. Did Rick Detore approve the survey?

A. No.

Q. Isn't it a fact you approved the survey, Al?

A. That's correct. The headache of your boat was turned over to me immediately after the deal was struck.

Q. Let me ask you this: Is a $36 to $40,000 boat called a headache?

A. It is when it's in the condition that your boat was.

Q. And how did they survey it at $36 to $40 some thousand dollars?

A. I don't know. That's why I brought a surveyor in. He's an expert in the particular industry.

Q. Isn't it a fact that was a fly bridge aft character motor boat, classic boat?

A. Sure with a transom that was falling out of it and a shaft log that was rotting.

Q. Wasn't it, in fact, a 1971?

A. I'm not sure of the date on this. Is it '70 or '71?
Q. Isn't it a fact after 25 years a boat is called a classic?
A. I don't know that it's a called a classic after --
Q. Are there not companies that specialize in buying boats and restoring them to their original form and reselling them on the marketplace?
A. Sure.
Q. And do they not bring in at times very big money?
A. I would assume that they would. Why else would they be in the business of doing that?
Q. How many times did you meet with your attorney and the Government?
A. Two to three times. I'm not sure of the amount.
Q. Was there any -- is there anybody else at the tables at any of those meetings?
A. Yes, the two gentlemen sitting over there on the -- to your right, Mr. Morford and the other gentleman.
Q. Mr. Smith, counsel? Would you look at the witness? Was Mr. Smith present?
A. I can't remember if he was or wasn't.
Q. Was a member of the IRS there?
A. At one time, there was, /a member of the IRS there.
Q. You know if he was from the Youngstown area?
A. I have no clue.

Q. Where was the meeting?
A. Across the street at Bank One.
Q. You had no meetings with the FBI in Virginia?
A. Not in Virginia, no, I did not.
Q. Did you have any outside of Cleveland?
A. That is correct.
Q. Where?
A. At the law offices at Latham and Watkins in Washington, D.C.
Q. And how far is Manassas, Virginia, from Washington, D.C., Albert?
A. I don't know, 30 something miles.
Q. Who attended that meeting?
A. My attorneys, Mr. Morford. I believe this gentleman here was also at that meeting, and I believe there was one or two FBI agents.
Q. Do you know where those FBI agents were from, Albert?
A. Ohio is all I know.

THE COURT: It's noon, Congressman.

MR. TRAFICANT: Your Honor, I have completed my cross-examination of this witness.

THE COURT: Very well. Thank you very much. We'll reconvene at 1:30, ladies and gentlemen. Remember your admonitions. Enjoy your lunch, and we'll see you at 1:30.

(Thereupon, a luncheon recess was had.)

Monday Session, March 18, 2002, at 1:30 P.M.

(Proceedings in the absence of the jury:)

MR. MORFORD: I just want to let the Court know we have no further questions of Al Lange and have permission to release him.

THE COURT: Very well. You have a witness?

MR. MORFORD: Yes. He's going to get the witness.

THE COURT: All right. We can go ahead with the jury.

(Proceedings resumed in the presence of the jury:)

PATRICIA DiRENZO,

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF PATRICIA DiRENZO

BY MR. KALL:

Q. Would you please state your name, and spell your last name?

A. Patricia DiRenzo, D-I- capital R-E-N-Z-O.

Q. I'm going ask you to take the mike out of the stand and hold it close to your mouth so we can hear you. Thank you.

Where are you employed?

A. At the Cafaro Company.
Q. For how long have you been employed there?
A. 32 years this May.
Q. Do you have a title?
A. I'm the cash management supervisor.
Q. For how long have you been the cash management supervisor?
A. About 15 years.
Q. What are your duties?
A. I look at the bank statement on a day-to-day basis so we know what money has been deposited and what money has been withdrawn from the account so we know what's left for investing purposes.
Q. Are you assigned to assist in any particular Cafaro Company executive?
A. I also write personal checks for Mr. J. J. Cafaro.
Q. How long have you done that?
A. Probably since the late 70's.
Q. Do you also assist him in paying his bills?
A. Yes, I do.
Q. How do you do that? Tell us your duty in his doing that.
A. I receive all the bills that come in from the outside through the mail system, from his secretary, and she brings them down to me, and then I keep them on a month to month

basis. I process them and write the checks and take them to Mr. Cafaro for signature.

Q. Who fills out the checks?

A. I write the checks; Mr. Cafaro signs them.

Q. Do you keep records of those?

A. Yes, I do.

Q. Do you keep those as a normal part of your duties with Cafaro Company?

A. Yes.

Q. Do you know what bank Mr. Cafaro uses for his checking?

A. It's Mahoning National Bank back in the '90s; late 90's now called Star Bank.

Q. Where do you receive his personal bills from?

A. They're brought down to me by Mr. Cafaro's secretary, Ginni Heinselman.

Q. You have access to his checkbook?

A. That's stored in my office in a locked cabinet.

Q. Do you also receive his cancelled checks once they've been processed by the bank?

A. Yes, I do. I do the bank statement.

Q. What happens to those after you're finished?

A. I keep them, also.

Q. Are you familiar with a company known as U.S. Aerospace Group?

A. Yes, I am.
Q. What kind of company was it?
A. They were marketing laser guiding systems for airports, international and domestic.
Q. Were you ever involved in USAG?
A. Only at the end, 1999, when Mr. Cafaro was paying all the bills personally.
Q. What was your involvement during that time period?
A. I wrote the checks.
Q. From what account did you write these checks?
A. His personal and also an account he had me open in the name U.S. Aerospace Group payroll.
Q. Prior to the time where you assisted in processing these documents, do you know how USAG's finances were processed?
A. My involvement with the company would tell Mr. Cafaro how much he was being given for the month on bills. My job was to set -- to make sure the money was set aside for the company so that the money was available when they needed it.
Q. Were you able -- during the time period that you were assisting in paying USAG's bills out of Mr. Cafaro's account, were you able to pay all the bills?
A. No, I wasn't.
Q. Why not?

A. Well, he had a certain amount of money budgeted per month, and it was to go for his personal bills, and he was choosing to pay the U.S. Aerospace Group bills instead of his personal bills.

Q. How did you decide which USAG bills to pay at that time?

A. He gave me a list, and he would put a check mark how much he wanted paid, or if he wanted it paid, or he didn't want it paid, and that's what I went off of.

Q. Did the fact that you were using J.J. Cafaro's personal account to pay USAG bills affect Mr. Cafaro's personal finances?

A. Yes, it did.

Q. How?

A. I was unable to pay most of the bills. Only ones paid were probably the utility bills.

Q. If you look down in front of you -- and I have placed a number of exhibits there -- if you could take a look at the first one, do you see 8-11?

A. Yes, I do.

Q. Do you recall the transaction which resulted in this check being issued?

A. Yes, I do.

Q. What is Exhibit 8-11?

A. It's Mr. Cafaro's personal check drawn on Mahoning

National Bank, and it's dated 7-28-98 payable to Bank One for $26,948.18.

MR. KALL: May I place this on the overhead, your Honor?

THE COURT: Yes.

Q. There's some other pages associated with Exhibit 8-11.

A. There's also the check stubs.

Q. How did this transaction for the $26,948 check, how did this come about?

A. First thing in the morning, Mr. Cafaro called me and told me to get one of his personal checks payable to NationsBank for the same amount, $26,948.18. I wrote it out of his checkbook, but since the checkbook is in my possession, I thought I should point out to him that there wasn't any funds in the account to cover it since we already issued checks for the month.

Q. Where did the amount come from, $26,948.18?

A. Mr. Cafaro gave the amount to me and told me to issue the check.

MR. TRAFICANT: I didn't hear that.

THE WITNESS: Mr. Cafaro gave me the amount and told me to issue the check to NationsBank.

Q. What was your understanding as to why a check was going to be issued to NationsBank?

A. He told me it was in payment of a loan for Mr. Traficant.
Q. Did you write a check to NationsBank for that amount?
A. Yes, it's on a previous page.
Q. What happened to that check?
A. I took it up to Mr. Cafaro and told him there weren't funds to cover it. And that probably was going to bounce or be NSF. So he instructed me to call the bank, find out how much money was still in his checking account, which would mean that some of the checks that we issued prior hadn't cleared the account. I did so. The funds were there. So Mr. Cafaro decided to guarantee that this would be a good check, that I issue a bank official check, and make sure that I put on the remitter, Jim Traficant.
Q. What was the purpose of Government's Exhibit 8-11, this check 3306?
A. To pay for a loan for Mr. Traficant so that I could get a bank official check from Bank One.
Q. What was the advantage of having an official bank check as opposed to paying it with a personal check?
A. That's guaranteed it's going clear.
Q. What did you do once you prepared this check number 3306?
A. Well, I wasn't sure if I could put Mr. Traficant as the remitter since I was sending up J.J. Cafaro check. So

I called the bank and asked for a bank rep and asked if there was any problem with me putting Jim Traficant's name down on the official check as the remitter. She said she would check, and she'd call me back. She called me back and said that I could do that as long as I made a notation when I sent the check up for the official check.

Q. Then what happened to this check?

A. It came back. I had to run it up to the bank and get the check and brought it back. I took it up and gave it to Mr. Cafaro.

Q. You obtained a bank check back?

A. Yes.

Q. If you could turn to Exhibit 8-12(1), is that the check you received back?

A. Yes, it is.

MR. KALL: May I place this on the overhead, your Honor?

THE COURT: Yes

BY MR. KALL:

Q. And this is -- this pink copy, was this all there was to it, or was there more?

A. There was more. This is the actual copy that I kept in the office. The original I believe was kind of like a whitish gray.

Q. And you received this in return for the personal

check we just saw earlier, Exhibit 8-11?
A. Yes.
Q. What's the date of this bank check on Exhibit 8-12(1)?
A. July 28, 1998.
Q. Who was it payable to?
A. NationsBank.
Q. What is the amount of that?
A. $26,948.18.
Q. And who was listed as the purchaser on that check?
A. J. Traficant.
Q. Was J. Traficant the actual purchaser of that check?
A. No, he wasn't.
Q. Who was?
A. J.J. Cafaro.
Q. What did you do when you got this check back?
A. I gave it to Mr. Cafaro.
Q. Did you ever see that check again?
A. Yes, I did.
Q. What were the circumstances?
A. Two weeks later Mr. Cafaro's secretary, Ginni, walked it down to me and told me that they didn't need it, to void it.
Q. What did you do as a result?
A. I never voided an official check. The first time we

ever issued an official check, it never came back. Sooner or later it was cashed. So I had to call the bank again and ask the rep how do you void an official check, and she told me don't mark on it like we would our own personal checks, write void on it or tear the signature; just to return to the bank, and they would issue the check back to Mr. Cafaro.

Q. Are you aware of that ever actually happening?

A. Yes, it did.

Q. If you could look at Exhibit 8-12(2), do you recognize that?

A. Yes, I do.

Q. What is it?

A. It's the bank official check, issued back to Mr. Cafaro.

Q. What was the purpose of this check?

A. To void the previous official check that I issued.

MR. KALL: May I place this on the overhead, your Honor?

THE COURT: Yes.

BY MR. KALL:

Q. Who is this check payable to?

A. John J. Cafaro.

Q. What is the amount?

A. $26,948.18.

Q. And the date on this?
A. August 14, 1998.
Q. What was this check for?
A. It's returning the money back into the account from the previous bank official check I had issued.
Q. And do you know if this check on Exhibit 8-12(2) was ever redeposited?
A. Yes, it was, to Mr. Cafaro's personal account.
Q. If you'd look at the next exhibit, Government's Exhibit 8-12(3), what is that?
A. Mr. Cafaro's personal deposit slip for that amount, $26,948.18.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
Q. Were you told why this check was given back to you to be redeposited?
A. No, I wasn't.
Q. If you will look down in front of you, you recognize Exhibit 8-19?
A. Yes.
Q. What is it?
A. It's Mr. Cafaro's personal check payable to cash for $3,500 dated August 13, 1998.
Q. Was this maintained in the ordinary course of your

employment?
A. I didn't do this one.
Q. Was this maintained as part of Mr. Cafaro's records, though?
A. Yes.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
BY MR. KALL:
Q. You said you didn't do this one, correct?
A. Right.
Q. How do you know that?
A. It's not my writing, and I don't type Mr. Cafaro's checks normally.
MR. TRAFICANT: I didn't hear that. I didn't hear that response.
THE WITNESS: It was -- it's not in my writing, and I don't usually type Mr. Cafaro's checks.
Q. Which portion is not in your writing?
A. The check or the stub, Check Number 3352.
Q. Is that what I'm pointing to on the overhead right now?
A. Yes.
Q. Do you recognize that handwriting?
A. Yes, I do.

Q. Whose is it?
A. Mr. Cafaro's secretary, Ginni.
Q. And did she have authorization to write checks for Mr. Cafaro if you weren't there?
A. Yes, she did.
Q. Is there a way she normally did it compared to the way you did it?
A. Sometimes she'd probably -- would type them. She is -- she's a secretary. I am not.
Q. What's the date on this check?
A. August 13, 1998.
Q. And for how much?
A. $3,500.
Q. Made out to whom?
A. Cash.
Q. Do you recognize the signature?
A. Yes, it's Mr. Cafaro's.
Q. Is there any way to tell whether or not this check cleared?
A. Yes. When the checks come back from the bank, I usually put a check mark by the check number to signal that it's actually cleared our account and that it was a good check.
Q. Is that your check mark right there?
A. Yes, it is.

Q. Take a look at the back of the check. Do you recognize the endorsement on that?
A. I recognize the name. I am not familiar with the signature, but I know who it is.
Q. Whose name?
A. Albert Lange, Junior.
Q. And do you know why a check made out to cash for $3,500 on August 13 of '98 was given to Al Lange?
A. No, I don't.
Q. If you'd look at the final page of Exhibit 8-19, do you recognize that?
A. Airborne.
Q. Yes.
A. Yes. It is an Airborne receipt showing the check was sent out by Mr. Cafaro to U.S. Aerospace, attention: Mr. Lange.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
Q. What's the date on this?
A. August 13, 1998.
Q. Do you recognize the handwriting the top portion of it?
A. Yes, I do. It's also Mr. Cafaro, Ginni, his secretary.

Q. And what does it state there?
A. "Al, as we discussed, Ginni, August 13, 1998, USAG faxed to Al Lange" and the phone number 703-365-2635.
Q. Turning to Exhibit 8-20, do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's Mr. Cafaro's personal check, payable to Al Lange, dated August 27, 1998, for $3,800.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
Q. There's also a check register listing there?
A. Yes, there is.
Q. An is that check reflected on it?
A. Yes.
Q. Is there any way to tell if this check cleared?
A. My red check mark is over the check number, so it cleared the account.
Q. And turning to the back of this check, you see the endorsement?
A. Yes, I do. It's Albert Lange, Junior.
Q. And do you know why a $3,800 check was issued to Albert Lange on August 27, 1998, from Mr. Cafaro's personal account?
A. No, I don't.

Q. Turning next to Exhibit 8-28, do you recognize that?
A. Yes, I do.
Q. Is this something that was made in the course of your employment?
A. Yes.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
Q. And what is it?
A. It's Mr. Cafaro's personal account, dated September 28, 1998, for cash of $6,000.
Q. And whose signature is that at the bottom?
A. Albert Lange.
Q. Excuse me. At the bottom of the check?
A. Oh. Mr. Cafaro's personal signature.
Q. Is there a way you can tell if this check cleared the account?
A. Yes. It has a check mark over the check number.
Q. On part of the register there?
A. Yes.
Q. And turning this check over, do you recognize that endorsement?
A. It's Albert Lange.
Q. Do you know why a check was issued to cash on September 28, 1998, and was endorsed by Mr. Lange?

A. No, I don't.
Q. Next, I'd like to ask you about two separate checks. They would be on Government's Exhibit 8-31 and 8-32. Just take a look at those for a minute, please.
A. Okay.
Q. Do you recall the circumstances under which these two documents were issued.
A. Yes, I do.
Q. What instructions were you given?
A. Mr. Cafaro told me to issue a check payable to cash for $13,000. And I did that. It's actually on the stub above the checks that we're talking about, and it's listed as voided.

We went to cash the check. Mr. Cafaro would ask that we get big bills, and when we went to the bank, we were unable to get large bills, and they told us that there weren't any available. So I had the runner bring it back, and I voided it; placed a call to Mr. Cafaro, who was tied up and unavailable, but he said that I could issue the checks the way I needed to, payable to cash, and I was going to use two banks instead of the one I had gone to. Mr. Cafaro has two accounts, one at National City and one at Bank One, and that's how I divided the checks.
Q. Okay. So you were asking for $13,000 in cash?
A. Yes.

Q. When was that?
A. November 13th, 1998.
MR. KALL: May I place 8-31 on the overhead, your Honor?
THE COURT: Yes.
Q. Looking at the check register for check 3510. What was that?
A. That's the check that I issued to cash for $13,000, and I had to void it.
Q. What were the circumstances as to why this check was voided?
A. There weren't large bills at the bank. They were unable to cash it and in the denomination that Mr. Cafaro had requested.
Q. What denomination did he request?
A. Hundreds.
Q. The bank didn't have $13,000 in hundred bills?
A. No, they did not.
Q. As a result, what did you do?
A. I found out how much each bank had, and Bank One, which was our bank, had $5,000 in hundreds, and I issued one check for $5,000 payable to cash, and the remaining I issued for the other to cash, $8,000.
Q. And is that $8,000 check what we see on part of Government's Exhibit 8-31?

A. Yes, it is.
Q. What's the date on that?
A. November 13th, 1998.
Q. Whose signature is that at the bottom?
A. That's mine.
Q. Not Mr. Cafaro's?
A. No, it's not.
Q. Can you explain why it's your signature and not his?
A. When we called to ask him that we could bring up two checks to replace the $13,000, that we had originally issued, he was tied up, and he instructed me to go ahead sign my checks.
Q. Is that something he occasionally authorized you to do?
A. Not that often, but occasionally.
Q. If you'd turn this check over, can you tell at what bank this check cleared?
A. The first one was cleared at National City Bank.
Q. And cash was obtained for that check?
A. Yes, there was.
Q. If you'll look at Exhibit 8-32, is that the other half of this transaction?
A. Yes, it was.
MR. KALL: May I place this on the overhead, your Honor?

THE COURT: Yes.

BY MR. KALL:

Q. And who was that check made out to?

A. It's also payable to cash for $5,000.

Q. Dated the same date, November 13th?

A. Yes, it is.

Q. Whose signature is on the bottom of that one?

A. That's also mine.

Q. The same circumstances as you described before?

A. Yes.

Q. Turning that check over, can you tell where that check was cleared?

A. That one was cashed at Bank One.

Q. What did you do once you issued these checks?

A. I paged our runner, and I informed him that he had to go to the two different banks to secure the cash that Mr. Cafaro had instructed me to get for him.

Q. Who was the runner?

A. James Franklin.

Q. Did he bring you anything in return?

A. Yes, he did, two envelopes, one with $8,000, the other with $5,000.

Q. In cash?

A. In cash.

Q. Was Mr. Franklin a messenger just for J. J. Cafaro,

or did he handle transactions for other people within the company?

A. No, he handled for the whole company.

Q. Was it unusual for him to handle transactions for more than one Cafaro Company executive in a day?

A. Yes.

Q. It was unusual for him to --

A. No. He handled it on a lot of occasions.

Q. Including cash transactions?

A. Yes.

Q. Was it unusual for him to obtain cash for J.J. Cafaro or other employees?

A. No. It wasn't unusual.

Q. Was there any system set up to keep the cash for one person separate from the cash for another person?

A. I put it -- everybody's check in a separate Cafaro envelope, and I wrote on the outside that the cash was for J.J. Cafaro or one of the other principals. So I had separate envelopes for each check with their name on the outside.

Q. If you'd turn next to Exhibit 8-33 and also look at 8-35.

Do you recall the circumstances surrounding these exhibits?

A. Yes, I do.

Q. Can you please tell the jury the background on this transaction?
A. Mr. Cafaro sent down an interoffice memorandum that he had received from U.S. Aerospace Group from Richard Detore, and they were instructing Mr. Cafaro that they needed a check drawn on his account for the $8,000 to complete the boat repairs.
Q. Did that raise any concerns in your mind?
A. Yes, it did. I --
Q. Why?
A. When they said boat repairs, I kind of got concerned that it was Mr. Cafaro's personal boat. He had a yacht sort of in a deplorable condition, and we put a lot of money into doing repairs, and I thought maybe he had transferred his personal boat over to U.S. Aerospace.
Q. At the time of this transaction, did you have any knowledge that U.S. Aerospace Group had purchased a boat?
A. No, I didn't.
MR. KALL: Your Honor, may I place 8-33 on the overhead?
THE COURT: Certainly.
Q. Is this the memo you were referring to earlier?
A. Yes.
Q. Could you read it, please?
A. Interoffice memorandum to John J. Cafaro for Richard

Detore, dated 11-23-98.

"J.J., we need to get a check for $8,000 to complete the boat repairs. Please call if you have any questions." Okay. J.J.C., and then my writing, paid, 12-24-1998, check 3588.

Q. This handwriting, okay, J.J.C., whose handwriting is that?

A. Mr. Cafaro.

Q. To the right of that, paid 12-24-98, that's yours?

A. That's mine.

Q. Did you immediately pay this when you received it?

A. I spoke to my supervisor, Dominic Rosselli, and I questioned the fact that did U.S. Aerospace have a boat to see if I could --

Q. What, if anything, was done?

A. Mr. Rosselli placed a call -- I believe it was to Mr. Cafaro -- and he asked him if there was a boat that U.S. Aerospace Group had, and when he hung up, he told me that yes, they had a boat, and they were using it to test the laser guidance system for the Marines for boats and stuff.

Q. And was a check issued for the $8,000?

A. Yes, it was.

Q. Is that what's depicted on Exhibit 8-35?

A. Yes.

MR. KALL: May I place this on the overhead, your Honor?

THE COURT: Yes.

Q. Who was that check made out to?

A. Richard Detore.

Q. For how much?

A. $8,000.

Q. And dated when?

A. December 24, 1998.

Q. And whose signature is on the bottom?

A. Mr. Cafaro's.

Q. Can you tell based on the check register whether or not this check cleared?

A. Yes, it did. It has my red check mark on it.

Q. And what else did you write in the check register there?

A. I wrote the notation in case they were checking to see what it was issued for, boat, U.S. Aerospace.

Q. Turning to the back of that, who was this check endorsed by?

A. Endorsed by Richard Detore, payable to Al Lange.

Q. As part of your duties handling J.J. Cafaro's expenses, did you handle his personal credit card bills?

A. Yes, I did.

Q. How did you obtain those?

A. They were sent down to make -- to me from Mr. Cafaro's secretary.
Q. What did you do with them when you received them?
A. We made copies, and we sent them upstairs to Mr. Cafaro to mark which items were personal and which could be charged to any of our jobs in the office.
Q. If you'll look at Exhibit 8-47, do you recognize that?
A. Yes, I do.
Q. And what is it?
A. It's Mr. Cafaro's VISA card statement from Bank One.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
BY MR. KALL:
Q. What month and year is this from?
A. June 15th, 1999, statement date.
Q. You said it was from a Bank One VISA; is that correct?
A. Yes.
Q. Were there any circumstances that surrounded Mr. Cafaro obtaining this credit card?
A. He was issued an American Express Business Card from our company, but they -- the American Express called and thought that Mr. Cafaro was using a business corporate card

for personal use, and that they had warned that it wasn't set up that way. It was a business card, and that they could tell there were numerous items being charged in clothing and jewelry, and they knew that the ship to was always his home, so they felt that it was being used not for purposes intended, and so they asked that he curtail personal spending.

Q. And what happened to the MX card?

A. They took it off Mr. Cafaro and had Bank One issue a VISA card in its replacement.

Q. At the time of this transaction in June of 1999, was that during the time when Mr. Cafaro was paying the USAG expenses personally?

A. Yes, it was.

Q. Did anything unusual happen after receiving this June 15th, 1999, credit card bill?

A. I hadn't been paying any of them, and so the balance was starting to accumulate. And since there was a limit on this VISA card of $10,000, it was almost maxed when Mrs. Cafaro placed a call to J.J.'s secretary and wanted to know what was going on that she had tried to make a purchase on it, and she was denied.

Q. As a result of that, what did you do?

A. She instructed me to make copies of the bills that I hadn't paid, to bring them up to Mr. Cafaro so he could see

what was going on.

Q. What happened when you talked to Mr. Cafaro?

A. He thought that some of the charges that were on there pertained to the company U.S. Aerospace Group, and he asked that I return down to my department, which is the accounting finance department, and ask if he could have reimbursement for the charges that were pertaining --

Q. Was there anyone on this bill in particular he believed was chargeable to USAG?

A. Probably the top one, Blalock Cycle Sales, because it's in Warrenton, Virginia, which is the location of U.S. Aerospace Group, Virginia.

Q. And that was for $2,714.91?

A. Yes.

Q. What did you do when you returned back downstairs?

A. I went to my supervisor, Dominic Rosselli, and explained that Mr. Cafaro wanted reimbursement for the charges that he felt pertained to U.S. Aerospace Group. He instructed me to come with him, and we would go to William A. Cafaro and ask him what, you know, we had to do to get this done.

And Mr. Cafaro instructed us that he wouldn't do any reimbursement to Mr. Cafaro unless the proper paperwork was supplied, which is all the charge slips that pertain to each of the items on the credit card slips.

Q. And to your knowledge, was this $2,700 charge ever reimbursed by the Cafaro Company?
A. No, it wasn't.
Q. Why not?
A. We placed a call to Tracy Sloan at U.S. Aerospace Group, and we instructed her that the only way Mr. Cafaro was going to get reimbursed for any of the charges pertaining to U.S. Aerospace was for them to send us the copies of all the charge slips, and it never happened.
Q. So you never received a backup documentation from USAG?
A. No, we didn't.
Q. You mentioned earlier that they took Mr. Cafaro's credit card. Who is the they you're referring to?
A. His brother, Anthony Cafaro, Senior.
Q. And you mentioned another name earlier, William Cafaro. Who was he?
A. He's Anthony Cafaro's, Senior's son.
Q. And what was his role in the company?
A. He's a vice-president.
Q. And there had also been previous mention in this trial of a different William Cafaro. Was that a common family name?
A. Yes, it is.
Q. Who are the two different William Cafaros?

A. William M. Cafaro is the founder of our company.
Q. And that would be Anthony and J.J.'s father?
A. Yes.
Q. And he's deceased?
A. Yes, he is.
Q. And it would be his grandson that you were referring to earlier?
A. Yes.
Q. If you could turn now to Exhibit 8-55, do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's a cashier's check from James A. Traficant, issued to Janet Cafaro, who was Mr. Cafaro's wife, for $7,000, dated December 22nd, 1999.
MR. KALL: May I place this on the overhead, your Honor?
THE COURT: Yes.
MR. KALL: It's sort of a grainy copy.
Q. But it was dated when?
A. December 22nd, 1999.
MR. TRAFICANT: I ask it be made a joint exhibit.
THE COURT: Fine.
Q. And what is the amount on that?

A. $7,000.
Q. And it's from whom?
A. James A. Traficant, Junior.
Q. Did you ever see this when you worked at Cafaro Company?
A. Yes, I did.
Q. Who gave it to you?
A. Mr. Cafaro came into my office and handed me a check and wanted me to get it cashed immediately at the bank.
Q. What did you do with it?
A. I paged our runner again, and I instructed him that he had to go to the bank and cash this for Mr. Cafaro.
Q. Were you told what this check was for?
A. Yes. When he came in, he told me that Mr. Traficant had bought two of his cars, two of Mr. Cafaro's personal cars. A -- his oldest jeep, which is that's all he identified it as, his oldest jeep, and he also sold him a prototype Avanti; asked me to get the title for the oldest jeep.

And he knew there wasn't a title for the prototype Avanti, so he asked me to secure a bill of sale.
Q. You said he; you're referring to J.J.?
A. Mr. Cafaro, um-hum.
Q. Did you attempt to obtain the title and the bill of sale?

A. I attempted to get the title for the Jeep from our accounting department. All the titles were stored in a folder there, and there were no titles for any of the Jeeps there. He had three of them at the time. And a bill of sale, I wasn't sure how to do that. So I went to my supervisor again, and he told me that I probably should talk to somebody up in the legal department and try to have a bill of sale issued at that time.

Q. Were you ever able to get any of those projects completed?

A. We were able to get the copies of the Jeep titles they helped me to obtain information from Maryland, and that's where the Jeeps from all three were purchased, from Maryland, and they -- eventually, all three titles were received in our office, and I never got the bill of sale.

Q. What did you do when you got the titles?

A. I mentioned to Mr. Cafaro that I had them, and he said hold up on everything, and we still have them.

Q. Do you know whatever happened to those titles?

A. No, I don't.

Q. And you were never able to obtain the bill of sale for the Avanti?

A. No. I asked one of the lawyers if he was going to be able to get me a bill of sale for an Avanti prototype that Mr. Cafaro was selling to James A. Traficant. I kind of

thought that he didn't really want me to continue talking to him about that.

Q. The three titles that you did obtain, what types of car were they for?

A. Three Jeeps, two of the same year, one a little newer.

MR. KALL: If I could have a moment, your Honor. Nothing further right now, your Honor.

THE COURT: Thank you. Congressman

CROSS-EXAMINATION OF PATRICIA DIRENZO

BY MR. TRAFICANT:

Q. Good afternoon, Patricia. How are you?

A. Good. And you, Congressman?

Q. How did you get tied up in all this?

A. Pardon me?

Q. How did you get tied up in all this?

A. I worked there.

Q. You were there for a long time, weren't you?

A. Yes, I did.

Q. Is Mr. Cafaro a good businessman?

A. Yes, yes.

Q. He had his strengths?

A. He had what?

Q. Did he have his strengths?

A. Yes, he did.

Q. Did he have his weaknesses?
A. Um-hum. I'm not familiar with any.
Q. Did he handle a lot of cash?
A. Yes.
Q. Did you handle his checks when he made contribution for -- to political figures?
A. Yes, I did.
Q. Could you name some of the political figures he made checks to?
A. Over the years, there were a lot. I'm not sure I could sit here and name them all.
Q. Senator Kennedy?
A. I'm not sure.
Q. Did he make large campaign contributions to the Republican and Democrat National Parties?
A. Yes, I believe so.
Q. Did you ever see the size of those checks?
A. Yes. I wrote them.
Q. And what were some of the size of those checks?
A. I think there was one for $200,000.
Q. And what party was that to?
A. I'm not real sure right now.
Q. You know if there was a time that I investigated the Cafaro Company as sheriff?
A. No, I don't.

Q. So now you said there was a $26,000 check that you had written, but you didn't have the funds in the bank; is that correct?
A. Yes.
Q. And you had to go, in fact, obtain an official check, which would be a guaranteed check; is that correct?
A. Yes.
Q. And who ordered you to do that?
A. Mr. Cafaro.
Q. And ultimately what happened to that check?
A. It was returned and voided.
Q. What, if anything, did Mr. Cafaro tell you about that check?
A. He didn't.
Q. Did you have occasion to talk to Mr. Cafaro about his business?
A. No.
Q. Did you just go ahead and write checks when he told to you write a check?
A. Yes.
Q. Who was his boss?
A. Mr. Cafaro is the boss.
Q. J.J.?
A. Yeah, himself.
Q. Who is the boss of the Cafaro Company today as you're

seated on the stand?
A. Anthony Cafaro, Senior.
Q. Now, you said they had a credit card account, and that thing got a little bit whacky. Is that right?
A. Yes.
Q. Jewelry, furs, clothing, things like that?
A. Yes.
Q. Expensive items?
A. Yes.
Q. Um-hum. Did you ever work on my farm?
A. No.
Q. Now, at some point, you went to Mr. Rosselli; is that correct?
A. Yes, in regards to?
Q. In regards to what?
A. The boat.
Q. And why did you go to Mr. Rosselli?
A. He's my supervisor.
Q. Why didn't you go to J.J.?
A. Mr. Rosselli was in my department, and I just went to him as opposed to going out and bothering Mr. Cafaro.
Q. To the best of your knowledge, what was Mr. Rosselli's title?
A. He's our treasurer, CFO.
Q. Of the entire company?

A. Yes.
Q. Of the entire umbrella organization?
A. Yes.
Q. You know what his annual pay is?
A. No, I don't.
Q. Would you say he would be one of the higher paid workers at the Cafaro Company?
A. I don't know.
Q. Do they maintain records in your department of payroll?
A. No, they don't.
Q. Now, when J.J. assumed complete control and responsibility of U.S. Aerospace Group, did you have -- and did you receive more information about that company?
A. No, I didn't.
Q. Well, how did you process the checks?
A. I waited for instructions from Mr. Cafaro, which usually came down on a memo, and he asked me to write checks for the following.
Q. On what accounts did you write checks?
A. Mostly out of his personal account, but I also had a U.S. Aerospace Group payroll account.
Q. What insurance policy were the employees of U.S. Aerospace covered under?
MR. KALL: Objection, relevance.

THE COURT: You may answer if you know.

THE WITNESS: I'm not real sure. I didn't handle payroll.

Q. What insurance policy did you have?

A. I have with the Cafaro Management Company.

Q. Are there different insurance coverages in the company?

A. No, there isn't.

Q. Is there one policy?

A. Yes.

Q. Now, are you familiar with any partnerships in real estate that the Cafaros have?

A. Yes.

Q. Do you know if those employees are covered under the Cafaro group insurance policy?

A. Yes, they are.

Q. Now, if those partnerships were covered under the Cafaro insurance policy, would it be a fact the United States, U.S. Aerospace Group policy would also be under the umbrella of that corporation -- of that company?

A. They could be, but I'm not familiar with it.

Q. Who's spending all the money on that credit card?

A. The VISA card? I believe it was U.S. Aerospace Group. I saw a lot of the charges pertaining to Virginia.

Q. Well, was U.S. Aerospace buying jewelry?

A. No. That was the American Express card.
Q. At the time that these expenses were being made, did Mr. Cafaro, J.J. Cafaro, still own this wooden boat?
A. I'm not real sure. I believe so.
Q. Was it unusual for you to pick up $15, $20,000 worth of cash or have the runners go pick up $15 or $20,000 cash for Mr. Cafaro?
A. That's a little larger than what he might usually ask for, yes.
Q. What would he usually ask for?
A. Probably under $10,000.
Q. How often would he do that?
A. Quite often.
Q. Is quite often --
A. Maybe once a week or more. I had his checkbook. All the deposits went into the checking account. His paychecks were direct deposited into his wife's account. The only way he had money was to issue checks payable to cash to have spending money.
Q. Wasn't it a fact that he was placed on a limited salary by Anthony Cafaro, the boss?
A. Yes.
Q. And what was that salary?
A. He received $60,000 a month plus his paycheck.
Q. And what was his paycheck?

A. I'm not real sure of the figure. It's direct deposit, and I don't handle payroll.
Q. So he's getting $720,000 a year, and you don't know what his paycheck is, right?
A. No. It's -- it's private, and we have direct deposit for the officials.
Q. Well, then?
A. Within the company.
Q. What is the $60,000 a month for?
A. His bills.
Q. And you say Mr. Cafaro's checks were bouncing?
A. Yes.
Q. And would $20,000 over a period of two years cause his checks to bounce?
A. Pertaining to the boat, the $26,000?
Q. Yes.
A. I mean, he was paying other bills for U.S. Aerospace Group. The funds were pretty limited, trying to make do with both the business and his personal.
Q. What kind of payments was he making for U.S. Aerospace Group?
A. Various payments as to all the different electronic items that they needed, office supplies. He kept the office going, travel.
Q. Give me an example of what their monthly activity

was. You handled their accounts.
A. Payroll was costing probably about $20,000, and --
Q. A month?
A. Every other week, they --
Q. Every two weeks?
A. Yeah.
Q. So you'd say about a half million dollars a year in payroll?
A. Yes.
Q. Did you also make the deposits for USAG?
A. Into Mr. Cafaro's U.S. Aerospace payroll account, yes.
Q. How many deposits did you make into his account?
A. Not a lot.
Q. Give me an idea on a yearly basis?
A. We only had it for probably a half a year.
Q. And how many total deposits did you make in that six months?
A. I'm not sure.
Q. Would it be less than $100,000?
A. Probably.
Q. Less than $50,000?
A. No, more.
Q. So you had $50,000 to $100,000 coming in and half a million going out. How was Mr. Cafaro operating USAG?

A. He was having a lot of difficulties.
Q. Did he make loans?
A. He had borrowed money off the company.
Q. Did you write the checks to service that debt?
A. No, I didn't.
Q. What account did that come from?
A. Cafaro Laser.
Q. Wasn't Cafaro Laser basically a subsidiary or associate or some type of umbrella group of USAG?
A. Yes.
Q. Well, they're only bringing in $150,000. They're spending half a million on a payroll loan. We didn't talk about supplies, any rent, any utilities, any costs, any production, any travel, have we?
A. No. They weren't doing very well.
Q. Did you find it unusual to have an official guaranteed check returned to you?
A. Yes, I did.
Q. Was that negotiable in any bank in the United States or any of its territories overseas?
A. It was payable to NationsBank.
Q. And you just couldn't void that like another check, could you?
A. No.
Q. You had to, for the first time in 32 years, go

through a process to learn how to rescind and cancel a check; is that correct?
A. Yes.
Q. Did Mr. Cafaro come back to you and ask you if there was any other way that you could commingle funds from different accounts and credit cards and come up with $26,000 plus dollars?
A. No, he didn't.
Q. Now, when you knew that U.S. Aerospace Group was having all these difficulties, did you talk with him about receipts and the items that you talked about with Mr. Rosselli?
A. No.
Q. Did you take it to the attention of Mr. Rosselli?
A. Could you repeat it?
Q. Did you take to Mr. Rosselli your concerns about this tremendous expense with very little income concerning USAG?
A. Yes.
Q. And what, if anything, did Mr. Rosselli say?
MR. KALL: Objection, hearsay.
THE COURT: Sustained. Don't answer that.
Q. Did you have any knowledge of any action being taken in reference to your conversation with Mr. Rosselli?
A. No, I didn't.
Q. You mean the treasurer did not come back and explain

to you what was happening?
A. No.
Q. Was that a common practice with the Cafaro Company?
A. This was Mr. Cafaro's personal account.
Q. Isn't it a fact that the Cafaro Company has one boss that could fire everybody?
A. Yes.
Q. Who is that?
A. Anthony M. Cafaro, Senior.
Q. Who, in fact, did USAG make their loans from?
A. I believe Mr. J.J. Cafaro.
Q. Did J.J. lend $10 million to USAG?
A. He borrowed the funds probably from his partnership interests.
Q. From whom?
A. From the Cafaro Management Company.
Q. Who is the Cafaro Management Company?
A. Anthony M. Cafaro, Senior.
Q. Are there a listing of officials with the Cafaro Corporation?
A. Yes.
Q. Would you please describe to me what -- who and what the titles are?
A. It's not in my possession. It's in Dominic Rosselli's office, and I have never been given it.

Q. You know -- well, you know who the boss is, don't you?
A. Anthony M. Cafaro, Senior.
Q. Who's second in command?
A. William A. Cafaro.
Q. And that is the son of Anthony Cafaro?
A. Yes. And John J. Cafaro.
Q. And John J. Is at the same level as young Anthony?
A. Mr. Cafaro is one of the youngest of the company.
Q. J.J.?
A. J.J., yes.
Q. And how about Flora?
A. She's the other owner.
Q. Did J.J. Cafaro deal with a lot of cash?
A. Yes, he did.
Q. Would you -- how much cash would you say he would average a month?
A. Probably $15, $20,000. That's just a guess.
Q. Did Anthony Cafaro utilize a lot of cash?
A. I don't do anything for Anthony Cafaro, Senior.
Q. Isn't this, in fact, a private family-owned company?
A. Yes, it is.
Q. Do they have any stockholder meetings?
A. I am not aware of it.
Q. Now, you said there were checks cashed by Mr. Lange.

Who did Mr. Lange work for?
A. U.S. Aerospace Group.
Q. Did you ever ask what his position was?
A. No, I didn't.
Q. There was checks cashed by Mr. Detore. Did you ever ask what his position was?
A. No, I didn't.
Q. So if he just put a check over it, that meant what?
A. Pardon me?
Q. If you put a check mark over it, what does it mean?
A. The check cleared the account.
Q. That's all you had to do, make sure there was enough money to clear?
A. Yes.
Q. And if J.J. said send it, you sent it?
A. I never sent any of the checks. The checks were sent from Mr. Cafaro's office.
Q. And his secretary, Ginni, would send the checks?
A. I'm not familiar with it. I'm not sure who sent it.
Q. You would draft the checks?
A. Yes.
Q. You would be the custodian of the records of the statements, deposits, and withdrawals?
A. Yes.
Q. Would you do the rough accounting of it and turn it

over to Mr. Rosselli?
A. Yes.
Q. Would you confer with Mr. Rosselli on the respective accounts of USAG and the personal matters of J.J. Cafaro?
A. No.
Q. You never conferred with him on USAG?
A. No.
Q. Did Mr. Rosselli ever ask you for documents and receipts?
A. No.
Q. Now, did it come to your attention there's jewelry and luxury items being purchased? Was that for a boat?
A. No. I believe they were for Mr. Cafaro's wife and daughters.
Q. Did they have an expense account per month?
A. Not with the company.
Q. Did they have one with J.J.?
A. I'm not familiar with it.
Q. So to get this $13,000 now, you need cash. You had to go to two different banks?
A. Yes.
Q. He wanted $100 bills?
A. Yes.
Q. And they just didn't have $13,000 in $100 bills?
A. No.

Q. Was there ever a time any of the banks became concerned about J.J. Cafaro's banking activities?
A. Not that they were mentioned to me.
Q. You mentioned you had a problem with American Express?
A. Yes.
Q. Did you speak to Mr. Rosselli about the American Express problem?
A. No.
Q. Did you speak to Mr. Cafaro?
A. No. I was not the one to speak to Mr. Cafaro. Mr. Cafaro's brother, Anthony M. Cafaro, Senior --
Q. Did you, in fact, talk to Mr. Cafaro, Senior, Anthony, Senior?
A. I sat in on the meeting.
Q. There was a meeting called. Who was all at the meeting?
A. Mr. Cafaro, myself, and J.J. Cafaro.
Q. And what was the result of that meeting?
A. That Mr. Cafaro would no longer have an American Express card. He'd be given a lump sum of $60,000 towards his monthly expenditures and his paycheck, and that we would issue a Bank One VISA card for his travel expenses since he didn't have any other credit cards.
Q. Wasn't it a fact that the Cafaro Company would have

nothing to do with that VISA account, and that was strictly the responsibility of J.J. Cafaro?
A. Yes, it was.
Q. And isn't it a fact that Anthony Cafaro says the American Express card is over, it's finished, J.J.?
A. Yes.
Q. Isn't it a fact that he directed out of that $60,000 that $20,000 must go to the family, the wives and the children?
A. $20,000 was on a month to month basis, going into his wife's account.
Q. Isn't that what I asked you earlier?
A. Yes.
Q. You recall now?
A. No, I don't.
Q. Well, you said you didn't recall earlier, but you recall now?
A. The $20,000?
Q. Yes.
A. I was not understanding what you were asking.
Q. I apologize.
Now, did there come a notice $8,000 to finish the boat, right?
A. Yes. I don't think the word finished was in there. It just said boat repairs.

Q. Um-hum. Did you ever itemize boat repairs?
A. No, I didn't, only when I knew.
Q. There's been a lot of checks written about boats, Mr. Lange, mostly Mr. Detore. How did you, in fact, know all of them were going to one boat and not going maybe to two boats?
A. I didn't know they were going to any boats other than the one for Richard Detore. None of Al Lange's were identified as boat repairs to me.
Q. What were Al Lange identified to you as?
A. They weren't. I was just instructed to write checks to Mr. Lange.
Q. Do you know if they had bonus contracts?
A. No, I don't.
Q. Was it a common practice for Mr. Cafaro, J.J. Cafaro, to write cash checks to employees?
A. No, it's not.
Q. Did he ever do it with anyone else?
A. Not that I can remember.
Q. Now, when he got the $26,000 back, what, in fact, did he instruct you to do with it?
A. His secretary instructed me to void the check.
Q. And when you voided the check, what happened to the money?
A. I put it back into Mr. Cafaro's personal checking

account.
Q. Did Mr. Cafaro take any of that money out of there in the near future?
A. As cash or to pay his bills?
Q. At the time of this so-called $13,000, did Mr. Cafaro have discussions with you relative to what those funds would be used for?
A. No, he didn't.
Q. How often was Mr. Cafaro in Youngstown, J.J.?
A. Quite often, not everyday, but in the office a lot.
Q. During the week?
A. Yes.
Q. Where did he usually spend his weekends?
A. I believe he has two homes, one in Maryland and one in Hubbard, and he split, I believe, his time between the two.
Q. Would you say 50 percent of the time?
A. Maybe back then when he had the business.
Q. Maybe more Maryland when he had the business?
A. Yeah, maybe more.
Q. Now, you said at some particular point J.J. was questioning you about cars, Jeeps?
A. Um-hum, yes.
Q. Titles?
A. Yes.

Q. Had he ever asked you about titles before?
A. No.
Q. Did you know he had three Jeeps?
A. Yes, I did.
Q. How did you know?
A. The titles were kept in the accounting office in a folder that we kept all the titles for the condition and personal vehicles.
Q. I thought that you said that you received them from Maryland?
A. That was because they were not in the file where they were supposed to be. They had been removed, I believe, by Mrs. Cafaro to secure Maryland license plates, and they were never returned and ultimately lost.
Q. Do you know if the Jeep that's in question in the Traficant case was the oldest of the Jeeps?
A. That was the instructions Mr. Cafaro had told me that it was his oldest Jeep.
Q. Did he ever tell you that he sold it as is?
A. Yes.
Q. Did he tell you he sold the Avantis as is?
A. I believe there was a letter issued, and I saw the letter, and it said that both vehicles were sold as is and needed repair.
Q. And in that letter, did Mr. Cafaro absolve himself of

liability?
A. I don't believe he said those words.
Q. But when you use the term as is, doesn't that mean you buy at your risk?
A. Yes.
Q. I warn you about the cars?
A. Yes.
Q. Is that the way you interpreted it?
A. Yes.
Q. Now, at some point, you got a $7,000 check from Jim Traficant?
A. Yes.
Q. What, if anything, did you immediately do?
A. I paged our runner, and I sent him to the bank to cash the check as Mr. Cafaro instructed.
Q. Did you first check with Mr. Cafaro about the check?
A. He gave it to me and instructed me to cash it.
Q. And what -- he asked you to cash it?
A. Yes.
Q. To bring him cash?
A. Yes.
Q. Now, when Mr. Cafaro would get checks, would he often do that?
A. No.
Q. Did you find that unusual?

A. He said it was Christmas, and he had some shopping for Christmas to do, and he wanted to cash that check.
Q. And that was the $7,000 check.
Did you later come to receive a -- who was that $7,000 check made out to?
A. Janet Cafaro.
Q. Did Janet Cafaro have it endorsed before you signed it and gave it to you?
A. I only saw the check after it was endorsed. And Mr. Cafaro handed it to me, it was already signed.
Q. By whom?
A. Janet Cafaro, I assume.
Q. Did he also sign it?
A. No, he didn't.
Q. But he asked you for the cash?
A. Yes.
Q. Was that unusual?
A. That he asked for the cash instead of depositing it? At that time, yes.
Q. In fact, it was made out to his wife. His wife endorsed it. He said cash my wife's check, and give me the money?
A. Yes.
Q. Did you notify his wife?
A. No, I did not.

Q. Did she ever call you about it?
A. No, she didn't.
Q. Now, when J.J. got the VISA, did he run up big bills on that?
A. No, he didn't.
Q. Wasn't it, in fact, shortly thereafter the company ended up folding?
A. U.S. Aerospace Group?
Q. Yes.
A. Yes.
Q. Did you know they had access to $1.3 million worth of funding?
A. No, I didn't.
Q. Were you a part of Treasurer Rosselli's team, would you say?
A. Yes, yes.
Q. Would you hold monthly meetings?
A. No.
Q. Would you hold quarterly meetings?
A. No.
Q. Would you ever meet?
A. In regards to U.S. Aerospace Group? No.
Q. Was U.S. Aerospace Group one of the umbrella companies of the Cafaro Company?
A. No.

Q. Wasn't it a fact in the beginning the Cafaro Company paid their checks?
A. They were loaning the money to the -- but I don't think they were part of our group.
Q. Could Mr. Anthony Cafaro, Senior, have called the loan on his brother J.J.?
A. He could.
Q. Did he?
A. No.
Q. Was $10 million a killer to their company?
A. I am not familiar with all the finances. It was a lot of money.
Q. Isn't it a fact you're one of the accountants there, and they're the eleventh largest company, privately owned in America?
A. I'm not an accountant.
Q. Are you a bookkeeper?
A. No, I'm not.
Q. What are you?
A. I work in the cash management department, and that's watching the funds on a day-to-day basis, money coming in, money going out, excess funds at the end of the day for investing purposes.
Q. So you're more or less trained on the job to a degree?

A. Yes.
Q. Did you have some official training, too?
A. One year of college at YSU.
Q. Now, after William M. Cafaro, the founder, passed away, did the company structure seem to change?
A. Somewhat.
Q. In what way?
A. I believe Anthony M. Cafaro, Senior, took an active role as the head, even though I think he -- when Mr. Cafaro was there, Anthony M. Cafaro, Senior, was pretty much running the company towards the end.
Q. Isn't it a fact that William M. Cafaro, the founder, had been preparing Anthony, his oldest son, to be the COO of that company?
A. Yes, he was.
Q. Was there any question ever about it?
A. No.
Q. Was there a time when J.J. Cafaro was actually separated from the company?
A. Yes, he was.
Q. Did he and his father have a fight?
A. Yes.
Q. Did he strike his father?
A. I am not familiar with it.
Q. Was he thrown out?

A. Yes.
Q. Did you say the Cafaros were very active in politics?
A. J.J. Cafaro I believe is. William was when he was alive.
Q. And you don't think Anthony is?
A. Not as much as J.J. and William M. Cafaro were.
Q. Now, when you got all these three titles, did you send any titles out to anybody?
A. No, I didn't.
Q. Were you instructed to do so?
A. I went to Mr. Cafaro and told him we were able to get the three titles from Maryland, and did he still need me to get him one of the titles, and he said not at this time.
Q. Was it before or after he got the $7,000 check from me?
A. It was after.
Q. And he still didn't send the titles out?
A. No, he didn't.
Q. Did there come a time another $3,000 check came from Jim Traficant?
A. I'm unfamiliar with that check.
Q. Isn't it a fact Mr. Cafaro sold cars, parts, trailers, look, stock, and barrel in USAG and Avanti for under $100,000?
A. Which company are you asking?

Q. Avanti?
A. Avanti? He sold parts down in the whole business.
Q. The whole look, stock, and barrel?
A. Yes.
Q. Cars and all, didn't he?
A. I'm not familiar what was actually sold.
Q. Were the rights sold?
A. I'm unfamiliar about that, too.
Q. Do you have any understanding of the Avanti business?
A. No, I don't.
Q. Was it J.J.'s business?
A. Yes.
Q. Did you handle J. J.'s accounts?
A. Not -- he wasn't in the office at that time. That was when he was in his own company.
Q. He was not even allowed on the property, was he?
A. I believe he was back and forth, but not as -- not as owner or an employee.
Q. Did you ever send me a copy of any titles?
A. No, I didn't.
Q. You have knowledge of anyone having sent me a copy of any titles?
A. No.
Q. From the receipts that you received from USAG, could you be absolutely sure that they were always performed on

what was known as the Traficant boat?
A. I never received any receipts, and I was unfamiliar that it was Traficant's boat.
Q. Let me ask you this: Is there somebody in there, in this massive company, that just sends money out and doesn't memorialize receipt or some document to, in fact, specify what exactly that expenditure was for?
A. Mr. Cafaro sent me memos. I had no backup, no paperwork, only Mr. Cafaro's approval and instructions to issue checks. I believe the paperwork that pertained to the checks that I issued were stored at U.S. Aerospace Group.
Q. But he did that with all his other activities too, didn't he, send you memos?
A. Yes. And when he needed things, I would give him a memo.
Q. Were you at any time ever instructed by the boss, Anthony Cafaro, Senior, to report to him about USAG activities?
A. No.
Q. Was there a time when Anthony, Junior, the son of the boss, was assigned to monitor and watch the activities of USAG?
A. I'm unaware of that if he was.
Q. You know how much money was spent on clothing and

jewelry and furs and dresses and clothing?
A. No, I don't.
Q. Did Janet Cafaro complain that she had $20,000 in expense account, and her account would be exhausted at times?
A. No, she didn't.
Q. Who did Mr. Rosselli report to?
A. Anthony Cafaro, Senior.
Q. Now, when J.J. finally come back and the family got together, was it like it used to be with the same delineation of boat power and ownership?
A. I don't think so.
Q. Who was the odd man out?
A. J.J. Cafaro.
Q. Was J.J. an engineer?
A. No, he was not.
Q. To the best of your knowledge, what is his educational background?
A. I am not familiar with that.
Q. Was he the only Cafaro to deviate from the real estate business?
A. Yes, I believe so.
Q. Did there come a time when the stadium was built in Niles, Ohio, for a baseball team?
A. Yes.

Q. Is Mr. William M. Cafaro still alive?
A. He was alive at that time when they were promoting the baseball stadium.
Q. Did he not instruct his sons to build that stadium?
A. Yes, he did.
Q. Do you know if there's been a great success for the Valley?
A. Yes, it has.
Q. Would you know if the Congressman personally talked to William Cafaro about building it?
A. No, I don't.
Q. Do you still handle J.J.'s accounts?
A. Yes, I do.
Q. Has he made any significant political contribution that you can remember to me?
A. No.
Q. Do you know if one time he made a commitment to pay and did not pay?
A. Yes.
Q. Did he ever pay?
A. No, he didn't.
Q. How much does he owe?
A. It was $1,000 for a golf outing.
Q. Was his name plastered all over?
A. At the outing?

Q. Yes.
A. I wasn't there. I have no way of knowing.
Q. I want the thousand dollars. I thank you, and if they redirect, I will be back. Nice talking to you.
THE COURT: We're going to take the afternoon break. Half an hour. 3:20 we'll be back, not quite half an hour.
(Thereupon, a recess was taken.)
JOHN J. CAFARO
of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:
DIRECT EXAMINATION OF JOHN J. CAFARO
BY MR. MORFORD:
Q. Good afternoon.
A. Good afternoon.
Q. Would you please state your name, and spell your last name for the Court Reporter?
A. John J. Cafaro, C-A-F-A-R-O.
Q. Mr. Cafaro, two things: Number 1 is the Judge just said it's kind of hard to hear in this room, and that microphone comes out of the stand if you want to hold it.
A. Is that better?
Q. That's great. And I was going to tell you before you do that, if you want water, you might want to pour that now

before you get going with the microphone.

Mr. Cafaro, are you familiar with a company called the Cafaro Company?

A. Yes, I am.

Q. And can you tell us, is that your family business?

A. Yes, it is.

Q. And what is the primary business of the Cafaro Company?

A. The primary business of the Cafaro Company is that we're regional shopping center developers.

Q. And are you one of the principals of that company?

A. Yes, I am.

Q. Are you also familiar with a company called USAG?

A. Yes, I am.

Q. And what was USAG?

A. USAG stood for U.S. Aerospace Group, and it was a company that I owned that was formed in order to utilize laser technology for airplane landing systems.

Q. And who owned the rights to that airplane landing technology?

A. The rights were owned by Cafaro Laser.

Q. And who helped Cafaro Laser to obtain the rights to those patents and that technology?

A. I did.

Q. Now, initially how was USAG or Cafaro Laser, the

Cafaro end of this technology, funded?
A. Originally, it was funded through various Cafaro family entities.
Q. And who was -- whose idea was it to get the Cafaro Company financial wherewithal behind this technology and take a shot at this investment?
A. I did.
Q. What did you see as the profit making potential of this investment as you first brought it to your family and got them to make a commitment?
A. Assuming that certification was obtainable, the profitability of the company of that nature could have been in the hundreds of millions of dollars.
Q. That was your view?
A. Yes.
Q. Now, who was your primary customer base for it technology?
A. The United States Government.
Q. And what part of the Government? Who did you envision you would be selling this technology to as your primary customer?
A. We would be selling to airports, and because it was airports, you would be selling to the Federal Aviation Administration.
Q. Okay. Now, in addition to the airport aspect of this

technology, was there also some military options that were open to you with this technology?
A. Yes, there were.
Q. And can you describe those for the jury?
A. Well, this laser technology could have been used for remote air fields equipped for deployment, and provide guidance for helicopters, things of that nature, where based upon today, they do not have any guidance at all.
Q. Was there any restriction placed on the degree to which you could market this technology to the military?
A. None.
Q. Did the inventors have any contracts with the military prior to the time you got involved?
A. Yes. They had the Navy.
Q. Was that open to you?
A. No.
Q. So there were some?
A. Yes. I'm sorry, yes.
Q. Apart from the Navy, were the other branches of the military open to you?
A. Yes, they were.
Q. Now, was there also some form of nautical applications as a possibility for this technology?
A. Yes, to again provide guidance in channels and things of that nature.

Q. Out of all the different applications you discussed, what did you see as the primary money making application of this technology as you understood it?
A. The FAA, the civilian side of it.
Q. And what was the major hurdle that you faced before you could begin marketing this technology to the FAA and to the airports around this country?
A. You needed to have certification from the FAA.
Q. And how significant was that to this venture?
A. It was this venture. Without certification, the company would never have grown to any major proportion whatsoever.
Q. By way of analogy, would this be similar to what you get with a drug company needing to get FDA or some kind of Government certification?
A. Exactly, exactly.
Q. Before they could put a product on the market?
A. Yes. You cannot sell in the general aviation area without FAA certification, period.
Q. No matter how good the technology?
A. No matter how good the technology is.
Q. Who were the key employees at USAG?
A. Myself, Richard Detore, and Al Lange.
Q. Okay. And let's start with you. What was your role, and what were your duties at USAG?

A. Well, I was primarily responsible for funding. I was also responsible for the end product so to speak, success or failure. Rick Detore was responsible for the day-to-day operations of the company, and Al Lange was the chief engineer initially.

Q. Okay. Now, you have a daughter named Capri?

A. Yes, I do.

Q. And was there a time early on when you sent her down to the company?

A. Yes. Capri went down, we gave her the title of -- I think it was vice-president Government relations. She was basically there as my eyes and ears.

Q. Explain what you mean there as your eyes and ears?

A. My office was in Youngstown, Ohio. U.S. Aerospace Group was in Manassas, Virginia, and I wasn't able to be at that particular location very often. And Capri was there basically to make sure that when issues got raised they caught my attention.

Q. As far as the actual title that you gave her, was that a real title or more of a figurehead title?

A. It was a figurehead title. USAG is an LLC, and legally, there aren't even positions as president, vice-president in LLC. It's like a partnership so there really aren't titles in a limited liability company.

Q. Now, at the time that you asked Capri to play the

role of being your eyes and ears at the company, was she doing anything else in the Washington, D.C. area at that time?

A. She was attending grad school at Georgetown University.

Q. Now, did there ever come a time you talked with Congressman Traficant about the USAG laser landing technology?

A. Yes, I did.

Q. And without telling us whether or not he actually did anything that he promised to do for you, just focusing on the promise, what did Congressman Traficant promise to do for you regarding this technology?

A. To assist with the FAA and get the -- and help with the certification.

Q. And again, focusing on promises and not getting into what, if anything, he did, just what he was promising to do, did he make any promises regarding the influence he would have on the aviation subcommittee of the House of Representatives in terms of obtaining line item funding for this technology?

A. Well, the Congressman indicated that he was on the transportation subcommittee, and that he would be in a position to assist in the funding from a Government standpoint in this particular venture.

Q. You're familiar with something called AIP funding or AIP funds?
A. Yes.
Q. And what are those, as you understand it?
A. Airport recruitment funds, and those are the funds available to an airport by the federal government for improvements at that -- at an airport.
Q. And are there any restrictions to the airport as to how they use that pool of funds that's set aside for the airport to do improvements?
A. It's my understanding that the characteristic of that -- of those expenditures have to be approved by the Congress. They have to be eligible for AIP funding.
Q. Again, without telling us, what, if anything, he actually did, what was Congressman Traficant promising to do for you and USAG regarding eligibility for AIP funding?
A. He would see to it that the laser system would be AIP eligible.
Q. What, if any, promises was the Congressman making with regard to Army -- the potential for Army contracts for USAG?
A. He said he had great relationships with the military armed forces subcommittee, and that it was possible to get funding for this type of equipment through that particular subcommittee.

Q. And what, if anything, was he telling you or promising you he could do to help with the nautical application of this technology?
A. That he could arrange, since the Coast Guard has control of the water, to have the Coast Guard review and work with us to get approved by the Coast Guard for nautical use.
Q. What, if anything, did he tell you about the significance of his position on the aviation subcommittee of the House of Representatives based on what you were trying to do with USAG?
A. He said it was a perfect fit. This is where he was on the committee, and that this was the committee that oversaw this type of technology, and that he was willing to use his office and his good graces to do everything he can to make this particular technology a reality.
Q. Now, did you have other contacts on Capitol Hill that you could have gone to at that time?
A. Yes.
Q. And did you discuss that with Congressman Traficant?
A. Yes.
Q. And what did he tell you?
A. He said that he was in a position to do this, and if I brought somebody else in it, I'd probably screw it up.
Q. What did he instruct you to do?

A. Leave it in his hands.
Q. Did you do that initially?
A. Yes.
Q. Now, did there come a time where Congressman Traficant began meeting with officials from USAG for the purpose of trying to assist USAG?
A. Yes, he did.
Q. And who was the principal point of contact between USAG and Congressman Traficant?
A. Richard Detore.
Q. And how would you describe the relationship between Congressman Traficant and Richard Detore as it developed?
A. Extremely close.
Q. Now, did they know each other at the outset as you began working with Congressman Traficant to promote the technologies of USAG?
A. No.
Q. I have an exhibit in front every you with a clip. You'll find it on the furthest to your right. Do you see that there? That is a -- that's a group of 22 documents, expense reports, collectively labeled 8-62(2). And prior to coming in to testify today, have you had an opportunity to review those documents?
A. Yes, I have.
Q. And just generically can you explain to the jury what

those documents are, what those forms are?
A. These are Rick Detore's expense forms for dinners at various restaurants with Congressman Traficant.
Q. Now, you say expense forms. Whose form was that, what company?
A. USAG.
Q. And was there a business procedure that Rick Detore had to follow when he was claiming that expenditures that he had made were business-related expenditures that should be paid by USAG as business expenses?
A. Yes. He had to fill out an expense reimbursement form. He'd have to sign it. Then it would go to Pri -- she would question him to see what he said the dinner was about and go to her, ultimately, would go to me. I would finally approve it and would get paid.
Q. Are those forms in front of you that are collectively marked Exhibit 62(2) actual expense reports that were submitted by Rick Detore and approved under the process you just described?
A. Yes, they are. They're in the normal course of business. These are the reports that we have, yes.
Q. Now, when a number of those forms -- there's a restaurant called Taverna for which Rick Detore claimed meals. Are you familiar with that restaurant?
A. Yes, I am.

Q. And what was the nature of the expenses that Rick Detore was claiming for Taverna as you understood it?
A. They were dinners and/or lunches with Congressman Traficant.
Q. I'd like to turn your attention now away from that group of documents to the next set of documents in front of you. We'll start with the top document marked Government's Exhibit 8-4. Do you see that?
A. Yes, sir.
MR. MORFORD: Your Honor, this is already admitted into evidence. May I put it on the screen?
THE COURT: Yes.
BY MR. MORFORD:
Q. Explain to the jury what this is and how you first came to possess it.
A. This is a news release from Congressman Traficant's office that was sent to USAG and then sent to me by Mr. Paul Marcone.
Q. Do you recognize any of the writing at the top up there. There's some handwriting?
A. No, I don't. It says send to J.J. Cafaro, but I don't know whose handwriting that is.
Q. Could you go ahead and read for us the first paragraph of this April 14, 1998, news release?
A. "Washington, D.C., U.S. Representative James A.

Traficant, Junior, Democrat, Ohio, wants the Federal Aviation Administration to make the installation of Enhanced Vision Technology at U.S. airports part of the Clinton Administration's aviation safety agenda announced earlier today. If the FAA is truly interested in dramatically improving aviation safety, it will make Enhanced Vision Technologies a key part of its agenda. Noted Traficant in the letter sent this afternoon to FAA Administrator Jane Garvey. Traficant is a senior member of the U.S. Transportation and Infrastructure Subcommittee on Aviation."

Q. Let me ask you this: Is this press release talking about this thing called installation of Enhanced Vision Technologies at U.S. airports as part of the Clinton Administration's aviation safety agenda, whose technology was Congressman Traficant promoting in this press release?

A. USAG.

Q. And that would be your technology?

A. That is correct.

Q. If you could take a look at the third page -- and you might have to pull it out of the glassine there.

Do you see a handwritten note on the third page of that document?

A. Yes.

Q. And could you read that?

A. 4-17-98, Jay, Jim wanted you to have a copy, Grace.
Q. Do you know who Grace is?
A. Grace Yavorsky, and that's the Congressman's aide in Youngstown.
Q. How regular an occurrence was it during the time that you were dealing with Congressman Traficant that he would send things like this to your attention to let you know what he was doing to try to push the ball forward on this technology?
A. I would get information either from the Congressman's office, from Mr. Paul Marcone, or from Rick Detore at my office, but it was quite often.
Q. Next document I'd like you to turn your attention to Government's Exhibit 8-9, you'll have to pull that out of the glassine too, if you would, can you go ahead and just tell the jury generically what this document is?
A. This is a memo from Rick Detore to me, referring to Rick having dinner with, quote, the chairman, which is his terminology for Congressman Traficant.
Q. Before you go any further, was this a document that was made and maintained in the ordinary course of USAG's business?
A. Yes, it was.
MR. MORFORD: May I put this on the overhead, your Honor?

THE COURT: Yes.

BY MR. MORFORD:

Q. What is the date of this memorandum?

A. 6-17-98.

Q. And could you go ahead and read the body of this, please?

A. "J.J., I will be having dinner with the chairman tonight to talk about the" --

Q. Let me stop you there for a moment. You started to explain the chairman. Whose nickname was the chairman as you understood it?

A. Rick Detore called the Congressman the chairman because the Congressman called everybody the chairman.

Q. So what was your understanding of who Rick Detore was going to be having dinner with that night?

A. He was having dinner with Congressman Traficant.

Q. I'm sorry. If you can continue then reading.

A. Okay.

"Tonight to talk about the final markup on the bill scheduled for tomorrow. He is very happy with the letter from Garvey in regards to the statement that the lasers are in commercial certification, and that she states that they are working as funding permits. With this statement, he can target funding for the program rather than wait for as funding permits."

Q. Let me stop you there. And again, just talking about what you were being promised by the office of Congressman Traficant, what was your understanding of what it meant when it said with this statement of Jane Garvey he can target funding for the program rather than waiting for, quote, as funding permits?

A. Actually, line item funding to the Department of -- to the FAA so that they can more quickly pursue the certification of lasers.

Q. Okay. If you then read the second paragraph, please?

A. "In regard to the high efficiency xenon metal halide bulb, which is only a slightly more up to date incadescent. It is clear she is still very lost when it comes to new technology. Jim is going to ask her to attend a joint briefing with him at our Manassas location. Regards, D."

Q. How significant to you as the owner of USAG was the prospect of being able to get Jane Garvey, the head of the FAA, out to your little company to get a face-to-face, one-on-one presentation and demonstration of your technology?

A. It was significant for a number of reasons; one to be in a position where you can actually show this to the administrator. Obviously, if you believe in your own technology, having the ability to sell it to the person ultimately is going to make the decision to buy or not is

immense. Any time you get in front of the person that makes those decisions, be in front of a decision maker, it's extremely important.

In this particular instance, it was even more important because if you look at the date coming into this period in '98, there's also very similar -- this is June -- yeah, to the time when we were making decisions to continue funding of USAG.

Q. Okay. Let me ask you some questions about that.

Were there any restrictions or guidelines placed on you and your ability to access Cafaro Company funds for this technology that were in place at the time the Congressman Traficant was sending this information your way?

A. Yes.

Q. Explain that to the jury if you could?

A. When we decided to get involved in this company, my brother and I had set a $5 million investment limit. We had, by this time, reached that $5 million number and were making a decision to see if we were going to fund it at a higher level.

Q. Is it fair to say that you and your brother didn't necessarily look at this whole investment the same way?

A. I guess you could say that.

Q. Who was more in favor of continued investment, and

who was less in favor of having it continue?
A. I was more in favor. My brother was less in favor.
Q. Were there times you had to do a sell job on your brother?
A. Yes.
Q. What types of things would you show him when you were trying to convince him that he should continue to have the Cafaro Company make more funds available to this technology?
A. Things like we just read.
Q. Things from the Congressman?
A. Absolutely. I mean, being able to tell my brother that -- if you notice, it says -- okay. In regards to lasers are in commercial certification. I mean, that was -- that's a major step. Unfortunately, I don't think it was true, but that was a major step.
Q. Turning your attention to the next exhibit, which is Government's Exhibit 8-10, do you see that in front of you?
A. Yes, sir.
MR. MORFORD: Your Honor, this is also a document in evidence. Can I place it on the overhead?
THE COURT: Okay.
BY MR. MORFORD:
Q. Do you recall this memorandum?
A. Yes, I do.

Q. And what was the date of this memorandum?
A. June 18th, 1998.
Q. And who did you send this memorandum to?
A. I sent this to my brother, to Mark Beck, and to Chip Rosselli.
Q. Who was Mark Beck, and who was Chip Rosselli?
A. Mark Beck is our tax counsel, and Rosselli is our chief financial officer.
Q. Can you read the sentences that are on this memorandum or memorandum?
A. "The key to the attached news release sets the stage for next year's legislation for mandating its use. This is an extremely big step."
Q. And again, what's the significance of this date, June 18th, 1998, as you're advising your brother and tax counsel for Cafaro Company and the treasurer of Cafaro Company, that the key to the attached news release is it sets the stage for next year's legislation mandating its use?
A. Basically what it does is sets the stage for one year's worth of funding.
Q. That's what you're being promised by the information you're being provided by the Congressman?
A. Correct.
Q. To what extent were you under pressure at the time you provided this press release to your brother to obtain

prompt certification from the FAA?
A. We were under the guise that we had spent the $5 million but -- the limit we had set, and we had to decide if we were going to move forward, and once we moved forward, time was of the essence obviously.
Q. Okay. And again, if you could pull this out of the glassine and take a look at the last page of the press release that was attached, I want to ask you to read that last paragraph, starts Traficant said?
A. "Traficant said he will work next year to pass legislation requiring U.S. airports to install Enhanced Vision Technologies to replace or enhance conventional landing light systems over a ten-year period."
Q. And what were you trying to achieve on June 18th, 1998, by sending this press release for where Congressman Traficant is saying he will work next year to pass legislation requiring U.S. airports to install technologies over the next ten-year period?
A. Here again, I was using it as a tool but also for information purposes. Obviously, if, in fact, one would be in a position where over a ten-year period all the existing lighting systems at every airport in the country would be replaced with this Enhanced Vision Technology, it is obvious to see, because it's for every runway, it's obvious to see how big a potential this has. So you have to weigh

that potential against an additional year's funding, and that's really what we were doing.

Q. How important was it to you personally to try to make this thing a success?

A. Very much.

Q. Had you had difficulty in the past in a venture that you had taken on and invested Cafaro family funds in?

A. Well, actually, it was personal funds, but it was Avanti.

Q. And based on what had happened with Avanti, how important was it for you to have this be a success?

A. Very much so.

Q. Now, at the same time, April, May, June of 1998, when you're obtaining these promises from Congressman Traficant, and you have these press releases from Congressman Traficant and forwarding them on to your brother, was Congressman Traficant asking you to do anything for him?

A. Yes. That's when the issue of buying his boat came up.

Q. Okay. Can you describe to the jury how that first came up?

A. Well, one of the other issues, one of the other promises was marine use and marine testing. And so Rick Detore called and told me that the Congressman had arranged for the Coast Guard to start doing some marine testing, and

we needed a boat. And I said fine. I said I have 100-foot boat down in Annapolis.

Q. Let me stop you if I can before you get into that. Let me back up and ask: Had you ever had any discussions with Congressman Traficant about his boat prior to the conversation you're about to talk about?

A. Yes. On many occasions, the Congressman asked if we had any equipment left at Avanti to do fiberglassing, if I knew anybody that could help him fix his boat, and I gave him the name of Dingles.

Q. You're saying there came a time. Did he tell you why his boat needed fiberglassing or needed to be fixed?

A. He said it was a wooden boat, and that it was leaking, and he needed some repair work done on it.

Q. So when he --

A. He wanted to know if I knew carpenters or if I knew ways -- people who could help him get the boat fixed.

Q. Did you yourself have a wooden boat at that time?

A. Yes, I did.

Q. And what had been your experience with your own wooden boat?

A. One never wants to own a wooden boat.

Q. And why is that?

A. Because they are a money pit.

Q. And was that your experience with your wooden boat?

A. Yes. My -- in the winter, you can't get out, and in the summer, you get it fixed. I mean they are not good investments.

Q. Had you had to have major repairs done on your own wooden boat prior to the time you began talking to Congressman Traficant?

A. Every --

Q. About the need for him to have repairs done on his wooden boat?

A. Every year.

Q. Where had you had the repairs done on your boat?

A. I think the name of it was Dingles Shipyard or something of that nature.

Q. You said at one point you suggested to Congressman Traficant that he can take his boat to Dingles; is that correct?

A. Yes.

Q. What was his response?

A. No, no, no. I need someone who can help me work on the boat. So it was obvious he wasn't looking for a company, you know, to do the work.

Q. And what was your understanding of what he was seeking to have you actually do at that time?

A. He was looking for me to help him out and find someone to help him repair his boat.

Q. Do you recall back at the time when Al Lange was first interviewed?
A. Yes.
Q. Did there ever come a time at that time when you had any discussions with Al Lange about repairing the Congressman's boat?
A. Yes.
Q. Can you describe those to the jury?
A. Well, during the interview process, again, Richard Detore said, well, Al knows a lot about boats so you know he can help the Congressman out of this -- out of his problem. And when Al came in, I said, "Al, I understand you know a lot about boats. Can you help the Congressman, you know, there's a way we can help him? Obviously, he's being friendly to us, and I would like to try to help him."
Q. Now, going back to what you started to then describe to the jury, did there come a time where it shifted from you helping to repair the boat to you actually purchasing the boat?
A. Yes. Again, the issue of marine testing came up, and Rick told me that we needed a boat to do testing with the Coast Guard, and I said fine. I have my boat down in Manassas, which is only, you know, 30 miles from here. And he said, no, no, no. That boat's far too big.
And I said, well, we can use Al's boat because we --

I know he had a boat because I paid to move it to Virginia. He said no, that's way too small, he said, but I think Congressman Traficant's boat is just right. And the Congressman again was helping me. I did not feel it an imposition to try to return the to help him.

Q. Let me ask you some questions about the potential for using USAG and nautical applications. Was there, in fact, a viable potential use of this laser landing technology and nautical applications?

A. Yes.

Q. Could you describe for the jury just briefly what that was?

A. Well, what this technology is is the use of lasers to set a path of travel. In other words, for an airplane, it helps set the glide slope and the center line when you're landing. In marine use, especially in bad weather, it can light a channel so that things like the Exxon Valdez would know where the channels are, would not run aground by simply looking out the window at the variation of colors of light.

Q. Now in April, May, and June of 1998, how actively and aggressively was USAG pursuing this nautical technology when Rick Detore first told you that Congressman Traficant wanted to help you with contacts with the Coast Guard?

A. We really weren't. It was a potential use that was

not an area that we were diligently pursuing.
Q. How large or small was your company at that point?
A. We had three people.
Q. Did you feel there was a need to have a very narrow focus at that point?
A. Absolutely.
Q. And what was your primary focus at that point?
A. The primary focus was certification by the FAA.
Q. Now, was Rick Detore raised the issue of the need to get a boat to demonstrate the nautical technology and he suggested Congressman Traficant's boat, did he tell you why he felt you should buy Congressman Traficant's boat instead of some other boat?
A. He told me what I knew. The Congressman was helping us. He was in a jam. He couldn't sell this boat because of its condition of lack of repair. And this was a way to get him out of the jam he was in.
Q. Now, apart from this idea of doing a favor for a favor and based on your personal experience of actually owning a wooden boat yourself, did it make any sense for USAG to acquire Congressman Traficant's boat?
A. It made no sense to acquire any boat.
Q. Okay. But even if there was a need to get a boat, did it make any sense to buy a wooden boat?
A. No, it did not.

Q. Why?
A. Because the maintenance on a wooden boat is hellatious. I mean, it costs more to maintain a wooden boat than it does to own it, to buy it. It's just extremely maintenance intensive, and it's just a very, very expensive proposition.
Q. Apart from any wooden boat, how about Congressman Traficant's boat given the condition you already knew it was in?
A. Well, here again, if one were to go out and buy a boat, one would not go out and buy a boat that needed $30,000 worth of repairs. If you're going to buy a boat strictly for business purposes, you're going to go out -- first of all, you're going to find the type of boat you need. Then you're going bid that to make sure you're getting the lowest and best price, and none of that was done in this instance.
Q. Why?
A. Because it was the Congressman's boat.
Q. Who actually arranged the details of the boat transaction with Congressman Traficant? Who had the majority -- have a majority of conversations with him about this transaction?
A. It was my understanding -- my information came to me through Rick, so I -- I assumed Rick.

Q. Meaning Rick Detore?
A. Yes.
Q. Now, what did Rick Detore tell you it would cost you to acquire the boat from Congressman Traficant?
A. The number was $26,800 some odd dollars.
Q. What was your understanding how that number was arrived at?
A. That was the mortgage pay off number that he had on the boat.
Q. Okay. And did that include the cost of repairs that needed to be done to the boat before it could be used?
A. No, it did not.
Q. Turning your attention to Exhibit 8-12(1), which should be there in front of you, it's a pink carbon copy of a cashier's check. Do you see that?
A. Yes.
MR. MORFORD: I'm going put this on the screen, your Honor. I believe it's already been shown.
THE COURT: Yes.
Q. Do you recognize this document, sir?
A. Yes, I do.
Q. And very briefly, can you describe to the jury what it is and why it was obtained?
A. This is a cashier's check that I had my company go out and get for $26,948.18, which was the -- I understood

the pay off of Jim Traficant's mortgage at NationsBank for his boat.

Q. And for what reason and purpose did you have this Bank One cashier's check purchased in the amount of $26,948.18 on July 28th, 1998?

A. In order to buy Jim Traficant's boat. And this is the way Rick told me he wanted it done.

Q. Next, I'd like you to look at briefly Exhibit 8-11. You see that? It's a check?

A. Yes.

Q. Is that the check you used to purchase the cashier's check you just described?

A. Yes, this is -- the check out of my personal account in the exact amount of money as the cashier's check.

Q. And who actually purchased this -- whose money actually purchased this check?

A. My personal money.

Q. And to the extent that the cashier's check says purchaser J. Traficant, is that true?

A. No.

Q. At whose direction did you have the cashier's check printed up to falsely list J. Traficant as the purchaser?

A. Rick told me that's the way it was to be done. We had to make Jim the purchaser.

Q. What did you do with the cashier's check after it was

purchased?
A. I sent it on to Rick.
Q. You sent it out or gave it to him? Could you describe to the jury how you recall that happening?
A. I believe I went down and gave the check to Rick, and then a few days later Rick returned the check and said that we can't do it this way.
Q. What did you do with the check after you were told that, quote, we can't do it this way?
A. I redeposited it and had the cashier's check unwound effectively and reissued from Bank One to me.
Q. And why did you do that?
A. Well, because the money was sort of in limbo, it was just a way to get the money back into my personal account.
Q. You started with a cashier's check in the amount of $26,948 plus change?
A. Yes.
Q. And you were intending to give it to who for what purpose?
A. I gave it to Rick to give to the Congressman in order to buy Jim Traficant's boat.
Q. And why did you end up having to deposit it back into your own account?
A. Because Rick told me the Congressman said we can't do it this way.

Q. Did he explain to you why the Congressman didn't feel he could do it, quote, this way?
A. He said the Congressman said he didn't want nosy reporters looking at what he was doing and because of the fact that I'm very high profile in Youngstown. He's obviously very high profile in Youngstown. If this were to get out, it would cause a whole lot of questions, and in order to avoid any questions, he would prefer we do it another way.
Q. Okay.
And did you end up coming up with another way that you could use your money to purchase the boat without having it appear that you were purchasing the boat?
A. Yeah. Rick told me that the option was to let Al Lange buy the boat, and he had a long explanation as to why they sensed this was a boat built -- and you're going to have to forgive me -- built at Egg Harbor or something of that nature. Al's dad worked at this particular place, so Al would love to own a boat like this, and utilizing Al to do this would make a lot of sense.
Q. Based on your contact with Al Lange regarding this transaction, did Al Lange seem to want to do this transaction?
A. Al was accommodating. It wasn't Al's idea. I think Al wished it would have gone away. It became a nightmare

for Al, but Al did it because he was asked to.
Q. Was Al Lange really buying this boat?
A. No, I did.
Q. Whose funds at all time were used to make repairs, pay slip fees, and pay any portion of the purchase price of this boat to Congressman Traficant?
A. Me.
Q. Turning your attention, if will, to what is before you marked Government's Exhibit 8-15, do you recognize this document?
A. Yes, I do.
Q. And can you tell us, is this a document that was made and maintained in the ordinary course of business affairs at USAG?
A. Yes, it is.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes.
BY MR. MORFORD:
Q. Can you describe for us, starting with the cover sheet, what this is?
A. Well, it is a memo from Paul Marcone, who was the Congressman's chief of staff in Washington, to Rick Detore where he is forwarding again another press -- another press release.

Q. Okay. And in terms of time sequence, starting with the presentation of the $26,000 -- $26,948 check initially to Congressman Traficant and then the plan to have Al Lange actually purchase the boat, where does this memo fall?
A. Right in the middle.
Q. Could you go ahead and read the first sentence of this, please?
A. "Let's hope we can get a bill sent to the president this year with this language. I'll keep you posted."
Q. And if you could turn, there's a news release attached to this; is that correct?
A. Yes.
Q. If you could turn to the second page of that news release and again read the last line of the news release where it says Traficant said today?
A. "Traficant said today that he will work next year to pass legislation requiring U.S. airports to install Enhanced Vision Technologies to replace or enhance conventional landing light systems over a ten-year period.
Q. And turning back to the first page, what was the date of this press release?
A. August 4th.
Q. In addition to the fact that this came in the middle of the discussion of how to do the boat deal, where did it fall regarding the internal discussions at the Cafaro

Company as to whether the Cafaro Company should continue to put any more money into this venture?

A. It was right smack in the middle of it. And these were discussions that were held between my brother and myself and others in the company, but there were also discussions Rick Detore was very well aware of.

Q. Describe what you mean by that to the jury?

A. Rick was a partner in USAG, and Cafaro had an obligation to fund up to $5 million. Once we reached that number, we had no further obligation to fund. Rick understood that, and Rick understood the need of additional funds. And he knew where we were against our budget because he was primarily responsible for making the budget.

Q. Would you explain to Rick Detore that you needed to show progress to your brother and the other officials at Cafaro Company to continue to maintain funding?

A. On a daily basis.

Q. And was it this context he was providing you with these press releases?

A. In retrospect, yes, but at the time, I never put -- I never put the two together. I mean, I -- I would get these in the normal course of business and just seemed like awful good timing to me at the time.

Q. Can you take a look at what's marked Government's Exhibit 8-18 in front of you?

A. Yes, sir.
Q. And this has been put into evidence. I'm going put it on the screen and ask you if you could describe from your perspective what you know about this document. What is the document?
A. This is a memo from Al Lange to me.
Q. What's the date?
A. 8-13 had been 98.
Q. Could you go ahead and read the body of the memo, please?
A. "I just wanted to send you a reminder to bring $3,500 in cash with you today when you come to U.S. Aerospace. This money will be used for the operations that you and Rick discussed at your meeting yesterday.
"Have a safe trip. I will update you when you get to the office. Sincerely, Al Lange."
Q. What was the, quote, operation, unquote, that you and Rick Detore had discussed the day prior to this memo?
A. This is the -- this would be the repair of the Congressman's boat. This $3,500 check was the first check, which I believe probably came out of my account to Al Lange to start the boat repair.
Q. But when he refers to the operation you talked about, what is the operation?
A. Fixing the boat, buying and fixing the boat actually,

the whole thing.
Q. Buying and fixing whose boat?
A. Congressman Traficant's boat.
Q. And who were you going to make it look like was actually buying and fixing the boat?
A. Al Lange.
Q. Again who was actually buying and fixing the boat?
A. Me. Well, I was paying for it.
Q. Turning your attention to Exhibit 8-19 in front of you --
A. Yes, sir.
Q. -- that's already been put in evidence, a check for $3,500, dated August 13, 1998. Do you recognize that?
A. Yes, sir.
Q. And what was that check for?
A. This is the $3,500 check which was the subject of the memo that I just read, that I took and delivered to Al Lange.
Q. For what purpose?
A. To start repairs on Congressman Traficant's boat.
Q. Okay. And turning to Exhibit 8-20, which has also been put into evidence?
A. Yes, sir.
Q. It's a check dated 8-27-98 from J.J. Cafaro's personal account to Al Lange?

A. Yes.
Q. In the amount of $3,800, correct?
A. That is correct.
Q. And what was the purpose of that check. What was that check for?
A. This was to continue work on the Congressman's boat.
Q. Turning to Government's Exhibit 8-22 in front of you -- and if you could pull that out -- in particular, turn to the second page of that document. This is also in evidence. I'm going put it up on the screen.
You see there's a $3,000 Cafaro Company check dated September 10, 1998?
A. Yes.
Q. What was the purpose of this check? What was this check used for?
A. Again, this was boat repairs.
Q. Turning your attention to Government's Exhibit 8-28 before you, which is also in evidence, it's a check dated 9-28-98 payable to cash in the amount of $6,000. Are you familiar with that check?
A. Yes, I am.
Q. And what was the purpose of that check?
A. This was also boat repairs.
Q. Turning to what is marked Government's Exhibit 8-29 in front of you, do you see that exhibit?

A. Yes, I do.
Q. And can you tell us: Is this a document that was maintained in the ordinary course of business for U.S. Aerospace Group?
A. Yes, it is.
MR. MORFORD: Your Honor, may I put this on the screen?
THE COURT: Yes.
Q. Can you tell us what this front page of this document is?
A. Well, again, this is a fax sheet from Paul Marcone of Congressman Traficant's office to Richard Detore, and it says "please make sure J.J. sees this. Thanks."
Q. And flipping over, can you describe the document that was attached to this particular fax to make sure that J.J. Cafaro sees this?
A. Again, this is a letter from the Congressman to Jane Garvey, the Administrator of the Federal Aviation Administration and where he again is urging quick response to the Enhanced Vision and for her to come out to our offices in Manassas.
Q. Could you just go ahead and read the body of this letter that Congressman Traficant's office sent to you on November 4, 1998, with the notation please make sure J.J. sees this?

A. "As you know, for the past year, I have been advocating the expanded use of Enhanced Vision Technologies at airport runways and helipads. Enhanced vision Technologies should be an integral part of the Federal Aviation Administration's ongoing efforts to improve aviation safety.

"I am encouraged by the fact that the FAA is moving forward with the certification of some of the more promising Enhanced Vision Technologies, expressly cold cathode lighting. I urge you to continue moving the certification process forward."

Q. Can I ask you something before you go on? Where this letter is talking about Enhanced Vision Technologies and, in particular, cold cathode lighting, what, if any, significance did those terms have to you personally?

A. Well, the Enhance Vision Technology again refers to the USAG laser system. The cold cathode lighting is a runway light that USAG had the marketing rights to, that we used specifically in our military application, but we were also trying to use it in civilian aviation.

Q. Okay. If you could continue reading, please?

A. "Knowing your strong interest in aviation safety initiatives, I would like to invite you to join me for a nighttime demonstration of Enhanced Vision Technologies. I am writing and willing to accommodate your schedule. The

demonstration will take place at Manassas airport in Northern Virginia. I know you will find a demonstration of this technology to be both fascinating and informative.

"I certainly hope you will find the time in your busy schedule to join me for a demonstration. Should you or your staff have any questions or need additional information, please call my chief of staff, Paul Marcone. Thank you for your time and consideration. I look forward to your response. Respectfully."

Q. Now, at the time of this letter, November of 1998, how much pressure was on USAG in terms of obtaining continued funding from Cafaro Company sources?

A. At that time, we were still working on long-term funding.

Q. Okay. You said you had started out with a $5 million cap that is to end when?

A. To end when it ran out, and it ended in about June or July of '98.

Q. What happened after the $5 million ran out in June or July of '98?

A. We put in another two and a half.

Q. Another two and a half million?

A. Yes.

Q. And when as far as this period of time, November of 1998, what was the status of that two and a half million?

How much of it was left?
A. Not much.
Q. So what was going to have to happen next when the two and a half million ran out?
A. We'd have to get additional funding again.
Q. And where was this process at the point when you got this letter in November of 1998?
A. We were just beginning again to discuss what we were going to do and how we were going to do it.
Q. And was Rick Detore part of these discussions?
A. No. He was not part of the discussions, but he was on -- he was in the loop, the discussions were between my brother and I.
Q. I understand that, but what do you mean he was in the loop? Were you discussing it with him?
A. That is correct.
Q. Would you take a look at an exhibit in front of you, 8-70. It's a press release?
A. Yes, sir.
Q. Are you familiar with that document?
A. Yes, I am.
Q. And can you tell us whose press release is this?
A. Congressman Traficant's.
Q. And what's the date of the press release?
A. November 10.

Q. Which year?
A. Of 1998.
Q. And what is this press release announcing?
A. This press release is announcing a committee that the Congressman had been putting together to espouse a tax of an economical development tax within either two or three counties so that the Valley, Mahoning Valley, had dollars available to pull itself up out of its own doldrums and go out and seek business and have money available to do it.
Q. And who formed this committee as you understood it?
A. The Congressman.
Q. And what, if any, role did you have on the committee?
A. I was a member of the committee.
Q. And who invited you and asked you to be a member of this committee?
A. The Congressman.
Q. Now, did the committee have a meeting that was announced in this press release. Was there a meeting that was coming?
A. On November 14 at 9:00 A.M., second floor of the Phelps Building, Youngstown University campus.
Q. Okay. Turning your attention to Exhibit 8-30, do you see that?
A. Yes.
Q. And can you tell us just generically what is this

document?
A. This is a page out of my date book.
Q. Like a daytimer?
A. Yes.
Q. Whose handwriting appears on this?
A. My secretary's.
Q. And is this a record that was made and maintained in the ordinary course of business at the Cafaro Company?
A. Yes, it is.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes.
BY MR. MORFORD:
Q. Turning your attention to Saturday, November 14, 1998, an entry there about a meeting?
A. Yes.
Q. And what is that entry?
A. 9:00 A.M. YSU, Lincoln and Phelps, Urban Studies Building.
Q. Did, in fact, you attend a meeting at 9:00 A.M. on Saturday November 14 at YSU Lincoln and Phelps Building?
A. Yes, I did.
Q. Did you see Congressman Traficant on that date?
A. Yes, I did.
Q. Where you had an opportunity to talk one-on-one with

Congressman Traficant?
A. Yes. When the meeting was over, I told the Congressman we had to take a ride.
Q. And what was your purpose in telling the Congressman that you had to take a ride?
A. Prior that week, the Congressman and I had gotten together, and he had asked if -- if I could -- we could get the funding of the boat purchase price done, and I asked well, I'll get Al half, which would be right around $13,000, and he said no, which meant to me, he wanted it between the two of us.
Q. Let me stop you there. You're rubbing your fingers together, and the Court reporter can't pick that up?
A. Okay. But that's the only way I know how to explain it.
Q. He didn't say anything to you?
A. No. He said -- I said, I'll get the money to Al, and he said no -- and I understood what that meant.
Q. Were the repairs yet completed on the boat?
A. No, they were not.
Q. Had you -- aside from funding the repairs to the boat, had you given him any money up to that point toward the purchase price of the boat?
A. No, I had not.
Q. And how then does this come up, and what context?

Who's asking who to do what initially?
A. Jim -- Jim was saying the holidays were coming up. He needed some money for the holidays, the IRS was attaching his wages, and he was having real difficulties, and can I arrange to get some of the boat purchase paid, and I said half.
Q. Okay. So how much money were you telling him you would give him?
A. $13,000.
Q. And in what form did you understand that he wanted that $13,000?
A. He wanted that in cash.
Q. Now, did you do anything just prior to this November 14, 1998, meeting with the Congressman in order to obtain money that he had asked you for?
A. Yes.
Q. Turning your attention to Government's Exhibit 8-31 and 8-32, do you see those in front of you?
A. Yes.
MR. MORFORD: Your Honor, may I put these on the board?
THE COURT: Yes.
BY MR. MORFORD:
Q. Turning your attention to, first, Government's Exhibit 8-32, this is a check for cash, dated November

13th, 1998, in the amount of $5,000 and Government's Exhibit 8-31, which is a check for cash in the amount of $8,000 on a -- on November 13th, 1998.

Can you explain to the jury what these two checks are and what you used the cash from these checks for?

A. Those are the two checks that Patty got for me that equaled $13,000. The reason there's two checks is that I don't think you can cash one check for $13,000. So she did it in two separate checks and sent the runner out, got them cashed, delivered the cash back to me, and in turn, that was the subject of why the Congressman and I had to spend some time by ourselves.

Q. Okay.

Why did you have your secretary get you $13,000 cash November 13th, 1998?

A. So I could give it to Jim, Congressman Traficant.

Q. Turning your attention back to the very next day on November 14, 1998, describe for the jury what happened with regard to that cash?

A. After the large meeting took place, I told -- I told the Congressman that it was necessary that he and I spend some time together. We got in my car. I lifted the arm rest. Inside the arm rest was an envelope. I said that's for you. He put the envelope in his pocket. I said that's between the two of us.

I drove -- literally drove around one block. That's how long it took to do that. We got back to where we started. The Congressman got out, and I went home.

Q. And what was your understanding of the purpose for which you were giving him this $13,000 cash. What did it represent?

A. $13,000 was towards the purchase of the boat. It was one-half of the purchase price of the boat.

Q. Now, turning your attention to about ten days later, Government's Exhibit 8-33, which has been admitted as a joint exhibit. Do you recognize this document?

A. Yes, I do.

Q. And can you go ahead and describe what the document is, and then just read the document?

A. Are we on 8-33, counselor?

Q. Yes, we are.

A. Okay.

This is a memo from Richard Detore to me, saying that we needed an additional $8,000 to complete the boat repairs.

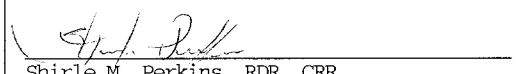
Q. Okay. And one last exhibit I'm going to ask you about before I pause, Government's Exhibit 8-35, which has been admitted as a joint exhibit, is a check dated December 24, 1998, to Richard Detore in the amount of $8,000. Are you familiar with that check?

A. Yes, I am.
Q. And what was the purpose of this check?
A. This was a check in response to Rick's request for the $8,000.
Q. And what was your understanding of how this check was used? What it was used for?
A. It was used for boat repairs to Congressman Traficant's boat.
MR. MORFORD: Your Honor, at this point, I've ended an area, and this would be a good place to stop given the time.
THE COURT: Yes, it would. We'll send the jury home for the day. It's 4:30. See you at 9:00 in the morning. Remember all your admonitions. Remember not to watch anything on television, on the computer, or read anything, listen to anything, let anyone talk to you or go out and investigate it. Okay?
Otherwise, enjoy yourselves.
(Proceedings adjourned.)

CROSS-EXAMINATION OF ALBERT LANGE..... 3778
REDIRECT EXAMINATION OF ALBERT LANGE..... 3847
RECROSS-EXAMINATION OF ALBERT LANGE..... 3855
DIRECT EXAMINATION OF PATRICIA DiRENZO..... 3874
CROSS-EXAMINATION OF PATRICIA DiRENZO..... 3905
DIRECT EXAMINATION OF JOHN J. CAFARO..... 3935

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

- - - - -

TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON TUESDAY, MARCH 19, 2002

Jury Trial

Volume 21

- - - - -

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Tuesday Session, March 19, 2002, at 8:45 A.M.

(Proceedings in the absence of the jury:)

THE COURT: Congressman?

MR. TRAFICANT: Your Honor, I ask after the Prosecution rests, that I will make a motion for dismissal, but I ask that the tape of Richard Detore then be admissible since both Al Lange and J.J. Cafaro are familiar with the voices of the Defendant and Richard Detore. The tape was brought in yesterday. It's been admitted as an exhibit. The Government --

THE COURT: Excuse me. I'm not aware of any tape that was admitted as an exhibit.

MR. TRAFICANT: No. It's been given to the Prosecution. They've had it since discovery. They've had times to evaluate it for reliability and test it for forensic actuality.

THE COURT: Okay. So what is your motion right now?

MR. TRAFICANT: My motion is when the Defense begins --

THE COURT: Okay.

MR. TRAFICANT: If, in fact, you do not dismiss this indictment on the strength of their failure to prove through physical evidence their charges, that because Mr. Cafaro and Mr. Lange both know and can identify the

voices of Richard Detore and Jim Traficant, that that tape, submitted upon discovery and inside of the discovery deadlines set by the court, be admitted and be allowed to be played as a part of my defense.

THE COURT: Okay. Would you like to respond?

MR. MORFORD: Yes, your Honor. The problem with that tape is not reliability. The problem with that tape is trustworthiness.

If the two people on that tape are going to give that evidence before this Court, they would have to take the stand and be subject to cross-examination like any other witness, and Congressman knows that, or he would have to show, as the Court instructed him several days ago and as he's known for months since we filed our trial brief, he will have to show some valid accepted exception to the hearsay rule that's been accepted by the courts that would apply to any Defendant, and he knows that.

That tape is hearsay. If Congressman Traficant wants to take the stand and testify and be subject to cross-examination, he can, but he can't bring in these tapes and just play them without subjecting the people to the tape to cross-examination, unless it falls within an acceptable exception to the hearsay rule.

MR. TRAFICANT: Now, your Honor, I'd like to respond.

THE COURT: Congressman, Congressman, excuse me. We've been over this more than once. You may put that in writing so that you can preserve all of your ideas and concerns about this. You've got plenty of time to do it, and I ask you to do that rather than delaying the presentation of --

MR. TRAFICANT: I'm not going to delay it --

THE COURT: Excuse me. -- rather than delaying the presentation of evidence now.

MR. TRAFICANT: What I'd like to --

THE COURT: You can put it in writing.

MR. TRAFICANT: I will, but I'd look to respond to what he said.

THE COURT: What you include in writing can include any response you want. This is not a new thing we've discussed in this case. Put it in writing so it can be properly recorded, and everything you're concerned about can be in front of the court.

MR. TRAFICANT: I will. But I want it on the record right now before the Prosecution rests.

Mr. Morford keeps saying what Jim Traficant knows and what Jim Traficant says. That should be stricken. I never said what he says or what he knows.

Second of all, I've been notified that Mr. Detore, as an indicted individual, will not testify due to the fact

that there are other charges that he faces, not just Traficant charges.

Now, I have a right to either take the stand or not. And I want it on the record to be known that Mr. Detore will not be available for trial, and I have the right to either take or not take the stand. That you've made clear to the jury all along.

Now, that quashes their argument, and I am going to put in writing, but that tape should be admissible under the exception to the hearsay rule since, in fact, that party, who is now indicted, is not available for trial, period.

THE COURT: Fine. Put it all in writing. That's the normal way.

MR. TRAFICANT: Thank you. I'm ready to proceed.

THE COURT: Thank you very much. Please bring in the jury.

(Proceedings resumed in the presence of the jury:)

THE COURT: You're still under oath.

THE WITNESS: Yes, ma'am.

DIRECT EXAMINATION OF JOHN J. CAFARO CONTINUED

BY MR. TRAFICANT:

Q. Good morning, Mr. Cafaro.

A. Good morning, Mr. Morford.

Q. When we left off yesterday, I was asking you questions about the $13,000 transaction, and I would just like to clarify one last thing before we move on.
A. Yes, sir.
Q. How was it when you showed up at YSU on that Saturday in November 1998, that you knew the amount, $13,000, that you needed to get in cash the day before on that Friday?
A. Previously in that week, the Congressman and I had breakfast. And he brought around conversation to the fact that the holidays were coming, and that he was short of cash and wanted to know if, in fact, we could get the purchase price of the boat to him, and I said how about half. He said that would be fine. Half of -- I took it kind of figuratively it was $26,000 something. I made it an even $13,000.
Q. Now, moving your attention ahead then to January of 1999, could you take a look at what's marked in front of you as Government's Exhibit 8-40 and 8-41, and you'll have to take 8-40 out of the glassine because there's three pages to that document.
A. Yes, sir.
Q. Now, are you familiar with these documents?
A. Yes, I am.
Q. And have you reviewed them prior to coming in to testify here today?

A. Yes, I have.
Q. And these are -- are these documents, Government's Exhibits 8-40 and 8-41, documents that were maintained by USAG in the ordinary course of your business?
A. Yes, they are.
MR. MORFORD: Your Honor, may I put Exhibit 8-40, Page 1, up on the screen?
THE COURT: Yes.
BY MR. MORFORD:
Q. Now, can you tell -- explain to the jury what this is.
A. This is a fax memo from Paul Marcone to Richard Detore.
Q. Okay. And again, who was Paul Marcone?
A. Paul Marcone is the Congressman's chief of staff in Washington, D.C.
Q. Okay. And again, what is the date?
A. 1-21-99.
Q. So this is approximately two months after the $13,000 payment?
A. That is correct.
Q. Could you go ahead and read the body of this memo, please?
A. "Attached is a draft letter to FAA Administrator Garvey urging the FAA to approve use of cold cathode

landing lights at U.S. heliports.

"Could you review and let me know if it's what's needed? According to J.J., FAA could approve tomorrow.

"My question is this: Is the wording in the letter right -- is what you are seeing FAA approval of cold cathode lights, and are other kinds of lights used at heliports?

"Please advise ASAP. I am also working on Garvey visit. Probably would be easier if we flew her out of National to Manassas, then flew her back. Your thoughts?

"Call me, thanks."

Q. Now, can you explain to the jury what this issue was about, your belief according to this memo that the FAA could immediately approve the use of cold cathode landing lights at U.S. heliports?

A. Well, basically, it's two-fold: What we were trying to do at this particular point was to get a special approval for both the cold cathode lights and the laser guided landing system for use at heliports. Places like where your emergency helicopters land have absolutely no guidance at all at hospitals and things of that nature.

So we were trying to get a special permit to utilize this type of system and these component parts. But we still needed FAA approval for that.

Q. Okay. When Marcone says according to J. J., FAA

could approve tomorrow, what does that refer to?
A. I believe he's talking about the cold cathode lights only at that point because we were working along those lines, and that's where we were at that point in time.
Q. What does that mean, could approve tomorrow? Does that mean figuratively or literally?
A. No. I think that was figuratively, in the very near future?
Q. In your view, was the heliport issue something the FAA could possibly move quicker on than the overall certification of airport landing lights?
A. That's where we were going, that's what we were hoping. We were actually trying to develop a special classification of certification.
Q. Okay. And who were you asking to help you get the FAA to do that?
A. We were working with Congressman Traficant's office.
Q. Okay.
Now, it indicates that there -- he's asking you or he's asking Detore to go ahead and review this draft letter to the FAA administrator to see if that's the language you want to go to this letter to Administrator Garvey?
A. That is correct.
Q. Was there a draft letter attached to this memo?
A. Yes, there was.

Q. Turning to the third page of this exhibit, is this a copy of the draft memo?
A. Yes, it is.
Q. And turning your attention to Exhibit 8-41, can you tell us what this is and what the date of this is?
A. I'm sorry. I'm on the wrong thing here.
Q. It would be 8-41 would be the next exhibit?
A. This is a memo from Richard Detore back to Paul Marcone.
Q. And it says regarding?
A. This is a fax -- draft letter to Garvey.
Q. And what is the date?
A. 1-22-99.
Q. Okay. And can you go ahead and read the body of this memo?
A. "I believe what J.J. was referring to is the use of both laser and cold cathode lights at heliports."
Q. Okay?
A. "The FAA with the information at hand along with existing military certifications of the lasers and FAA draft certification of the cold cathodes could go a long way in completing the certification. In fact, the lasers and cold cathodes are part of a FAA program. Rotocraft precision terminal approach procedures starting February 5, 1999, and running for several months. Data from that

program value dates their use and acceptance. I have included here with the program briefing, which shows the need for new lighting and talks of implementing new technologies, lasers, cold cathodes, et cetera.

We would have no problem picking Ms. Garvey up at National and returning her there upon completion of the demo."

Q. And again, focusing on the funding of USAG, you testified yesterday that initially, there was a $5 million cap that was to expire in June of '98, and then after that expired, there was a $2.5 million additional investment. As we head into the time of these memos in late January 1999, what is the state of continued Cafaro willingness, meaning Cafaro Company willingness to fund this investment?

A. My brother and I in January were evaluating, reviewing the possibility of funding in another $900,000.

Q. And how important was it to you to have Congressman Traficant, a member of the aviation subcommittee, lobbying the FAA for your technology at that time?

A. As I have said all along, it was critical to the success of U.S. Aerospace that the Congressman continue his support.

Q. I'd like to turn your attention now to what is marked before you as Government's Exhibit 8-49. Do you see that?

A. Yes, sir.

Q. And is this a document that was made and maintained in the ordinary course of business at USAG?
A. Yes, it is.
Q. And what exactly is this document? Who created it, and who was it sent to?
A. This is an interoffice memo, which would have gone to me from either -- and this one here -- from Capri to me.
Q. So your daughter, Capri, as you said, was down in Manassas at the headquarters, correct?
A. That's correct.
Q. And this would be a memo she's sending back to you in Youngstown?
A. Yes.
Q. And what is the purpose of this memo?
A. It's basically a status memo on a number of different issues.
Q. Okay.
I'd like you to turn, if you would, on 8-49 to Page 2 of this three-page memo where it says administrative issues. Do you see that?
A. Yes, I do.
MR. MORFORD: Your Honor, may I put this on the overhead?
THE COURT: Yes.
BY MR. MORFORD:

Q. In particular, the second paragraph of administrative issues, starts with the words "Al needs." Do you see that?
A. Yes, I do.
Q. Would you read that?
A. "Al needs $8,000 or 8K to finish work on the boat so we can do testing for the Coast Guard. We only have a limited time left on our mandate, so this needs to be done ASAP. He also needs the remaining 5K of his bonus" -- I can't see the -- seeing I -- I think she missed -- I don't know what she put there. "His bonus was 35K, and he only received 30K. Taxes have been accounted for in this issue."
Q. This indicates that Al Lange was to have been paid a $35,000 bonus; is that correct?
A. That is correct.
Q. And had you actually paid a portion of Al Lange's bonus as of the time of this memo in June, 1999?
A. Yes. We paid $30,000 of his $35,000 bonus.
Q. And was that $30,000 bonus that you paid to Al Lange in any way tied or associated with the boat?
A. No.
Q. Now, this also indicates that separate from the bonus that Al needs $8,000 to finish work on the boat; is that correct?
A. That is correct.

Q. And it says so we can do testing for the Coast Guard; is that correct?
A. That is correct.
Q. Turning your attention to Page 3 of this memorandum is a paragraph labeled Government issues. Can you go ahead and read the first full paragraph under Government issues, please.
A. "I have decided that we as an organization have become too confident in our current efforts in the House aviation subcommittee."
Q. Let me stop you there. What was your understanding of what that phrase too confident in our current efforts in the House aviation subcommittee meant? Who did that refer to?
A. My daughter believed we were too reliant on Congressman Traficant.
Q. And what was the problem that USAG was beginning to sense that they were becoming too confident in the efforts of Congressman Traficant?
A. Well, I think the fact of the matter is that Capri believed that there were others and there were a number of issues and provinces and time frames that had not been met, and she figured that it was important to start to broaden our base.
Q. Had you received certification from the FAA as of

this time, June 1999?
A. Had not.
Q. How long had you been receiving promises that you would be getting FAA certification?
A. Three, two and a half years.
Q. As you were talking with the FAA, was there some opposition to this technology within the FAA?
A. Yes.
Q. Had you received authorization from the Coast Guard or certification from the Coast Guard at that time?
A. No, we had not.
Q. Okay. If you can continue reading where it starts I feel it is necessary?
A. "I feel it is necessary to redirect our energies to other members of the sub and full committee on transportation in addition to the applicable appropriation subcommittees. I have implemented a strategy to target the most receptive members of the House and Senate in these areas of interest. In addition, I have enlisted William Gary to concentrate on Virginia Rep Wolf, NRCC Chair VA Rep Davis and VA Senator Warner, all of whom are very prominent on these committees development."
Q. There's mention of Virginia Representative Wolf and Virginia Senator Davis and Warner?
A. Yes.

Q. Where were the corporate headquarters of USAG at that time?
A. Manassas, Virginia.
Q. Now, to what extent did you have friendships and influence with other members of Congress at that time?
A. Quite a bit of longstanding friendships both in the House and in the Senate and both Republicans and Democrats.
Q. And up until this time, in addition to dealing through Congressman Traficant, had you been attempting to get these other members of Congress that either you knew personally or as Capri is indicating in this memorandum involved to push the technology of USAG?
A. No.
Q. Why?
A. We -- I was relying on Congressman Traficant.
Q. Why?
A. He -- again, he started by offering and then actually became a little perturbed when it was suggested that we get additional help, saying that if we did so, we'd probably screw it up.
Q. Were there ever times he complained about either you or Capri attempting to contact other members of Congress on behalf of this company?
A. Yes.
Q. To what degree did these memoranda that he was

sending, having his office send to you, claiming that progress was being made, affect your decision to continue to allow him to serve as the point person for USAG?

A. Well, it appeared that he was making progress, and it wasn't obviously as quick as one would always like. You always like to see things move quicker, but it appeared that he was making progress, so we stayed with the horse we were on.

Q. And as you headed into June 1999, were you reconsidering that decision?

A. Yes.

Q. Were you looking to go move away from Congressman Traficant entirely?

A. No.

Q. Or -- explain to the jury what it was you were thinking about doing at that point?

A. Literally broadening our base, going to some other friends, making them aware of the technology, asking them to intercede with the Department of Transportation and get a more cohesive and broad-based approach to this.

Q. Did you talk about this idea with Rick Detore, the COO of USAG?

A. Yes. He was intimately aware of this.

Q. And what was his position?

A. He was very unhappy with that -- the concept.

Q. And what was his position that you should do, what --
A. His position was that, quote unquote, the chairman will get angry, and we shouldn't do anything to anger the chairman because he's got us this far.
Q. Were there other problems and concerns that you were in and disagreements you were having with Rick Detore at that time?
A. Yes.
Q. As you headed into 1999, was Capri's role in the company changing at all?
A. It was getting a little more active.
Q. And what effect was that having on the dynamic with Rick Detore?
A. I think that jealousy started to set in. He looked at Capri as being very young, not knowing anything about the business. She was only 21 years old, but she had already graduated from Stanford and had her master's, and I think he was a little concerned about what his position would be.
Q. Now, did there come a time where you began to address concerns about the spending habits of USAG?
A. Yes.
Q. And can you describe those to the jury?
A. Well, we were never making any budgets. We'd sit down with Rick, and we -- we looked over the budget, and as

you can see through the testimony, we were constantly reevaluating, putting money in because every time we sat down and made a decision to put X in and X will take us through so long, we never made it that long. So there was a total review as to where Rick was going and the expenditures of the company.

Q. Was the company leasing its own jet, USAG?

A. It leased a turboprop.

Q. And approximately what was the cost of that?

A. I think it was about 20 something thousand a month.

Q. And how frequently was that being used?

A. Very infrequently.

Q. Could the company have just used the Cafaro Company jet on those times when they were going to do a demonstration?

A. For as little as we utilized the KingAir for the purposes of demonstration, we could have used the Cafaro Company plane, or we could have rented one for that day's use.

Q. As you turn towards the end of the summer of 1999 and early fall of 1999, were you personally experiencing personal financial difficulties relating to USAG?

A. Well, at that time, we were now out of family funding let's call it, and I'm literally funding the operation out of my own pocket, and the burn rate of the company was

higher than my personal income.
Q. When you say the burn rate of the company, what do you mean by the burn rate?
A. How quickly they spent money.
Q. Okay. And approximately do you recall just an approximate figure of what you were talking about per month?
A. Well, probably $185 to $200,000 a month.
Q. Turning your attention to Government's Exhibit 8-66, do you see that in front of you?
A. Yes, sir.
Q. And is this a memorandum that was made and maintained in the ordinary course of business at USAG?
A. Yes, it is.
MR. MORFORD: May I put it on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. And who was this to? Who was it from? What is the date?
A. It's from Richard Detore to me, dated August 2, 1999.
Q. And could you go ahead and read that memorandum, please?
A. "J.J., to date I have not received expenses, and everyone within the office is unwilling to expend any of

their own funds in support of our flight test. I cannot afford to pay everyone's hotel, meal, aircraft fuel on my personal credit card. Al is very upset, and states that he has not received his bonus and expenses due him. It is very important that we get him paid so we can -- as we cannot afford to lose him to another company.

"Additionally, the bonus payment you sent me still has not arrived. At this point, you are in default on my employment agreement and causing tremendous stress on my family and me. I cannot afraid -- I cannot afraid to keep the house" -- I think he meant I cannot afford -- "to keep the house if I do not receive the bonuses as agreed. I have always performed beyond the call of duty for you and the company. If you have any problems with me as a friend, please let me know. It is very disturbing when I hear that my checks are being forwarded to me to only never receive them.

"Please call me concerning this as soon as possible. Regards, Rick Detore."

Q. As you reached this point, August and September of 1999, were you having to pick and choose which bills would get paid for USAG?

A. Yes, I did.

Q. Turning your attention to Government's Exhibit 8-53, do you see that before you?

A. Yes, sir.
Q. And is this a memorandum made and maintained in the ordinary course of business at USAG?
A. Yes.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Yes.
Q. Who was this memorandum from, and who was it to, and what is the date?
A. This is from Rick to me, dated 11-05-99.
Q. Could you go ahead and read this memorandum?
A. "I've been trying to contact you as I'm very concerned about the status of the company. We have checks bouncing everywhere, and the employees are beyond traumatized. We cannot expect them not to be very upset. It gets very hard to handle the job at hand in advancing our products to the market under these circumstances. To date, my paycheck has been returned for lack of funds. I still have not received my bonuses due.
"Additionally, the medical benefits have been cancelled. Please contact me ASAP as to what is going on.
"Unfortunately, the Cafaro Company is in default on my employment agreement, and I am requesting to be paid in full immediately. I am at this point -- I am at the point that I cannot continue to work without being paid. I also

need to have all bonuses and expenses due paid in full. I am hopeful we can work this out as we know the company has tremendous potential. Richard Detore."

MR. TRAFICANT: What is the number on that?

MR. MORFORD: 8-53.

Q. Now, in the midst of USAG's extreme financial difficulties in the fall of 1999, did you begin to have conversations with Congressman Traficant's office about the MEANPALS technology?

A. Well, I think it was actually prior to that that there was conversations about the MEANPALS, but I think it really took off around that point in time.

Q. During that point in time, again, without telling us what, if anything, was actually done, what promises were you receiving from Congressman Traficant's office regarding what they believed they could do at the end of 1999 and beginning of 2000 regarding MEANPALS?

A. That the military appropriations would fund a test project.

Q. That's what they were promising?

A. Yes.

Q. Turning to Government's Exhibit 8-52, do you see that in front of you?

A. Yes.

Q. And is this a document that was received and

maintained in the ordinary course of business of USAG?
A. Yes.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. And what is this document?
A. This is a fax from Congressman Traficant's office, Mr. Paul Marcone, to Richard Detore, dated 10-28-99. "Keep me posted on your contracts with the Army on MEANPALS, Paul."
Q. Now, how important was the promise from the office of Congressman Traficant that they would work to get you an Army contract regarding MEANPALS in the fall of 1999 given the financial strain you were under?
A. It was very important. It was the MEANPALS contract is really what then convinced us to put another $800,000 into the company.
Q. And did you put another $800,000 into the company?
A. Yes.
Q. And how long did that $800,000 last in terms of additional funding for the company approximately?
A. About April of 2000.
Q. Now, as you headed into the end of 1999 and the beginning of 2000, did there come a time where you became

so dissatisfied with Rick Detore's performance that you began discussing reorganization of USAG?

A. Yes.

Q. And who was involved in these particular discussions?

A. Capri, Al Lange, the inventors, Mr. Shemwell and Mr. Vetter.

Q. When you say the inventors, the inventors of what?

A. Of the technology.

Q. Now, what were some of the issues that were causing you to look at the structure and particularly look at Mr. Detore?

A. Well, it was several issues. Number 1, he was never able to maintain a budget. To this point now, we've put in $10 million, and I had nothing to show for it. One would assume at that type of investment you should at least be able to have a good understanding as to where you were, but he was not able to stay focused. He was bouncing around from one project to another project to another project. And it was just a total lack of performance and the failure to meet a corporate objective.

Q. What ultimately led to Rick Detore --

A. I fired him.

Q. And when and under what circumstances did you fire Rick Detore?

A. I flew down -- I don't remember the date -- but I

flew down to Manassas, talked to Al Lange, told him what I was going to do. Al knew about it in advance. We called Rick into the office, and I fired him.

Q. Was there any particular event that happened that caused you to fire him that particular day as opposed to some time later?

A. Al had called and told me that Rick had made some scurrilous remarks about Capri, and I think that was probably the straw that broke the camel's back.

Q. Were you intending to fire him anyway?

A. Yes.

Q. Were you intending to fire him that day anyway?

A. No. We were probably within a week or two of when we were going to do it. I was trying to get Mr. Vetter and Mr. Shemwell into Manassas. I was trying to lay some ground work before I did it.

Q. After you fired Rick Detore, did he take any legal action against you?

A. Yes, he did.

Q. What did he do?

A. He sued me on his employment contract.

Q. And is that -- is that lawsuit still pending?

A. Well, it was initially withdrawn, but only two weeks ago he reinstated it, which was interesting.

Q. Withdrawn by whom?

A. Withdrawn by him.
Q. Now, what, if any, conversations did you have with Congressman Traficant regarding your decision to fire Rick Detore?
A. Out of respect to the Congressman, I called. He was not there, but I did tell Mr. Marcone that I had fired Rick, and I did not believe that that would cause a problem. But I thought I should at least give him the courtesy of advising him on what I did.
Q. Why did you feel you needed to call Congressman Traficant and tell him you were firing one of your employees, Rick Detore?
A. Well, again, it was a close relation -- a somewhat close relationship between the Congressman. They worked very closely on this project together. And again, the Congressman was championing this, and I wanted him to know that I had made a change and what direction we were going to go in the future.
Q. Did there come a time you talked to him directly about your decision to fire Rick Detore?
A. Yes, there was.
Q. And what was his reaction?
A. He was not happy. As a matter of fact, he was somewhat furious that I would do this and said basically, that I was a -- using an Italian word, I was a cubadose,

which means hardhead in Italian, and that, you know, just because I was upset with Rick because of Capri, I'm willing to lose everything I've invested in this, and the company is going to go down the drain, and that Rick has great credentials, and Rick has great acceptance on the Hill. He's testified in public hearings. He does a great job, and everything is at risk by you doing this. I told him my decision was final.

Q. Did he ask you to take any action regarding Rick Detore?

A. He asked me to rehire Rick.

Q. And what was your response?

A. I said no.

Q. When he asked you to rehire Rick Detore, did he suggest any type of position you could work out with Rick Detore?

A. Well, after I said no, Congressman then requested that I work out something with Rick so that Rick would be a consultant to the company, and I did say that I would do that for a limited period of time, but it was never -- it never came to pass.

Q. Now, how close in time were these conversations that you were having with Congressman Traficant about your firing of Rick Detore in relation to press reports that were starting regarding the fact that the FBI was

investigating the relationship between USAG and Congressman Traficant?

A. They were running pretty close together.

Q. Now, did there come a time after the press began to report the investigation into the relationship between Congressman Traficant and USAG where you hired the services of a criminal defense attorney?

A. Yes.

Q. And when was it that you hired that attorney, approximately?

A. February of 2000, February or March, right around that time frame.

Q. And why did you feel the need to hire a criminal defense attorney?

A. Well, I think it became obvious that this particular investigation was going to eventually get around to USAG, and I wanted to be prepared when someone approached me.

Q. Who did you end up hiring? What was his name?

A. Geoff Mearns.

Q. He's an attorney. What firm was he with at the time?

A. He was with --

MR. TRAFICANT: Can the gentleman speak up? I didn't hear the last name.

THE WITNESS: I didn't say. I'm trying to remember the name of the law firm. It was Baker and

Hostetler now.

Q. Are you familiar with the firm called Thompson Hine?

A. Yes. Thompson Hine is the lawyer. I'm sorry. That's who he was with.

MR. TRAFICANT: Who was Geoff's last name?

THE WITNESS: Mearns.

BY MR. MORFORD:

Q. Now, the conversation you spoke of a moment ago where Congressman Traficant asked you to consider rehiring Rick Detore as an outside consultant or a general contractor, however you described that, did that happen before or after you retained criminal counsel to represent you in this matter?

A. Almost right at the same time.

Q. Did you discuss that request of Congressman Traficant with your counsel?

A. Yes, I did.

Q. Did you end up offering a position to Rick Detore as requested by Congressman Traficant?

A. No. I actually told Jim -- or I actually told Congressman Traficant that if you can get it done, I'll work it out on my side.

Q. Did there come a time where you made a decision not to do that?

A. Yes.

Q. At whose advice did you decide not to do that?
A. Counsel's.
Q. Mr. Mearns'?
A. Yes.
Q. Now, you've described this straw purchase of Congressman Traficant's boat through Al Lange as a favor for favor, correct?
A. That's correct.
Q. Have there ever been other times in your life where you have taken steps to try to conceal the full extent of your role in providing things of value, campaign contributions, or other things to other public officials?
A. No.
Q. Well, let me ask you this:
Have you ever had fund-raisers for public officials at your house?
A. Yes.
Q. Were there ever times that you concealed the fact that you were giving money to those public officials?
A. Yes.
Q. Can you describe to the Grand Jury -- or to the jury -- I'm sorry -- what it is you've done in the past?
A. Well, we have a fund raiser at the home, and we would set a contribution number to it, and I would pay for contributions made on behalf of people. I would give them

the money, family members, or employees, people of that nature just so they can come.

Q. So actually, it would look like the guests you've invited are making contributions?

A. Yes.

Q. But, in fact, you're really the one funding those contributions; is that correct?

A. That is correct.

Q. Now, is that something information-wise that you provided to your attorney and then provided to the Government?

A. Yes.

Q. I'd like to ask you some questions about the 1996 campaign of a man named Phil Chance who was running for Mahoning County sheriff. You recall that election?

A. Yes.

Q. To what extent, if any, did you attempt to secretly provide funding to the campaign of Phil Chance?

A. I utilized another to make contributions in his name to Phil's campaign.

Q. Okay. And what was that person's name?

A. John Richley.

Q. And did you give money to Mr. Richley to give to Phil Chance?

A. Yes.

Q. So that it would not appear that you were giving the money to Phil Chance?
A. That's correct.
Q. Now, during the criminal trial of Phil Chance, were you called as a defense witness by Phil Chance?
A. Yes.
Q. And during your cross-examination, were you asked whether or not you had ever given any cash directly or indirectly to Phil Chance or his campaign?
A. Yes.
Q. And what was your answer of that question?
A. No.
Q. So you denied that?
A. That's correct.
Q. And was that truthful?
A. No.
Q. Why did you deny funneling money into the Chance campaign?
A. I think my pride got in the way. I mean, I -- it was, you know, the reason I did it was because there was a family dispute as to who we should be supporting, and I did with my left hand what I couldn't do with my right hand.
Q. Explain that. When you say there was a family dispute, what was the nature of the dispute?
A. My brother was on one side, and I was on the other of

the same campaign, and I told Tony I would not support Phil.

Q. Who was your brother supporting?

A. Neneth.

Q. And had you and your brother reached an agreement as to what, if anything, the Cafaro family would do regarding that election being one was supporting one candidate and the other supporting the other?

A. There was a conversation and a blowup with Phil, and Tony got angry and said I don't want you supporting Phil. And I agreed I wouldn't, but I did anyway through John. And I -- again, I think it was a little tough to get up and admit that to -- in court knowing that I had broken a trust that existed between my brother and I, and it was an embarrassing situation, and I tried to minimize it.

Q. Now, in addition to denying that you had done that yourself, did you also ask Phil Richley to conceal the fact that you had given him the money that he had, in turn, given to Phil Chance?

A. It's John, not Phil, but, yes.

Q. During the time of that trial, were you represented by counsel?

A. No.

Q. After you hired your Defense counsel in this case, did you acknowledge to him what you had done in that prior

case?
A. Yes.
Q. And based on his advice, did you bring that matter to the attention of the Government?
A. Yes, I did.
Q. And was that brought to the attention of the Government under a proffer agreement in which we had told you that we would not use against you your own words, particularly on things that we could not prove?
A. Yes.
Q. Now, after you hired Mr. Mearns, did you request to meet with the Government to discuss the matters involving USAG?
A. Yes, I did.
Q. Now, to what extent were you aware at that time the Cafaro Company and USAG were complying with Grand Jury subpoenas in providing documents to the Government?
A. I believed that we were totally complying with the subpoenas.
Q. To what extent were you aware that your daughter, Capri Cafaro, was cooperating with the Government at that time?
A. I know that she was totally cooperating with the Government at that time.
Q. To what extent were you aware that Al Lange was

cooperating with the U.S. Attorney's Office at that time?
A. I was aware that Al Lange was totally cooperating.
Q. Now, the first time you sat down with the Government to provide information, what was your understanding of the terms of our agreement at that time?
A. I had immunity, and if -- as long as I was completely truthful, that immunity would continue.
Q. And were you completely truthful in your initial proffer session with the Government?
A. No.
Q. In particular, what information did you withhold from the Government in that initial meeting?
A. I withheld the information on the $13,000.
Q. And as a result of the fact that you withheld that information, what happened to you?
A. I ended up pleading guilty to the conspiracy charge.
Q. And what conspiracy charge did you end up pleading guilty to?
A. The entire boat scheme.
Q. Conspiracy to pay gratuities?
MR. TRAFICANT: Objection. Putting words in his mouth.
THE COURT: All right. You need to --
MR. TRAFICANT: Objection. He is leading the witness.

THE COURT: I sustained your objection, Congressman.

MR. TRAFICANT: Thank you.

THE COURT: Okay. You have to disregard that.

Q. Mr. Cafaro --

THE COURT: And the question?

Q. Mr. Cafaro, did there come a time where you reached a plea agreement with the Government?

A. Yes.

Q. Now, based on the offense with which you were charged and based on your conversations with Mr. Mearns, what was your understanding of the sentence you were looking at if you had proceeded to trial on that charge?

A. If I would have gone to trial, it would have been the sentence, had I been convicted, would have been 18 to 24 months.

Q. Okay. Now --

A. That's the Guidelines, not the statutory time.

Q. Did your lawyer explain the difference to you between what's called the statutory maximum and the actual Guidelines that actually determine your sentence?

A. Yes, he did.

Q. Okay. Now, what was your understanding of the likely sentence you would be facing if you pled guilty but did not

cooperate and testify in this matter?
A. If I would have pleaded guilty and did not cooperate, I was looking at 12 to 18 months.
Q. And what is your understanding, as to your plea agreement, and what you expect to receive as a result -- or hope to receive as a result of your testimony here today?
A. Well, counselor, I don't expect anything. But I'm hopeful that with a downward departure, we're looking at 0 to 6, but in reality, we're looking at 0 to 18 if the Court does not accept a downward departure.
Q. Now, I'd like to ask you some questions about a transaction you had with Congressman Traficant involving some automobiles. Did there come a time when you sold some cars to Congressman Traficant?
A. Yes.
Q. And what cars did this transaction involve?
A. It involved a four-door Avanti, an Avanti convertible and a Jeep.
Q. Okay. Let's start with the four-door Avanti. What color was that Avanti?
A. Dark.
Q. Okay. Did -- did there come a time where you had provided Congressman Traficant with possession of that Avanti?
A. Yes.

Q. And can you describe to the jury how and when that came about?

A. That was actually when Avanti was in production in the late'80s, and we wanted to get some of the cars driven. We wanted them on the road. The Congressman is a strong supporter of buy American. We thought the Congressman would be an excellent person to be out driving the automobile in Washington, D.C.

We asked him if he would like to drive the one car, drive the car around in his district. He said yes, he would. We then shortly thereafter -- the laws changed when it comes to passing restraints. The company closed, and Jim or Congressman Traficant called and wanted to know what to do with the car, and I basically said what are you doing with it now? He said it's in storage. I said just leave it there. So that's where the car has been.

Q. Let me back up.

When you allowed him to use this car, were you charging him anything for the use of the car?

A. No.

Q. In your mind, was there anything improper or inappropriate about that situation where you were letting him use that car?

A. No.

Q. Was that in any way being done for or because of his

official influence?
A. No.
Q. Were there other people who Avanti also lent cars to at the same time?
A. Yes.
Q. Who were some of those people?
A. Al Jerky of the Beach Boys, Ed McMahon that had that show -- I forget the name of it -- there were a lot of Hollywood people that had the car. We had the car on 90210, so we were doing things like that to get the car out and seen.
Q. With respect to these other cars that you lent out under similar circumstances, did you get those cars back?
A. Actually, some of the people actually ended up buying them.
Q. Actually paid you money for them?
A. Yes.
Q. Were -- what about the rest of the people?
A. We got them back, those that didn't buy them.
Q. Who was the only person that you didn't get the car back from?
A. The Congressman.
Q. Now, who was that -- was there any title to that car?
A. No.
Q. And why is that?

A. Because it was a manufacturers car that had never been titled.
Q. And when did Avanti actually go out of business?
A. 1990.
Q. And after you had that conversation with Congressman Traficant and instructed him he could just keep the car in storage for a time, did you have any further conversation with him about that car for a period of years?
A. Not for a period of years, and then the Congressman would -- he would meet someplace and say he wanted to say I wanted to buy the Avanti. I said we'll get around to doing it.
Q. Were there problems and difficulties, from your standpoint, in trying to sell the Avanti and transfer title that many years after the company had gone out of business?
A. Yeah. It was a pain to try to do. Because the fact the car had never been titled and to go back and -- you don't have the manufacturing facility any longer. It's just very, very time consuming to do.
Q. Now, was that particular Avanti car, was that a production model or prototype?
A. It was a production model.
Q. What's the difference between a production model and a prototype?
A. Production model is a car you would buy if you wanted

to buy a car. A prototype is a car that we put together as a manufacturer to get out in abundance before you put it into manufacturing.

Q. Is there a substantial difference in terms of value between a production model and a prototype?

A. Yeah. A prototype basically has no value.

Q. Approximate ball park, what was an Avanti four-door production model like the one that you had given to Congressman Traficant, what would that be worth, what would it have sold for?

A. $40,000.

Q. And are those Avantis any kind of a collector's item?

A. There are those who collect Avantis, yes.

Q. Did you know where that particular Avanti is now?

A. I believe it's in the possession of the Congressman.

Q. Okay. Were there any other cars that you had involvement with Congressman Traficant?

A. It was a Jeep he borrowed.

Q. Could you describe for the jury the nature of the Jeep and how that came up?

A. The -- I got a call from Rick, who said the Congressman's car broke down, something of that nature. He needed to borrow a Jeep -- the Jeep he had out at the office, and I said fine.

Q. Did the Jeep have a great amount of value?

A. No.
Q. And --
A. It was my daughter's Jeep that she had driven through college and high school years, and it was pretty well beat up.
Q. As you lent that Jeep to the Congressman, did you view that as any kind of favor for a favor or anything like that, or was this more of an innocent thing in your mind?
A. No. I -- I'm from Youngstown. The Congressman's from Youngstown. He needed to borrow a car. There was one sitting there. You would do that for anybody, counselor.
Q. How long did you understand he was going to borrow the Jeep for?
A. I understood it was to be a short period of time. His car had some kind of problem, and he needed to borrow a car.
Q. Did he ever return the Jeep?
A. No.
Q. Okay. Now, was there a third car?
A. Yes.
Q. Can you describe for the jury how the -- what the third car was and how that situation arose?
A. Well, the third car was an Avanti prototype. The Congressman had indicated he loves cars. He loves the Avanti. He would love to have an Avanti convertible.

Did I have any he could buy. I said, Congressman, the only one I have that I would sell is the original prototype, but it's not worth diddly-squat -- it's not worth anything. Sorry.

Q. What was the status of the Avanti assets that you still had leftover from when the company had gone out of business?

A. They were in the process -- actually sold them for zero in order to get them moved out of the facility they were in.

Q. Okay. What was the facility where they were in?

A. The facility called Ross Industrial Park.

Q. Where was that located?

A. On Albert Street in Youngstown, Ohio.

Q. When you shutdown Avanti production, what happened to the Avanti factory?

A. It just sat there with all the equipment.

Q. And did there come a time where that became a problem between you and your brother?

A. I wouldn't call it a problem. There came a time around this time where he wanted to -- the Ross Industrial Park is a piece of real estate owned by the Cafaro family.

He wanted to get it cleaned out so we could lease the space and show the space, and again, it was somewhat of a sore subject to me. So we got rid of it as quick as we

could and didn't try to make any money on it.
Q. You're saying your brother wanted to lease Ross Industrial Park to who, some third party?
A. Yeah, to anybody, right.
Q. Now, during the time that you were having whatever assets were left of the Avanti company removed from Ross Industrial Park, did you have conversations with Congressman Traficant about the Avanti car?
A. Yes.
Q. And again, describe basically the conversation. What was he asking for, and what were you agreeing to?
A. He wanted to buy an Avanti convertible, and I was telling him the only one I had that I would sell -- I had two, but the only one I would sell was the prototype, but it wasn't a good car at all.

I mean, it's the car you put together to make sure the pieces fit. It was built on a used chassis. It isn't -- it wasn't built to drive. It wasn't built to be utilized in that manner.

Q. And did there come a time where you delivered any Avanti convertible to the Congressman?
A. Yeah, yes.
Q. And was there any kind of a mixup when Avanti was delivered?
A. Yes. I sent one of the men that works at my home --

I told him to take the prototype to the Congressman. Unfortunately, he couldn't -- he took the car that started, which wasn't the prototype, it was actually the last production model made.

Q. Okay. Now, this -- so what car was actually given to the Congressman?

A. The good car.

Q. Production model?

A. Yes.

Q. And what would the production model two-door convertible have sold for originally?

A. About $54,000.

Q. Now, at the time that Congressman Traficant was asking to purchase the Avanti, were there discussions about the Jeep?

A. Yes.

Q. And how did the discussions about the Jeep arise?

A. He said he wanted to buy the Jeep.

Q. Did you care what, if any, price you would receive for what you thought was the Avanti prototype and the Jeep?

A. No.

Q. Who set the price?

A. The Congressman. I said -- he kept on asking me how much do you want for it? How much do you want for it? And I told him, I said Congressman, these things have no value.

I don't care.

And finally, he -- the number was $7,000 came out, and I said that's fine. I don't have a problem with that.

Q. Now, after you -- after he had the Jeep and after he had the Avanti two-door convertible, did he immediately pay you?

A. Yes.

Q. And turning your attention, if you will, to what is marked 8-55, do you see that in front of you?

MR. TRAFICANT: What number?

MR. MORFORD: 8-55.

Q. Do you see that, sir?

A. Yes.

Q. Do you recognize that check?

A. Yes. This is the Congressman Traficant's check for the $7,000 made out to my wife because the Jeep was in my wife's name. may I pu

MR. MORFORD: Your Honor, : it this on the overhead?

THE COURT: Yes.

BY MR. MORFORD:

Q. Now, with respect to this check, what is the date on this check?

A. This is a bad copy, December 22nd, '99.

Q. And how close in time to Congressman Traficant

presenting you with this check for $7,000 was it that you and Congressman Traficant finally reached agreement that you would sell these cars that he had to him for $7,000?

A. Within a week.

Q. Who was pushing the issue of finalizing and memorializing this sale in December of 1999?

A. The Congressman wanted to get it done.

Q. Did you care about getting it done?

A. No.

Q. How urgent was he in his efforts to push you to get this transaction done?

A. Urgent enough that he gave me a --

MR. TRAFICANT: Objection for the record only.

THE COURT: I couldn't -- I couldn't hear the rest.

MR. TRAFICANT: Objection for the record only.

THE COURT: You can go ahead and respond. You'll have to respond again. He was talking across. We didn't get it for the jury here.

THE WITNESS: Can you restate the question?

Q. Yes.

How urgent was Congressman Traficant in his attempts to get you to memorialize and finalize a sale of the --

MR. TRAFICANT: Objection for the record only.

THE COURT: Did you get both of those things? I'm sorry. Would you please not talk on top of other people so we can have an accurate record? Thank you. Start again.

BY MR. MORFORD:

Q. Okay.

How urgent was Congressman Traficant in his attempts in December of 1999 to get you to finalize memorialize this transaction, the sale of these cars?

THE COURT: Let him speak.

MR. TRAFICANT: Objection. He is speculating as to what my particular feelings were. The witness would have no knowledge of what my feelings were.

THE COURT: You may answer the question.

THE WITNESS: Thank you.

He was quite urgent in that several calls were made by his staff that this had to get done, and we were -- I felt it was -- the issue was being pushed.

Q. Did Congressman Traficant explain to you why there was this urgency in December of 1999 to finalize and memorialize the sale of these cars?

A. No.

Q. Was there a written contractual agreement written up

between you and the Congressman for the sale of these cars?
A. No.
Q. Did he bring a written agreement to you to this meeting?
A. No.
Q. Did he bring any witnesses to this meeting?
A. No.
Q. Did he do anything except provide you with a check for $7,000?
A. No.
Q. What, if anything, did you do to determine whether $7,000 was a fair price for these automobiles?
A. Nothing.
Q. Did you care about the price?
A. No.
Q. Who set the price?
A. I accepted the Congressman's offer.
Q. Now, did there come a time in December of 1999 when you began to hear that the FBI was investigating Congressman Traficant?
A. I believe it started to come out in the media that the FBI was investigating the Congressman.
Q. Just in terms of your own knowledge and understanding, prior to the time that it came out in the media, were you starting to hear rumors and things from the

community?
A. You could -- you would hear things in the community, but I've learned over the years that you learn to sort of disregard that.
Q. Let me ask you this: In the days following Congressman Traficant's presentation to you of this check for $7,000, did there come a time where you wrote a letter back to him about the automobiles?
A. Yes.
Q. What was your purpose in writing a letter and particularly writing a letter in the way that you wrote the letter?
A. I think the letter was written basically to memorialize the fact he was getting the Avanti prototype, and it was basically a cover-your-rear-end letter.
Q. Why did you feel the need to write as you describe it a cover-your-rear-end letter?
A. In the event of questions coming as to the propriety of what was going on.
Q. Showing you Exhibit 8-58, which is a letter from the Cafaro Company, dated December 27th, 1999, do you recognize this letter?
A. Yes.
Q. And is this the letter that you wrote?
A. It's a letter I dictated, signed, but was never sent.

Q. Okay.

What was your purpose in preparing this letter, signing it, keeping it but never sending it to the Congressman?

A. Well, the Congressman again was pressing for the titles, and I was going to have the bill of sale prepared for the prototype, but I never got it done. So it was never sent.

Q. Okay.

MR. MORFORD: Can I put this on the overhead, your Honor?

THE COURT: Yes.

BY MR. MORFORD:

Q. Now, sir --

MR. TRAFICANT: 8-58?

MR. MORFORD: Yes, it is.

Q. Sir, could you go ahead and read the body of this letter? I may stop you along the way to ask you follow-up questions?

A. "Enclosed please find the title for the Jeep, which you have purchased from me. It is understood that this auto is being sold to you as is. As I have told you, the engine needs oil, and there are several mechanical difficulties with this auto. This letter will confirm that I have advised you of these problems, and you are still

willing to purchase this car in its as is condition."
Q. Let me stop you there.
Why were you writing this description of this car into a letter that you were not intending to send to the Congressman initially?
A. Well, I actually did send this letter.
Q. Okay.
MR. TRAFICANT: I didn't hear that.
THE WITNESS: I never got around to sending this letter.
Q. Okay.
Were you exaggerating at all the condition of the Jeep?
A. I don't think so. The Jeep was not in good shape.
Q. Okay.
Continue.
A. "Also enclosed please find a bill of sale for the Avanti prototype. Once again, this is being sold to you as is. Let me reiterate what I told you. This car was, in fact, a prototype."
Q. Let me stop you there. As it turns out, was this car, in fact, a prototype?
A. No.
Q. Did you --
A. But I didn't know that until months later.

Q. Did you know it at the time you wrote this letter?
A. No.
Q. Could you continue reading?
A. "Once again, this is being sold to you as is. Let me reiterate what I told you. This car was, in fact, a prototype. It does not run. I have no idea where you can find replacement parts for it. This letter will further confirm that I have disclosed these issues to you, and you have nonetheless elected to move forward with its purchase."
Q. Let me ask you this. If the prototype did not run, how were you going to have someone drive it over and deliver it to Congressman Traficant?
A. I -- I think it would run run, but -- or they would tow it over, one or the other, and I didn't pay much attention to it when I told him to deliver it to the Congressman. That's what I told them to do.
Q. Had you intended in any way to pay for or have USAG pay for or arrange repairs to this Avanti that's being addressed in this letter?
A. No.
Q. Now, in this letter, it mentions a Jeep, and it mentions an Avanti prototype. What about the other Avanti, the dark four-door, what was being done with respect to that Avanti?

A. I needed information from the Congressman in order to do the bill of sale. I didn't even know what serial number he had. So I needed to get back to him to get additional information in order to get a bill of sale done on that one. I did -- I had the number -- I had the Jeep title in my possession. I had the -- actually, I had to get the Jeep title.

It was in Maryland, but I ended up getting it in our possession, and I knew the serial number of the prototype. So those were not difficult, but I had to get additional information off the old four-door because I just couldn't do that without the information from the Congressman.

Q. And he had not provided that information to you yet?

A. No. I hadn't even asked him for it. I hadn't given it that much thought.

Q. Do you recall a time in late February of 2000 when newspaper reporters began questioning you about rumors that you had provided cars to Congressman Traficant?

A. Yes.

Q. And what were the reporters asking you, and what were they suggesting to you that they had heard and then questioning you about with respect to these cars?

A. They were saying that the Government was looking into the relationship between the Congressman and I and how that relationship and how these cars played into that

relationship.
Q. Was there a particular article which quoted one of your former Avanti employees as contradicting things that you had said in response to questions from reporters in an earlier article?
A. Yes.
Q. And what was the issue there?
A. Well, the issue was the prototype, and the former employee would say the prototype was a good car. It was not built on a used chassis, and he was off base on that particular issue.
Q. In those articles in late February, were the reporters questioning your statement about the true value of these cars?
A. Yes.
Q. After the articles came out, did there come a time where you received something else from the Congressman?
A. Yes.
Q. Turning your attention to Government's Exhibit 8-60, do you see that?
A. Yes.
Q. And how did you first come into possession of this document?
A. It was delivered to my office.
Q. And by whom was it delivered?

A. Someone at the Congressman's office.
Q. And prior to the time that this document was delivered to you, had you had conversations with Congressman Traficant about the newspaper reports questioning the value of the cars?
A. Not exactly that way, but the Congressman told me he was concerned that he'd feel better if he gave me $3,000 more. And I said don't bother. I don't want it.
Q. You said he'd given you $7,000 for the cars, right?
A. Correct.
Q. Now he's telling you he wanted to give you $3,000 more?
A. Yes.
Q. In all your years of dealing with Congressman Traficant, had you ever known him to want to pay more for something?
A. No.
MR. MORFORD: May I put this on the overhead, your Honor?
THE COURT: Yes.
BY MR. MORFORD:
Q. What is the date of this check?
A. February 29th --
Q. What's the amount?
A. $3,000.

Q. And did you ever ask Congressman Traficant for more money for these vehicles?
A. No.
Q. Did he explain to you why he felt the need to pay you $3,000 more than the original deal was for the automobile?
A. He said he'd feel better.
Q. Now, turning your attention back to the boat deal, did Congressman Traficant ever reimburse you for any of the funds that you paid toward the repair work done to his boat?
A. No.
Q. Did he ever give you back any of the $13,000 cash that you gave him towards the one-half payment purchase price of the boat?
A. No.
Q. In the end, who ended up with the boat?
A. I assumed the Congressman has the boat.
Q. Why did you give Congressman Traficant, in essence, $20,000 worth of free repairs on his boat and $13,000 in cash towards the boat?
A. We were buying his boat.
Q. And why were you buying Congressman Traficant's boat?
A. As a favor for the fact that he was doing us favors.
Q. And at whose request ultimately were you doing that?
A. At the request of Rick Detore and ultimately the

Congressman.

Q. And why were you trying so hard to make it look as though Al Lange was the one paying for the repairs and purchasing the boat when, in fact, it was you doing it all along?

A. Because I was told that's the way the Congressman wanted done.

MR. MORFORD: May I have a moment, your Honor?

I have nothing further.

THE COURT: We'll take our morning break, half an hour. So we'll be back here at five of 11:00.

(Thereupon, a recess was taken.)

(Proceedings in the absence of the jury:)

THE COURT: Mr. Morford?

MR. MORFORD: Yes, your Honor. I notice that Congressman Traficant is doing some drawings on the notes that he took when Dave Sugar was on the witness stand, and I don't know what his intention is to use that with this witness. I would ask that not be done because we'll be mixing the testimony that he wrote down with Dave Sugar with this witness, and he's the one that's asked that the witnesses be segregated and we not be mixing up the testimony of one with another.

MR. TRAFICANT: I am not going to co-mingle

the testimony of either. I was just going to ask if he understood what his charge was, and the witness is here in the presence of this conversation, which the Prosecutor always seems to arrange so that the witness can be prepared for examination. And I object to that as well.

THE COURT: Congressman, if you're going to use that board for some purpose in this inquiry, you need to use a sheet that doesn't come from another part of the case.

So just -- are you going to use this to keep notes like you did before?

MR. TRAFICANT: Yes, I am.

THE COURT: Okay. Then it doesn't need to be in the form that it's in, either. It doesn't need to be so big. It's hard for it to just be notes when you're writing it.

MR. TRAFICANT: I'll remove this sheet.

THE COURT: Yeah, okay. Why don't you just keep notes on your legal pad at your desk instead of keeping notes on a large --

MR. TRAFICANT: I may want to ask questions that I may want his answers, response to put on this document for a reason.

THE COURT: Fine and I --

MR. TRAFICANT: And I believe as a

cross-examiner, I have the rights to use this as they have the right to use the screen.

THE COURT: Yes. But you don't have a clear sheet yet. So take it back to a clear sheet, and we'll see whether or not what you want to put up can be used in some way with the jury.

MR. TRAFICANT: What is the Prosecutor worried about? Why don't he state his concerns?

THE COURT: Congressman.

MR. TRAFICANT: I'm ready to go forward with the jury.

THE COURT: Why don't we go forward with the witness on the stand. Okay?

MR. TRAFICANT: I agree.

THE COURT: Thank you.

(Proceedings resumed in the presence of the jury:)

THE COURT: Mr. Cafaro, you're still under oath.

THE WITNESS: Yes, ma'am.

CROSS-EXAMINATION OF JOHN J. CAFARO

BY MR. TRAFICANT:

Q. How are you, J. J.?

A. Good, Congressman.

Q. Did you always call me Congressman?

A. No, not always.

Q. What did you call me?
A. Usually Jim.
Q. You didn't call me chairman?
A. Occasionally.
Q. Did you ever work on my farm, J.J.?
A. No, Congressman, I did not.
Q. Did you ever own horses?
A. Yes.
Q. Do you own horses now?
A. No, I do not.
Q. When did you own horses?
A. The family owned horses probably until the time I was about 17 years old.
Q. Where did you keep those horses?
A. On Warner Road, my father's home.
Q. How long have you known me?
A. Since the early'80s, since Richley was married, '77, somewhere.
Q. What was Phil Richley's association with the Cafaro Company?
A. Well, at the time, he was mayor of Youngstown and also a vice-president of the Cafaro Company before and after being mayor of Youngstown --
Q. Did he hold any state office?
A. He was the Ohio Director of Highways, and he was also

then the first director of transportation for the State of Ohio.

Q. The very first?

A. Yes.

Q. Now, you have what you know as an agreement with the Government; is that correct?

A. Yes.

Q. And it's subject to an information charge, not an indictment; is that correct?

A. That is correct.

Q. And you said that you are now subject to 0 to 18 months incarceration?

A. That is correct.

Q. But you're hoping to get a downward reduction to -- is this more appropriate, Z-E-R-O to six months, is that what you're hoping for?

A. That's what I'm -- that is the hope, yes, Congressman.

Q. Why would you have such hope?

A. The plea agreement indicates that if my testimony is truthful and complete, the Prosecution will recommend a downward departure to my Judge.

Q. Did they promise you that?

A. It is a commitment that if what I do here today is truthful and complete, that they will, in fact, recommend a

downward departure.
Q. So do you then use the word commitment as a word that might require promise, is that your testimony?
A. My testimony is the Government has committed to requesting a downward departure in the event my testimony is truthful and complete.
Q. And if your testimony isn't truthful and complete, what are they going to do to you?
A. If it is not truthful and complete, I'm looking at 18 to 24 months.
Q. Then it could be 18 to 24 months?
A. 18 -- that's what I said, 18 to 24 months.
Q. Well, let me put that back up there.
So in other words, if you -- let's just use the term lie, it would be how many months?
A. You would be back in the 18 to 24-month range, which is the Guidelines.
Q. Are you familiar with Federal Guidelines, Mr. Cafaro?
A. Only to the extent that the Guidelines, as they relate directly to me and in my particular instance, has been explained to me. Past that, I don't understand anything.
Q. Was your attorney present?
A. Yes.
Q. Is the same attorney you mentioned earlier, Mr.

Mearns?
A. Yes.
Q. Were you ever interviewed by the IRS?
A. I believe that in one of the proffer sessions an IRS agent may have been there.
Q. Is this man seated here that I'm pointing to, would you please look at the witness, is he one of those agents that interviewed you?
A. No.
Q. Thank you. We're going to start probably from the back since it'll be freshest in your memory.
A. Okay.
Q. Do you have any physical evidence of handing me any money?
A. Well, Congressman, physical evidence, I have none in my possession. Obviously, what we did, we did so that the only two people that would know about it were you and I. So I kept no physical evidence of what you and I did because we didn't want anyone to know.
Q. Well, isn't it a fact that you had a secretary that would make withdrawals for you?
A. I had a staff member that made withdrawals for me.
Q. Now, isn't it a fact that she would withdraw up to $20,000 in cash perhaps every month for you or more?
A. At times, yes.

Q. Now, when we talk about the last thing they talked about was the cars, was the Jeep worthless?
A. In my opinion, yes.
Q. Did you know if the Avantis run?
A. No.
Q. Do you know until today if the Avantis run?
A. No.
Q. Did you ever see the Avantis?
A. No.
Q. Were you not, in fact, told that I had a black Avanti, and did you not, in fact, say, keep it in storage; you didn't have room for it?
A. Yes, I did.
Q. Do you remember those words?
A. Yes. I testified to that already, Congressman.
Q. Now, were you and Al Lange friends?
A. Yes.
Q. You consider him your friend?
A. Pardon?
Q. You consider him your friend?
A. He was an employee, a co-worker, and a friend.
Q. Is he still your friend?
A. Yes.
Q. Is that a mutual friendship?
A. Hopefully.

Q. Would you be surprised to know that Al Lange yesterday testified that he was not -- didn't consider you a friend?

MR. MORFORD: Objection as to what Al Lange testified to.

THE WITNESS: I don't know. I have not spoken to Al since this whole issue began, and I can understand if he has hard feelings.

THE COURT: The jury was present during all that testimony, and they can remember what he testified to. Thank you.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: You're welcome.

MR. TRAFICANT: And I apologize for not stopping the witness while the objector had objected.

THE COURT: Well, that really isn't your role. Just go ahead and ask the question.

MR. TRAFICANT: Thank you.

BY MR. TRAFICANT:

Q. Now, did you realize that Al Lange had to mortgage his home and lose his wife almost to finance these problems?

A. I don't know what you're referring to, Congressman.

Q. I'm referring to Al Lange being dragged into a RICO trial.

A. Again, Congressman, I don't know what you're talking about.
Q. Where did Al Lange get the money to defend himself?
A. I paid for Al Lange's legal fees.
Q. Out of your personal account?
A. Ultimately, yes.
Q. Was the Cafaro -- was it the Cafaro Company's account?
A. Well, probably came out of the Cafaro Company account, which would be charged to my personal account.
Q. So isn't it a fact you don't know if either of those cars ran?
A. Well, I guess the --
Q. I am not asking you what you guess, what you know.
A. That's correct. I do not know.
Q. And you do not know if they run today, do you?
A. No, I do not.
Q. Did you ever inquire about the cars?
A. No, I did not.
Q. Did you ever make an issue about the cars?
A. No, I did not.
Q. Who made an issue about the car?
A. You did.
Q. Do you know if I made the issues about the car after I was indicted?

A. No. You made an issue of it over time, and it became very pressing at the end of '99.
Q. Now, it is your testimony that Jim Traficant and Richard Detore conspired to, in fact, manipulate the company into favors for favors; is that your testimony?
A. I'm not going to characterize my testimony, Congressman. My testimony is what my testimony is.
Q. Well, did we conspire other than -- did you conspire with me to do these things?
MR. MORFORD: Objection. Calls for a legal conclusion.
THE COURT: This is part of the jury's work in this case.
Q. Mr. Cafaro --
A. Yes.
Q. -- did you and I arrange these boat schemes?
A. No.
Q. Who did you allege maintained and arranged these boat schemes?
A. From my side of this, it was Rick Detore.
Q. Now, the Government kept asking you about promises, didn't they?
A. Yes.
Q. And you said I made promises?
A. That was the terminology used.

Q. Who were those memos from?
A. Well, they were from Paul Marcone and from Rick Detore.
Q. Isn't it a fact that you received a $4 million appropriation grant directly towards MEANPALS?
A. Yes. -- no, there was an appropriation for the technology. We then had to bid and get it as I understood it.
Q. Was MEANPALS mentioned in the legislation, Mr. Cafaro?
A. Yes, it was.
Q. Did anybody else make MEANPALS?
A. No. MEANPALS was a trade name of a product manufactured by U.S. Aerospace.
Q. Now, isn't it a fact that part of that money was to go for the Government's military apparatus to study, evaluate, and investigate, and to ultimately determine if they would have what is known as a first-issue project demonstration model?
A. Congressman, we are getting far too technical for me. It was made -- it was money made available to test it for the military. All the other stuff --
Q. Of the $4 million, how much did you get?
A. None.
Q. Wasn't $1.3 million set aside for the company to, in

fact, produce the first model?
A. Yes.
Q. Well, then you do know.
A. No. You asked how much did I get. The answer was none.
Q. Now, you recall $1.3 million?
A. The first -- the first contract would have been for $1.3 million, that's correct.
Q. Were there some requirements attached to the $1.3 million?
A. I assume so, Congressman. I don't remember what they are.
Q. Were you the boss of the company, J.J.?
A. Yes.
Q. Did they report to you?
A. Yes.
Q. Could they do anything without you?
A. No.
Q. And they wouldn't have told you why and what they had to do with $1.3 million, is that your testimony?
A. No. I'm sure at the time we knew what we had to do to get the $1.3 million.
Q. Well, why would the Government give you $1.3 million of a $4 million appropriation to, in fact, test your specific product?

A. Because that's what the legislation required them to do.
Q. And didn't that legislation also require the company to do certain things?
A. I would imagine, Congressman, but I haven't looked at it.
Q. Now, you said your company was belly up, had no income coming in, right?
A. That's correct.
Q. And you made loan after loan after loan from your brother, right?
A. Not from my brother. $2 and a half million was loans I made to the company. There was $900,000 that was joint loan of my brother and myself we loaned to the company. And another $5 million or thereabouts were family funds.
Q. When your father was alive had any of these funds been granted?
A. I think at the very beginning, yes.
Q. Did your father approve the first loan?
A. Congressman, I don't remember.
Q. You maintain minutes of the meetings?
A. Of what?
Q. The Cafaro Company.
A. Yes. It complies with state regulations.
Q. Isn't it a corporation?

A. The Cafaro Company?
Q. Yes.
A. Yes, it's a corporation.
Q. And how many states does is it incorporated?
A. I do not know. I think just Ohio.
Q. How many shopping malls you own?
A. 14 or 15.
Q. How many states are they involved in?
A. We own shopping centers probably in 14 or 15 different states. I have to sit and go through them. I've never looked at it that way.
Q. Did you know if the red Avanti convertible was sitting outside Manassas for a long period of time?
A. I found that out much later, yes.
Q. Did you find out and come to learn of knowledge why it was sitting outside?
A. I understand it needed fixing.
Q. Did you not come to learn that they could not find parts for it?
A. That didn't come as a surprise to me. There's a lot of the Avanti parts were unique to Avanti.
Q. Wasn't Avanti built on a Capri Chevrolet classic frame?
A. Chassis, yes.
Q. And you added a plastic fiberglass body; is that

correct?
A. Well, it was a little more intense than that. But that's basically correct.
Q. Now, can you, in fact, buy fiberglass cars through a mail order dealer and purchase their kit and put it on your own chassis?
A. I have no idea.
Q. Did I help you with Avanti?
A. No.
Q. Did you once have a union problem, Mr. Cafaro?
A. Yes.
Q. Were we friends at the time?
A. No.
Q. What, if anything, happened?
A. You made a public statement that the union should back off and let Avanti get on their feet.
Q. Were you and I bitter enemies at the time?
A. Yes.
Q. Was the issue over jobs?
A. Yes.
Q. Why were we bitter enemies, Mr. Cafaro?
A. I supported your opposition when you first ran. You ran a commercial that I took offense to, and we had -- I had a personal problem with you.
Q. Did you sue me over that commercial?

A. No.
Q. Was that an illegal commercial?
A. I don't believe so.
Q. Did you confer with attorneys about suing me?
A. No.
Q. You never had a meeting at the Cafaro Company with executives to discuss whether or not my commercial was actionable, and, in fact, the company considered suing me, is that your testimony?
A. To the best of my recollection, if such a meeting took place, I wasn't in it.
Q. Now, was I elected sheriff?
A. We're talking about your race for Congress?
Q. No. I'm talking about the sheriff, when we fell out. You said I ran ads that demeaned the company when I ran for sheriff?
A. No. When you ran for Congress.
Q. Well, let's go back to the sheriff for this.
A. Okay.
Q. Were there not ads in the sheriff's race?
A. I don't know. I didn't follow the sheriff's race.
Q. When did you change from being a Democrat to a Republican?
A. After you won election as a Democrat for the United States Congress.

Q. That's how bitter it was, right?
A. It wasn't pretty.
Q. Now, you owned how many homes?
A. Two.
Q. Where are they located?
A. One's in Liberty Township, Ohio. The other is in Chevy Chase, Maryland.
Q. Was I in either of those homes?
A. No.
Q. Did you have big parties in those homes?
A. Yes.
Q. Did you have politicians in those homes?
A. Yes.
Q. Was I ever in them?
A. No.
Q. Did you have Dick Gephart there?
A. Yes.
Q. Did you have the Kennedys there?
A. Yes.
Q. Ted?
A. Yes.
Q. Son Patrick?
A. Yes.
Q. Joe?
A. Yes.

Q. Did you have the vice-president ever there?
A. Yes.
Q. What vice-president did you have there?
A. I've had Vice-President Gore, and I've had vice-president -- boy, my memory's getting bad -- Quayle.
Q. And who was -- what party did Quayle belong to?
A. He was a Republican.
Q. What party did Gore belong to?
A. Democrat.
Q. Now --
A. Both vice-presidents.
Q. I didn't hear you.
A. I said Vice-president Mondale. You asked which vice-presidents.
Q. Okay. Now Mondale was vice-president for whom?
A. Carter.
Q. Is that the election in which they lost?
A. Well, they lost an election, yes.
Q. Did they not win an election?
A. They won an election, yes, but I don't know.
Q. You remember if it was before or after?
A. What was before or after?
Q. Your meeting with Mondale in your house?
A. I think it was after. It was after he lost. It was actually when he was running for president.

Q. Now, Mondale was a candidate for president?
A. Right.
Q. And where did you meet with him, in Manassas or in Youngstown?
A. Youngstown.
Q. And he came to Youngstown and visited you at your house?
A. That's correct.
Q. Did you not, in fact, give large sums of monies to both parties?
A. Yes, I did.
Q. Now, the Prosecutor asked you about the race for sheriff between Sheriff Chance and Sheriff Neneth; is that correct?
A. Yes, he did.
Q. And he said you and your brother had differences, didn't you?
A. That's what I said.
Q. And who did you support?
A. Chance.
Q. And who did he support?
A. Neneth.
Q. Are you and Anthony brothers?
A. Yes.
Q. Politically, it made no difference who won. One of

the Cafaros had had it in with the sheriff, is that a reasonable political statement?
A. No, because of -- well, it ended up -- I guess that's right. Phil did win so, yes, the answer is yes.
Q. But the point was it was a newly elected sheriff. Did he get money and help from a Cafaro family member?
A. He got help from me.
Q. Are you a Cafaro family member?
A. Yes.
Q. Fine. That's my question.
Now, at some point, you came to trial with Sheriff Chance, didn't you?
A. Yes.
Q. And isn't it a fact you testified you perjured yourself at that trial?
A. No.
Q. Are you saying you never perjured yourself at the Chance trial?
A. I testified that I lied in the Chance trial.
Q. When you lie under oath, Mr. Cafaro, as a businessman that runs the 11th largest private-owned company in America, do you know what lying means or not? Yes or no.
A. I know what lying means, and I admitted to lying.
Q. Under oath?
A. Under oath.

Q. And did the prosecutors tell you what that word was?
A. No.
Q. Did your attorney tell you what that word was?
A. I've never been told that I have committed perjury. As I understand it, it requires more than just lying under oath.
Q. Well, if you lie under oath today, what would it be, just lying under oath?
A. Congressman, you're asking more for a legal conclusion, and I'm not capable of drawing that conclusion.
Q. Were you coached by the Prosecutor to say that?
A. No, I was not.
Q. Let's get on.
Some point, you got an attorney in the matter because you got scared, right?
A. That's correct.
Q. What were you afraid of?
A. What you and I did.
Q. What did we do?
A. We did how -- how I was buying the boat.
Q. Well, did Rick Detore and I conspire to the boat purchase, or did you and I conspire for the boat purchase?
A. Congressman, I am responsible for what my employees did. So even though the conversations may have been with you and Richard Detore, I ultimately funded it, and I was

responsible for it.
Q. Did you know the value of the Traficant boat, Mr. Cafaro?
A. No.
Q. And did you know if your staff ever had a professional survey performed on the Traficant boat?
A. Do I know that now?
Q. Yes.
A. Yes, I do know that a survey was done.
Q. And what did that survey say?
A. Congressman, I don't know, but I think it said it was worth 30 odd thousand dollars as is.
Q. What does as is mean, J.J.?
A. It means as is, before any repairs are done to the boat.
Q. Now, did it say what it would be worth after repairs were done?
A. I don't remember, Congressman.
Q. Okay.
Did you at some point say there's $26,000 delivered to me?
A. No.
Q. You didn't write a check for $26,000 to purchase the boat?
A. Yes, I did.

Q. And who delivered it to me?
A. Richard Detore.
Q. Isn't it a fact that you brought in a $26,000 check in a book and opened the book up to the page, Mr. Cafaro? Yes or no.
A. No.
Q. So you said Richard Detore delivered the check?
A. That's my recollection, yes.
Q. Um-hum.
Now, if these were production vehicles, why couldn't you find the serial numbers on the cars?
A. Because there were no Avanti records left.
Q. You mean that you had a company incorporated under Ohio law, weren't you required to maintain records for so many years?
A. Yes.
Q. Doesn't the Ohio Bureau of Motor Vehicles require registrations and VIN numbers?
A. Yeah.
Q. On production models?
A. Yes. But I think we're beyond the time we got around to doing this, Congressman, 11 years past the manufacturing date, and you weren't required to keep records for 11 years.
Q. Well, you said to the Prosecutor you couldn't find

any. Does that mean that you had thrown the records away? You want to change your testimony now, or do you want to say you just couldn't find them?

A. No, Congressman. What I said was I needed the VIN number from the four-door. That's why the letter I had written only referred to two of the three cars.

Q. Now, you wouldn't have had to maintain those records, would you, Mr. Cafaro, after 11 years?

A. I don't believe so.

Q. But when you produce that car, wasn't it a law in the State of Ohio that you had to submit the VIN number on the manufactured car that you produced?

A. Absolutely.

Q. Did you submit it to the state?

A. Absolutely.

Q. Did you find out or did the Prosecutor bring -- show you evidence that those were production cars?

A. No.

Q. What prosecutors did you work with?

A. Mr. Morford.

Q. Could you identify him to the jury?

A. The gentleman right there.

Q. Did he ever ask you about the Ohio Bureau of Motor Vehicles?

A. No.

Q. Ever ask you about VIN numbers?
A. No.
Q. Did he ever ask you about manufacturing requirements in the State of Ohio?
A. No.
Q. To the best of your knowledge, is he an attorney?
A. I think so.
Q. Is he a good one?
A. Congressman, I'm not -- capable of answering that question. I would assume he's a very competent Prosecutor. That's why he's here representing the Government.
Q. Did he coach you on your testimony?
A. No.
Q. Did he tell you what he was going to ask you?
A. No.
Q. Did he meet with your attorney?
A. Yes.
Q. When was the last time he met with your attorney?
A. Last week.
Q. Did he inform your attorney that an IRS agent is going to sit through your interview?
A. Are you going back in time now, Congressman?
Q. No. This interview today, were you informed that an IRS agent was going to sit through your interview?
THE COURT: Are you talking about the

testimony in court today?

MR. TRAFICANT: Yes.

THE COURT: Congressman, you agreed that the IRS agent could be here.

MR. TRAFICANT: But I didn't ask him that, your Honor, no offense. I asked him if his attorney instructed him if an IRS agent would be in the courtroom.

MR. MORFORD: Objection as to the relevance that that could add to this trial.

THE COURT: Okay.

Well, he can answer, but it's not --

THE WITNESS: No, this.

THE COURT: This is not an interview. It's a confusing question to put to the jury as an interview. This is a court hearing.

Now, that we know what he's talking about, you can answer the question.

Did your lawyer tell you that there was going to be someone --

THE WITNESS: No. But I knew the gentleman would be here, although my counsel didn't tell me because we were sitting together in the witness room yesterday. So I knew he would be here.

Q. Who would be here?

A. The gentleman right over there, that you were

referring to.
Q. This gentleman here?
A. Right there, yes.
Q. Did he give you his name?
A. Bruce.
Q. Did he ask you any questions about your case?
A. No.
Q. What IRS --
A. If I got that wrong, I apologize.
Q. What IRS agents questioned you about this case then?
A. I don't know the -- when I was with Mr. Morford, I believe that there was an IRS agent at one of the meetings. I don't know the gentleman's name. Mr. Morford always conducted the interviews.
Q. Now, are you aware of the fact that Mr. Al Lange said yesterday that you were a liar?
MR. MORFORD: Objection to what Al Lange said yesterday, your Honor.
THE COURT: The objection is sustained.
MR. TRAFICANT: I want a side bar.
THE COURT: Okay. At the next break, we'll deal with this. Just go on to another question.
MR. TRAFICANT: You said the jury had heard the first one.
THE COURT: The jury has heard the testimony.

They've been here everyday, and they're listening, and the jury is here now to hear evidence from the stand. They can listen to evidence. We'll take up legal issues at the break.

Q. Did Mr. Detore refer to you as a liar?

A. Not that I know of.

Q. Isn't it a fact during the Chance trial that Prosecutor Morford called you a liar on the stand?

A. I don't remember his cross-examination of me, but that may be true.

Q. Isn't it a fact he accused you in a voice louder than mine that can be heard in the hallway, that you are lying about the Chance contribution? Yes or no.

A. Congressman, I just answered you. I said I don't remember his cross-examination of me. However, what you're saying very well could be true.

Q. Was that a RICO trial?

A. I have no idea.

Q. Did you have immunity in that trial?

A. No.

Q. Did you have immunity now?

A. No.

Q. Are you under oath now?

A. Yes.

Q. Were you under oath then?

A. Yes.
Q. Is there a difference?
A. Between what?
Q. Being -- having immunity or not having immunity?
A. Congressman, I don't know what you're asking.
Q. Well --
THE COURT: He's testified he doesn't have immunity and didn't have immunity. So there's a difference.
Q. Do you have a competent attorney, Mr. Cafaro?
A. Yes.
Q. Who advised you to take immunity?
MR. MORFORD: Your Honor, he just said he didn't --
THE WITNESS: I don't have immunity.
THE COURT: He doesn't have immunity, Congressman.
MR. TRAFICANT: Fine. Then we've established that, didn't we?
BY MR. TRAFICANT:
Q. Isn't it a fact you did not need immunity because you already made a plea agreement between your attorney and the Government?
A. Congressman, again, I don't know what the question is you're asking me.

Q. Well, the --
A. I did not have immunity. I have pleaded guilty, and if I do something while on the stand that is inaccurate, I can lose the plea agreement. I don't understand what immunity has to do with that. I don't have it.
Q. Good.
Now, when USAG first started, who were the workers paid by?
A. When USAG first started?
Q. No. When you started and you bought the laser technology and you began to hire employees, namely, Mr. Richard Detore and began your company, who sent them their paychecks?
A. Cafaro and Laser via the Cafaro Company payroll accountant.
Q. Did you give that information to the Government?
A. If they asked for it, they got it.
Q. They would have Cafaro Laser?
A. If they asked for it, they would have got it.
Q. Didn't they ask for any and all documents when they subpoenaed you?
A. Yeah, that's what I said. If they asked for it, they got it. I believe that we have fully complied with every subpoena and provided every piece of paper that the Government has requested of us. And I've not been told

differently by them or by my attorneys.
Q. So it's fair to say you don't know what the Government did with the stuff you gave them, right?
A. I would have no idea what the Government did with what I gave them.
Q. Now, you referred to me at one point in your statement as a champion. What is a champion, Mr. Cafaro?
A. Congressman, you're going to have to refresh my memory of my statement to whom and with --
Q. The Prosecutor asked you a question about me. Isn't it a fact you testified that I was sort of like a champion, and you were going to ride the horse?
A. Congressman, I guess the Court Reporter can read it back, but I don't have a problem characterizing you as a champion of the technology for us.
Q. Okay. Fine.
Let's move on. You knew Gephart?
A. Yes.
Q. You knew Mondale?
A. Yes.
Q. You knew Quayle?
A. Yes.
Q. Did you have pictures taken with Ronald Reagan?
A. Yes.
Q. Pictures taken with President Bush?

A. Yes.
Q. Pictures with Clinton?
A. Yes.
Q. Were they in the oval office?
A. Yes, some.
Q. Were you invited in personally?
A. Yes.
Q. Were you one of the biggest and were you, in fact, by both parties, distinguished as one of the biggest contributors to the parties?
A. Yes.
Q. Did you know Torricelli?
A. Yes.
Q. Did you know Warner?
A. Yes.
Q. Did you get funds sent to Warner?
A. Not directly. I think I gave -- I don't know, I don't remember.
Q. You already testified you gave a lot of money to different people, right?
A. I testified that there were times when I would have people to my home, that I would give them money for the contribution.
Q. Aren't there limits on federal contributions, there are laws dealing with federal contributions, Mr. Cafaro?

A. Yes.
Q. Are you familiar with them?
A. Yes.
Q. What's the maximum you can give to a federal candidate?
A. $1,000.
Q. Now, if you wanted to give that candidate $10,000, you can give him $10,000 by saying I give a thousand, my wife gives a thousand, John Richley gives a thousand, Craig Morford gives a thousand, Joe Blow gives a thousand, can't you do it that way?
A. No.
Q. Did you ever do it that way?
A. Yes.
Q. Wasn't it a fact that Senator Warner was the Senate representative of where your home office was located?
A. Well, he was the senator from Virginia, and Manassas is in Virginia. So I guess he's the senator from Virginia.
Q. J. J., I don't mean -- I don't mean to be rude, but this isn't rocket science. Answer the question.
A. Well --
Q. Is he not the senator from the your home office in Virginia?
A. Yes, he is the senator from Virginia.
Q. Fine. Answer it.

Why didn't you go to Senator Warner?
A. Because I was with you, Congressman.
Q. Why would you stay with somebody who did nothing?
A. It appeared you were making progress.
Q. Was a $4 million appropriation directed to your account a progress?
A. Absolutely.
Q. You know the difference between authorizing and appropriating?
A. Yes.
Q. What is it?
A. Authorizing, as I understand it, is the first step, and then the appropriation solidifies it.
Q. So you must first have the funds authorized?
A. Correct.
Q. If you're going build a bridge, you have to authorize the bridge?
A. Right.
Q. Then the appropriator decides if they're going to spend money on the bridge?
A. Correct.
Q. Do you know if the MEANPALS was authorized?
A. Yes.
Q. Was it appropriated?
A. Yes.

Q. Isn't it a fact you had to have certain requirements met with the Volpe Engineering Center?
A. I understand that Volpe Engineering was where some testing was to be done.
Q. Now, did Bob Torricelli arrange to bring Jane Garvey out to Manassas?
A. No.
Q. Who did?
A. You did.
Q. Did Vice-president Quayle call on your behalf to get Jimmy Duncan, Republican chairman of the subcommittee, to come out, inspect your project out at Manassas?
A. No.
Q. Who did?
A. You did.
Q. Isn't it a fact that you had meetings within the last two years to introduce your daughter, Capri, as a candidate for Congress?
A. A potential candidate, something she was looking at, yes.
Q. Who was the Congressman in that district you're talking about?
A. Right now, Congressman, the district is -- has three Congressmen, Strickland, yourself, and Mr. Sawyer.
Q. No, it does not. Isn't it a fact, Mr. Cafaro, that

that redistricting doesn't take place until next year, and the representative of the 17th district of Ohio is standing and questioning you?

A. Yes. You are -- you were referring to -- running for office, Congressman. And I was taking -- and I was answering it in that context.

Q. Was the meeting before two years ago, that you knew what the district lines were going to be? Did you know what the district lines were going to be two years ago, Mr. Cafaro?

A. No.

Q. Who was the Congressman in the 17th district when you had the meeting?

A. You were.

Q. Did you bring your daughter to the meeting?

A. Probably.

Q. Was one introduction at Anthony's on the River, to introduce her to public officials?

A. I don't remember one Anthony's on the River.

Q. Where do you remember them being?

A. I know she went down to Columbiana County and spoke at a few functions, to the Salem's Ladies Club and a few things of that nature.

Q. So you never took her and introduced her around at Anthony's on the River, to Judge Boda and Columbiana County

Commissioners and other public officials?
A. Congressman, I'm not saying I didn't. I don't recall unless you're referring to our normal Saturday lunch bunch crowd.
Q. Was there a Saturday lunch bunch crowd there?
A. Where?
Q. Anthony's on the River?
A. When?
Q. Usually on a Saturday.
A. On -- since my father passed away, it was the first Saturday of the month.
Q. What time would you meet?
A. Around 12:30. My daughter has been going to that, Congressman, since she was knee high.
Q. Well, where did you pick your daughter up? Did you go home to get her, or you just come straight from home with her?
A. When?
Q. When you took her to Anthony's on the River on Saturday?
A. Congressman, she -- when she was in town, she would often come to lunch. I mean, unless you give me a specific day and a specific instance, I mean, this was a once a month lunch.
Q. I see.

Was I at any of those meetings?
A. No, they weren't meetings.
Q. Was I at any of those lunches?
A. No.
Q. Now, at some point, you said Capri should move off and find another horse?
A. That was her recommendation.
Q. Was that before or after you got the $4 million?
A. Well, that was in '99, and the $4 million became available like April-ish of 2000. So it was before.
Q. Um-hum.
Did your daughter do any lobbying up on the Hill?
A. No.
Q. Did you and I ever have discussions about not having your daughter do lobbying up on the Hill?
A. Yes.
Q. And what were those conversations about?
MR. MORFORD: Objection to the extent that it's going to call for Congressman Traficant's hearsay statements.
THE COURT: Right. But, otherwise, it's all right.
Q. What, if anything, did you learn and come to understand from the Congressman's discussions with you?
MR. MORFORD: Objection, unless he learned it

some way other than Congressman Traficant's own words.
Q. What was your impression relative to your daughter's ability to lobby after having met with me?
THE COURT: That's fine.
THE WITNESS: I was under the impression that you believed she was too young. I, however, did not.
Q. So you sent her up to lobby?
A. After that, yes.
Q. You know who she lobbied with?
A. I know that she had conversations with Guy Vanderbilt. Who then she started to work with and who they went to, I do not know.
Q. Mr. Cafaro, are you a part owner of the Cafaro Company now?
A. I'm a principal of the Cafaro Company.
Q. As a principal, are you a part owner?
A. No.
Q. Wasn't that what I asked you first?
A. Well, here again, Congressman, we own a number of entities, and sometimes it is a little more complicated than a yes or no. But through a number of trusts, I ended up becoming an owner but personally directing, no.
Q. Was there a time when you struck your father?
A. No.
Q. Was there a time you were thrown out of the company?

A. There was a time when -- yes.
Q. Did you leave of your own volition?
A. No.
Q. Who instructed you to leave?
A. My father.
Q. How many years were you separated from the company?
A. Five.
Q. And how did you support your family?
A. I had my own company.
Q. Did you have a trust set up for you?
A. I didn't use my trust.
Q. You developed another company?
A. Yes.
Q. What company was it?
A. It was called Cafaro International.
Q. Does it still exist?
A. No.
Q. Did it ever -- was it ever recorded in the State of Ohio as a corporation?
A. Yes.
Q. Was it recorded with the United States as an international firm?
A. No.
Q. Is it a requirement of the federal government for international activities to be registered?

A. It wasn't an international company.
Q. Why did you call it international?
A. Sounded like a good name, and I think actual complete name was Cafaro International Investments Company, and we called it CI Little Shopping Centers, and we did a number of them.
Q. You ever build a shopping center overseas?
A. No.
Q. Outside the territories of the United States?
A. No.
Q. Then why did you put International on it?
A. Like I said, Congressman sounded like a good name at the time.
Q. Was that a misrepresentation of what the company's business interests were?
A. I guess so, Congressman. I mean --
Q. That's fine.
A. We didn't do international work. And the word was -- it just sounded like a good name.
Q. Now, when you did this new lobbying, did you sign a contract with those lobbyists?
A. Say this again.
Q. When you hired these new lobbyists, did you sign a contract with those lobbyists?
A. I don't believe so.

Q. Did you pay them?
A. Yes.
Q. How did you pay them?
A. By check.
Q. Did you turn those over to the Government?
A. The Government got everything they requested.
Q. Now, when the Kennedys came to your house and all these people came to your house, did you have people for fund-raising events for them?
A. Occasionally.
Q. And you paid most of the money, right?
A. No, I didn't say that. I say -- occasionally used others for some of the money, and I also had events, Congressman, where I've actually hosted it at my house and didn't invite a single person. It was done by the DNC. We had 50 people for dinner with President Clinton, and they did all the fund raising, so it's been a combination of things over the years.
Q. Explain to the jury who the DNC is.
A. Democratic National Committee.
Q. And they called you to have a private meeting at your house in Ohio with President Clinton; is that your testimony?
A. It was my home in Washington, D.C.
Q. Oh, was it D.C.? How much land you own in your home

in the D.C. area?
A. I think it's three acres.
Q. Where is it located?
A. On Chevy Chase Circle.
Q. How much is it worth?
A. Several millions of dollars.
Q. How much you pay for it?
A. A few million.
Q. You don't recall the exact amount?
A. Probably 8 million or 9.
Q. How much did you pay for your home? How much did it cost you?
A. 4 or 5.
Q. How much time did you spend in Washington versus Youngstown when you were the head of USAG?
A. Majority of my time was still spent in Youngstown.
Q. When would you go to D.C.?
A. When required.
Q. You were the boss? When were you required?
A. Pardon?
Q. As the boss, when were you required?
A. If there were issues that needed my personal involvement, I would be there.
Q. Couldn't they fax you?
A. Congressman, I just said when there were issues that

needed my personal involvement, needed me to be there, I would be there.

Q. Did you ever ask President Clinton to do you a favor?

A. No.

Q. Did you ever ask Vice-president Quayle to do you a favor?

A. No.

Q. Did you ever ask Vice-President Gore to do you a favor?

A. No.

Q. Did you ever ask Torricelli to do you a favor?

A. No.

Q. How many states do you operate in?

A. Congressman, I think you asked me that previously, and I said I think it's somewhere in 14, 15. Unless I sat here and actually counted them, I don't know, but 14 or 15 states, something like that.

Q. Had you ever met with the senators and governors from those states?

A. Some I have; some I haven't. And some that I did aren't there any longer.

Q. Did they ever do you any favors?

A. Not that I can recall.

Q. So the only one you ever did real favors for, who was your colleague, was me, is that what you're saying?

A. Favors in the -- the way we're talking about favors today, that's correct, Congressman.
Q. We're not talking about favors. We're talking about bribes. You know the difference between a favor and a bribe, Mr. Cafaro?
MR. MORFORD: Object again. He's asking him for a legal conclusions.
THE COURT: That's correct. You can move on to another issue.
Q. Did you ever discuss with your attorney the difference between a bribe and a favor?
A. No.
Q. Tell me then, why did you refer to them as favors?
A. That's how I looked at it at the time we were doing it.
Q. Did that ever change --
A. You were doing me a favor by working on behalf of USAG. I was, in turn, doing you a favor by helping you get out of a situation you had with your boat.
Q. Now, when you delivered a $26,000 check that a boat was worth $32,000 on, would that be an illegal act, Mr. Cafaro?
MR. MORFORD: Objection. Again, it's calling for a legal conclusion.
THE COURT: It's the same objection, and

it'll be sustained.
Q. Isn't it a fact, Mr. Cafaro, you never went down and saw one bit of work being done on that boat?
A. That's correct.
Q. Did you become aware that that boat sunk?
A. I heard that.
Q. Who told you that?
MR. MORFORD: Objection, hearsay.
THE COURT: Sustained.
Q. Do you have personal knowledge that that boat sunk?
A. No.
Q. I thought you just said somebody told you.
A. Someone told me. That's my -- that's not personal knowledge. Personal knowledge is going out and seeing it in the water.
Q. Oh. The only personal knowledge you had was someone told you that it sunk, right?
A. That's the only knowledge.
Q. Fine. Now, having the big contacts in the House and Senate, how did, in fact, USAG go bankrupt?
A. Because unfortunately, after a lot of hard work, when it was just getting to the point in time when the $1.3 you're referring to was available, we were now in March of 2000. In March of 2000, unfortunately, there was a spotlight on the relationship that you and I had, and it

was obvious that this issue and our relationship would become part of a much bigger issue, and because of the upcoming notoriety, we elected not to continue on with the company.

Q. J.J., you said you got the money for MEANPALS in what? Early 2000?

A. Did I think the MEANPALS money was available -- would it become available in April of 2000?

Q. April of 2000?

A. Somewhere around there, Congressman.

Q. Wasn't it a fact that you made comments in the newspaper relative to cars in 1999?

A. Yes.

Q. Wasn't it a fact you knew about a Traficant investigation in 1999?

A. Yes.

Q. Then why didn't you say don't go forward with the MEANPALS?

A. Congressman, I was hoping and praying it never got to me, but by the time the dollars were available with the Government, I was smack in the middle of this, had my own counsel, who was talking to the Justice Department, and we closed shop.

Q. Isn't it a fact, Mr. Cafaro, that you couldn't use the $1.3 million because you had not, in fact, complied

with military regulations, military requirements, did not produce the first required product necessary for you getting those funds? Yes or no.

A. Congressman, the contract was begun again in April-ish of 2000, and by the time it became available and the paperwork was done, we were not as a family, was not going to continue in the business of USAG because of the relationship and the things that you and I did together.

Q. So you didn't refuse the $1.3 million though, did you?

A. No.

Q. Did you deposit it in your account?

A. No.

Q. Where did it go?

A. It went to another contractor.

Q. Eventually?

A. Yes.

Q. For nonperformance?

A. Yes. We did not perform it. We -- we folded the tent.

Q. Do you know if the Army requested items of you and you responded? Yes or no.

A. No, we did not respond.

MR. TRAFICANT: Your Honor, it's about 12:00. I have further questions for this witness.

THE COURT: Fine. We'll take them up at 1:30. We'll be in recess. Remember the admonition, enjoy your lunch.

(Proceedings in the absence of the jury:)

MR. SMITH: Your Honor, before we go, in view of the fact the last witness is a summary witness, we would like to move some exhibits before 1:30 so that we're sure things are in before the agent starts summarizing.

THE COURT: There are a lot of other issues you know we're dealing with in this case. At least, I have a lot of issues, and I need some time to deal with the other issues I have. So what I suggest we'll do is bring the jury back, and we'll do exhibits when he's finished with this right before --

MR. SMITH: Very well, your Honor.

THE COURT: So we need -- we need more space to work in this. Okay?

MR. SMITH: Very good.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: Take your full lunch.

MR. TRAFICANT: 1:30?

THE COURT: Yes, sir.

(Thereupon, a luncheon recess was had.)

Tuesday Session, March 19, 2002, at 1:30 P.M.

THE COURT: Mr. Cafaro, you're still under oath.

THE WITNESS: Yes, ma'am.

THE COURT: Congressman.

MR. TRAFICANT: Thank you, your Honor.

BY MR. TRAFICANT:

Q. J.J., you said that buying that wooden boat was about the dumbest thing you could do, right?

A. Wooden boats are not a lot of fun, Congressman.

Q. You ever buy a boat?

A. Yes, sir, 100-foot Trumpy.

Q. What kind of boat was it?

A. A wooden boat.

Q. Why did you buy it?

A. Because I was stupid.

Q. Was your boat previously owned by somebody famous?

A. I think it was Whitney's boat, John Whitney.

Q. You still own the boat?

A. No, I've since sold it.

Q. When did you sell it?

A. Probably about three years ago.

Q. On or about the time of the Traficant repairs?

A. Congressman, I don't remember when.

Q. Well, the Traficant repairs were made in '98, '99.

When did you sell your boat?

A. Congressman, I don't remember. About three years ago.

Q. What year is it?

A. It's make is 99ish.

Q. I would prefer if you know yes, answer yes. If you know no, answer no so we can save time.

A. That's what I tried to do, Congressman.

Q. Now, the Government kept referring to the fact that USAG maintained and kept records in files; is that correct?

A. That's correct.

Q. Do you have payroll records?

A. Yes.

Q. Do you have void contracts?

A. Yes.

Q. Did you have bonus agreements?

A. Not in writing.

Q. Was a copy of those records forwarded and maintained in the Youngstown office as well?

A. Some of the records were, yes.

Q. Were some records maintained in Youngstown as well as Manassas?

A. Yes.

Q. Were some maintained exclusively in Manassas?

A. Yes.

Q. Were some maintained exclusively in Youngstown?
A. Yes.
Q. There was relationship between the Cafaro Company and USAG?
A. Define relationship.
Q. Being related.
A. They were not legally related.
Q. Were they located in the Cafaro Company headquarters?
A. Was who?
Q. Your USAG files?
A. Yes, they were.
Q. In your section of it, right?
A. Some.
Q. Were some co-mingled with the treasurer's records, Mr. Rosselli's?
A. I don't think commingled is an accurate term, but some accounting records were kept in the accounting area.
Q. Were you ever accused of bribing the Kentucky governor for making access roads to build a mall in Kentucky?
A. No.
Q. Did you ever respond in writing to a newspaper article that that was a falsehood?
A. I don't recall even having to address that issue. You have something to refresh my memory, I'll be happy to

look at it.

Q. Did you build a $40 million mall in Kentucky, Mr. Cafaro?

A. Yes. We build down in Kentucky.

Q. Did it become, in fact, the subject of controversy brought up by the United Press International the access roads being built by a $10,000 bribe made to the governor of Kentucky?

A. I have no idea what you're talking about.

MR. TRAFICANT: I don't have copies of this. You want me to hold it until later? You'd like to look at it?

THE COURT: Show it to the Government, and I'll know what you're talking about. This side.

MR. TRAFICANT: That side.

THE COURT: Yeah. Okay. This is -- this has stuff written on it. Do you have a clear copy that doesn't have your notes on it?

MR. TRAFICANT: No, I don't.

THE COURT: As you know, you can't give it to the witness with your notes on it. So this won't work right now. Maybe later.

MR. TRAFICANT: How about if I fold it and show him the headlines of it where he can't see the remainder of it?

THE COURT: There still are notes on the margins up above.

MR. TRAFICANT: They were not made by me. I object.

THE COURT: Okay.

MR. TRAFICANT: You're precluding me from showing it to this witness.

THE COURT: Okay. If you can get it -- if you can get a copy of that that doesn't have notes on it, then it may be something that you can show to the witness, Congressman. We've been over that before.

BY MR. TRAFICANT:

Q. Were you employed by the Cafaro Company in 1983?

A. Yes.

Q. Were you a principal in the company in 1983?

A. Yes.

Q. Did you build a mall in Kentucky in 1983?

A. Yes.

Q. All right. Let's move on.

Are you familiar with Mr. Detore's voice?

A. I would imagine so.

Q. Did you talk to him on the phone occasionally?

A. Yes.

Q. Are you familiar with my voice?

A. Yes.

Q. You talked to me on the phone?
A. Occasionally.
Q. Would you be able to identify our voices on a tape recording?
MR. MORFORD: Objection.
THE WITNESS: I don't know if I'm qualified. Sorry.
THE COURT: Okay. Well let's just go with his answer right now.
MR. TRAFICANT: You're going to let this one in?
THE COURT: Yeah.
Q. Go ahead.
A. I don't know if I'm qualified.
Q. If you heard the tape, would you be more familiar with it?
A. Congressman, I don't know. I don't know if I'm qualified to recognize voices on a tape. I don't know what's required under this type of setting to be an expert to do that.
MR. MORFORD: Your Honor, the objection is as to relevance, and there's no relevance to this line of questioning.
THE COURT: The other thing is with issues like this, if there is something that we need to do after

the jury's retired for the day, we can work with the -- whatever it is that you're going to propose regarding this. I'm trying to get it clear and trying to proceed, Congressman.

MR. TRAFICANT: Thank you.

BY MR. TRAFICANT:

Q. Now, at some particular point, you said this boat was a sink hole, or it was just a lot of money, and you put a stop to it?

A. It exceeded the budget that I was given for it, and I stopped it, that's correct.

Q. What budget were you given for the boat?

A. I was told it was going to cost around 20 some thousand dollars to repair it, if my memory serves me correctly.

Q. You mean your employees never showed you the survey on the boat, and you never asked for it?

A. No.

Q. Were you the boss?

A. Yes.

Q. Did they report incidents to you of importance?

A. Yes.

Q. Was I a political figure?

A. Yes.

Q. And they didn't report to you on this boat scam that

you're referring to that they did a legal survey and give you the results, is that your testimony under oath?

A. My testimony is they did not give me the survey. I did not request it. They did not give it to me.

Q. You don't even know if there was a survey done, do you?

A. I didn't at the time.

Q. Well, then why waste the money for a survey if someone wasn't interested in the boat?

A. Is that a question?

Q. I think so.

A. I don't think I can answer it.

Q. If these get too difficult for you, just ask me.

MR. MORFORD: Your Honor, I object to the editorializing.

THE COURT: Yeah, don't comment; just ask questions.

MR. MORFORD: The witness said he doesn't know.

THE COURT: Thank you.

MR. TRAFICANT: I'm going to get back to this $13,000.

Q. What time of the day was it?

A. It was immediately following the meeting that was held at YSU, whatever time that ended.

Q. Where was the meeting at YSU held?
A. In one of the buildings right there off of Phelps, but I don't remember the name of it, one of the business buildings.
Q. Big building, small building?
A. It had at least two stories because we were on the second floor.
Q. What street was it near?
A. It was near Phelps and Rayon and those streets down at YSU.
Q. Um-hum. How long did the meeting last?
A. I don't know, Congressman. It was a matter of public record. The media covered it so I guess we can go back and check old newspaper articles and find out how long it lasted. I don't remember.
Q. That wasn't my question. That wasn't my question. How long did the meeting last?
A. And my answer is I don't remember.
Q. Well, you said that I left with you.
A. That's correct.
Q. Who was conducting the meeting?
A. You.
Q. Well, could you have left with me before I finished conducting the meeting?
A. No. I said we left when it was over.

Q. And what car were we supposedly in, Mr. Cafaro?
A. We were in a green Cadillac that I owned at the time.
Q. And was it a two-door or four-door?
A. Four-door.
Q. What was the color of the interior, Mr. Cafaro?
A. Goldish, mustard, something of that nature. I don't know what you want to call it.
Q. And where was your car parked?
A. Right on the side street.
Q. And who else saw us get in the car together?
A. To the best of my knowledge, no one. The meeting was over.
Q. The meeting was over? Was everybody leaving?
A. Everyone had left. We hung around and got in my car and drove away.
Q. We hung around?
A. A little bit, yes.
Q. Until everybody left?
A. No, I didn't say that. I just said I didn't remember anyone seeing us leave.
Q. Oh.
When you said you put this in an envelope --
A. It was an envelope, that's correct.
Q. -- what color was the envelope.
A. Don't recall, probably -- I don't recall.

Q. Was it a Cafaro Company envelope?
A. Congressman, I don't remember. It was in an envelope.
Q. Did you write anything on it?
A. I did not.
Q. Did you ever use any of your own money, ever use any money from USAG to buy items that weren't to be bought for USAG?
A. I don't know if I understand what that means. I guess we did because I guess we bought a welder and a generator that weren't used at USAG so I guess the answer to that is yes.
Q. Do you know what happened to those welders and generators?
A. I know they weren't there. They weren't there when we closed.
Q. Do you know who they were delivered to?
A. No, I do not.
Q. The company never told you about the welder and generator?
A. I do not know where the welder-generator went.
Q. The prosecutors never talked to you about it?
A. Yeah. They asked me where they went.
Q. Did they ask you who took them from the Washington area?

A. I don't know that they were left in the Washington area.

Q. You're the boss of a company, and they buy a welder and generator that can't be used by the company, and you don't inquire what happened to them. Is that your testimony?

A. What I said was, when the company was done, we began an investigation. We found out that a welder and generator were missing. We gave that information to the Prosecution.

Q. So you did know that there was a welder and generator missing?

A. I said that, Congressman.

Q. And you never asked any of your staff what happened to them?

A. By the time we were at that stage, I wasn't speaking to any of the staff. The staff was gone, and I was not directly communicating with any former employees under the direction of my counsel.

Q. Did your counsel communicate with the Prosecution about that?

A. I don't know what my counsel did.

Q. Now, did you find it significant that Jane Garvey and chairman Jim Duncan came out to test flight those projects?

A. Absolutely.

Q. Were you not, in fact, infuriated over the fact that

the first FAA flight test was done during daylight hours?
A. During the daytime when it was wouldn't have done a lot of good.
Q. I didn't ask you that. Were you infuriated that they did it at a time when you really couldn't judge the efficacy of the laser system?
A. If it was done during the daytime, it would not have done a whole lot of good.
Q. Do you know if there was a test flight done by FAA during the day, Mr. Cafaro?
A. I do not recall.
Q. Mr. Cafaro, did you have anything to do with USAG except show up every once in a while?
A. Yeah. I had about 10 million reasons to be involved.
Q. You put up the money?
A. That's correct.
Q. And you were concerned about certification?
A. That's correct.
Q. Without certification, there could be no project?
A. That's correct.
Q. And you didn't know that the FAA was coming out to test your project during the day, whether it had no meaning?
A. Congressman, I said I may have known at the time, but a lot of that has not been something that I concentrated on

in the past. I'm sure at the time the FAA was coming out I was made aware of it by both Mr. Detore or Mr. Lange or both, and I'm sure at the time I was very much aware. But to go back down and ask me, I do not remember if it was done in the daytime.

Q. Did you write personal checks for the purposes of repairing the Traficant boat?

A. Yes.

Q. And who did you write them to?

A. Some went to Rick Detore; some went to Al Lange.

Q. Did you ever go down and see if the work was being done on the Traficant boat?

A. No.

Q. Did you know that the Traficant boat had sunk?

A. I was told that.

Q. When it was under the custody and, in fact, the possession of Al Lange?

A. I was told that I said.

Q. What happens when a boat sinks, J. J.?

A. I guess it's under water.

Q. Does it get damaged?

A. I would imagine.

Q. Did they ever tell you to call me about the boat?

A. Say that again, Congressman.

Q. Did your staff ever advise you and tell you to call

me about the boat?
A. No.
Q. Did you ever call me about the boat?
A. No.
Q. How do you know the boat work was being done?
A. Because that's what I was being -- that's what was being recorded to me.
Q. Are you saying the company is going bankrupt, you're writing checks, you've exhausted all the funds from your own brother, you now didn't have enough money for your own expenses, and you didn't even check to see what the money was being spent for?
A. Congressman, that was about 14 different issues of which you are characterizing my testimony. That is your characterization of a number of different things I said, and I can't possibly answer whatever it was you just asked.
Q. Let me ask you one. Let me ask you one. Did you write the checks for the boat repairs?
A. Yes.
Q. Did you ever check to see if, in fact, the money you were spending for boat repairs was being performed?
A. No.
Q. Did you ever go see the boat?
A. No.
Q. Isn't it a fact that Al Lange's boat was a small

boat, a fishing boat that wasn't and couldn't be used for maritime use testing?

A. Never saw Al's boat.

Q. Wasn't it a fact you were informed by your staff that Al's boat was not good for nautical testing by the Coast Guard?

A. I was informed that Al's boat was too small.

Q. And wasn't it a fact that your boat was too big and clumsy to be used for nautical testing?

A. I was informed that my boat was too big.

Q. Were you looking at every opportunity to market your company?

A. Yes.

Q. Did you believe that marine nautical systems of new technology were very important, Mr. Cafaro?

A. Yes.

Q. You talked about the Exxon Valdez, didn't you?

A. Yes.

Q. Let's talk about JFK Kennedy, Junior's tragic death. Had there been a laser system at that unmarked airport, might JFK had seen it?

A. Very possibly it could have saved his life.

Q. Wasn't delay laser technology a safety device that was absolutely a perfect fit for nearly every division of our Government?

A. In my humble opinion, yes, it was, Congressman.
Q. Well, then, why didn't you go to these other people, J.J.?
A. Congressman, you offered to help. I accepted, and you were doing what was apparently a good job. I mean, you said yourself where the dollars came from and what you were able to achieve, and I agreed. You did achieve those things.
Q. But couldn't Mr. Wolf, who was on the appropriation committee from Virginia, have been more helpful than me?
A. Congressman, I never asked.
Q. Didn't Capri suggest it to you?
A. Towards the latter part of '99, yes, she did.
Q. Who was president in the latter part of '99?
A. There was no official president. USAG was an LLC.
Q. I wasn't talking about USAG. I was talking about who was the president of the United States of America?
A. Oh, I'm sorry. I thought we were talking about USAG. President of the United States was Mr. Clinton.
Q. Did you know him personally?
A. Yes. I've known him for a long time.
Q. Been friends?
A. Yes.
Q. Did you call him?
A. Yes.

Q. Did you ask him about USAG?
A. No.
Q. Now, you said this USAG was a limited partnership corporation type of thing, limited partnership deal?
A. The correct terminology is LLC, limited liability corporation.
Q. And you say that there was never a title of president?
A. That's correct. There was no such thing in a LLC.
Q. Um-hum. Was your daughter, Capri, ever in the position of being president of the company?
A. She held that honorary title, yes.
Q. Well, why would an LLC need an honorary title?
A. Because when one is dealing with the public and it's very, very difficult, you have to somehow explain to people what their position is, and LLCs do not have corporate offices.
Q. Was LLC a corporation?
A. It ended -- an LLC is an LLC.
Q. Does it have to file incorporation papers with the State of Virginia?
A. No.
Q. What papers did you have to file in the State of Virginia?
A. There was paperwork you file in the state in which it

was set up in, and that was Ohio.

Q. So USAG was set up in Ohio as a Cafaro Company umbrella, LLC, right?

A. No.

Q. How was it set up?

A. I don't know what the term is. Cafaro Company means --

Q. You know what an umbrella is, Mr. Cafaro?

A. Something to stop the rain from hitting you.

Q. When you talk about a company, does it not talk about the things that might be within the umbrella of the company, would that explain it?

A. No, it wasn't -- there was no legal relationship between the Cafaro Company and USAG.

Q. Why did the Cafaro Company write the original checks to USAG employees, Mr. Cafaro?

A. Well, Congressman, if you are familiar with companies called Paychecks, okay, it was to take a common checking account that writes checks for 20 or 30 different entities. That's what the Cafaro Company does for a number of different entities. They all come out of one checkbook, but they are independently charged to various other entities.

Q. So you have all these various entities, right?

A. That is correct.

Q. And that's underneath the Cafaro Company umbrella, right?
A. It's not an umbrella. They're separate distinct entities.
Q. All separate accounts?
A. That's correct.
Q. Now, these 20 entities, how many of them were real estate?
A. I think there's more than 20 entities.
Q. Well, how many are there, Mr. Cafaro?
A. I don't know, Congressman, but there's several.
Q. Can you see the paper here? I'm going to put a circle. You see this circle? It's -- let's call this the Cafaro Company. How many companies?
A. Okay.
Q. Were the Cafaro Company paychecks wrote to non-real estate companies or employees?
A. None that I can think of.
Q. You mean to tell me that you're changing your testimony and telling me that USAG was not at one time receiving payroll paychecks from the Cafaro Company, signed by the Cafaro Company, is that your testimony?
A. My testimony, Congressman, if you would just take a breath, my testimony has been that employees of USAG were employees of Cafaro Laser, and through Cafaro Laser

received a paycheck with the name Cafaro Company on it.
Q. Well --
A. -- the employees at Eastwood Mall get a paycheck from the Cafaro Company charged to Eastwood Mall just as employees at Huntington Mall get a paycheck from the Cafaro Company charged to Huntington mall.
Q. Fine.
Of all of these entities, you mentioned two malls. We can put that -- how many malls you own?
A. 14 or 15.
Q. You don't know the exact amount?
A. 14 or 15.
Q. These all come out of the Cafaro Company checking payroll system, right?
A. Every check for every entity comes out of a common checking account, that is correct.
Q. Was the USAG paycheck sent to the employees marked Cafaro Laser?
A. Yes.
Q. They were?
A. On the second page, absolutely.
Q. And you have copies of them and have given those to the Prosecutor?
A. If the Prosecutor has asked for it, the Prosecutor has received them.

Q. Where did their insurance come from for USAG employees?
A. Initially, they were put on the blanket program at the Cafaro Company and then put on their own independent insurance.
Q. How long were they on the Cafaro Company insurance? How long were they on the Cafaro Company plan?
A. Probably on the Cafaro Company plan in the vicinity of a year.
Q. Would you say that's about the same time that USAG started writing the paychecks to the employees, too?
A. They were very similar in time when USAG started their own payroll account, and when they started their own insurance -- I think they had their own insurance before they had their own payroll account, I think.
Q. Mr. Cafaro, you have the 11th rank business in terms of wealth in the United States of America. When you started this LLC, why did you associate it with the Cafaro Company, and why didn't you start USAG right from the beginning and set up the proper account so you wouldn't have this line of questioning you're having?
A. Congressman, I don't understand your line of questioning, and what we did was legally prudent and very prudent from a business standpoint, and I don't -- I didn't do it having any idea of the future questioning that may

occur or even why it's occurring today.
Q. Okay. Now when you were boss, who was second in command?
A. At what point in time?
Q. In the beginning?
A. Richard Detore.
Q. Could Richard Detore fire Albert Lange?
A. Yes.
Q. Now, when Rick Detore was fired, who was second in command?
A. My daughter.
Q. Who was the chief operating officer?
A. Al Lange.
Q. Could Al Lange fire your daughter?
A. No.
Q. What was her position if he was chief operating officer?
A. I think we gave her the title of president.
Q. So then the honorary title of president could fire the official chief operating officer of your company, is that your testimony?
A. My testimony is that Al Lange could not fire my daughter. I owned the company, and he could not fire my daughter. Think about the logic, Congressman.
Q. I'm just looking for testimony. Isn't it a fact when

I sent press releases that our office had discovered that laser technology had been, in fact, implemented, tested, and used in certain capacities by the United States Government?

A. Can you repeat that question, Congressman?

Q. Forgetting your laser system, when you received press releases about -- laser technology being used, did you not receive information from my office that laser systems, not necessarily yours, had already been tested and used in certain Government areas?

A. Congressman, I know that they used lasers in a number of Government areas.

Q. And how did you come to learn that?

A. You can watch television and know you use lasers to guide a bomb.

Q. Back in 1989 -- 1998, did you know that the Navy was using lasers on its aircraft carriers?

A. I knew that before I invested in the company because of the lasers that were used on the aircraft carriers was done by radio and under license from the same people I bought it from. That was Alan Vetter and Mr. Shemwell. I knew that long before.

Q. So if the Navy was using them, whom do you feel would be a logical marketing opportunity for the company?

A. The rest of the military.

Q. Did, in fact, that happen?

A. That is where we were going, yes, with your assistance.

Q. You say that was your first priority?

A. I think it became our first priority, yes.

Q. And your second priority was FAA certification, correct?

A. Correct.

Q. And without FAA certification, you couldn't sell your system to the airports, could you?

A. That is also correct.

Q. Private airport or any airport wanted to buy it on an individual sale, they had the right to, didn't they?

A. I don't think so, Congressman. I don't even think you can sell it or use it even at a private airport unless it was private from the standpoint where you -- it was your personal airport.

If it had any aviation traffic, you could not use it without certification.

Q. Did you meet with airports to demonstrate it?

A. To demonstrate it? No.

Q. You mean you didn't go to Chicago O'Hare and say look, I want to have a demonstration on a rainy night of the technology I think can save lives?

A. No.

Q. Did you ever go to San Francisco where the wind sheer is great and ask them to allow you to have a test performed during a wind sheer, heavy wind evening?

A. Ask the airport? No.

Q. Did you ever put in writing a request from the Government to do so?

A. Again, I know that there were several instances where both the inventors previous to me and Rick Detore with me had been working to test the system under a number of different conditions. If they did that, they may have, but I do not know.

I do not think that was the case since Manassas was the official FAA test facility. I don't see why they would be making the request of anybody but the FAA.

Q. Who arranged for the first FAA flight during the day test?

A. During what day?

Q. When the FAA first tested your system, they tested it during daylight hours. Who arranged for that test?

A. I don't know, Congressman. Probably you.

Q. I would send the FAA out during the day. Is that your testimony?

A. Congressman, I said I don't know who.

Q. Why did you say probably me?

A. Because you were very active with the FAA, and you

were very good at getting them to respond.
Q. Did you know when I officially asked people to come out to, in fact, test your product?
A. I assumed when Jane Garvey came.
Q. And was there another time?
A. Also when Chairman Duncan came.
Q. What time did they come?
A. They came in the evening.
Q. Was I there with them?
A. I believe so.
Q. Did I fly in the plane with them?
A. Congressman, I don't know because I wasn't there for both. I was there for Chairman Duncan. I don't know if I was there for Garvey or not.
Q. You know who led the conversation to describe the technology and who the lead speaker was to explain the technology to Jane Garvey and to Jimmy Duncan?
A. Congressman, Chairman Duncan was there. You did a marvelous job in making the presentation to him.
Q. Isn't it a fact Capri started off with the presentation, J. J.?
A. She may have.
Q. Isn't it a fact that we had conversation beforehand for me asking you not to do that?
A. You did not want her speaking, that's correct.

Q. Was I doing that because I didn't like your daughter?
A. I think you were doing that because you felt in your heart of hearts that that was in the best interest of the company.
Q. Now, you've used the word favor for favor many times here, have you not?
A. That's your characterization. I have said you were extending yourself. You were doing me favors. I didn't feel that wrong to extend a favor back.
Q. So then you did use the word favor. That was my question.
A. Yes, you said many times.
Q. Did you use the word bribe?
A. No, I did not.
Q. Did you use the word gratuity?
A. I did not.
Q. Did you use the word gratuity in press releases?
A. In press releases on what issue?
Q. On this so-called money?
A. I have not had a press release on this issue.
Q. You were never interviewed about it?
A. I was interviewed about it.
Q. You did not refer to it as a gratuity?
A. I referred to what I did wrong as an unlawful gratuity. That is the official subsection of the bribery

code I pleaded guilty to.

Q. Well, then you said you know that -- now you say it's unlawful gratuity and under the bribery code?

A. No, Congressman. You asked me if I used the term here today of bribery or gratuity, and I said no. Then you asked if, in fact, I used it in a press release. I said no because I had not. Then you asked if, in fact, I used it in an interview, and I said yes.

Q. Well, let me ask you, J.J., am I charged with getting a favor from you or getting a bribe from you?

MR. MORFORD: Objection.

THE COURT: Congressman, I think we've been over this one more than once.

MR. TRAFICANT: I don't think we have, not where I'm going.

THE COURT: Well, you're not going to go with that question of this witness.

BY MR. TRAFICANT:

Q. Did you bribe me, Mr. Cafaro?

MR. MORFORD: Objection. It calls for a legal conclusion.

THE COURT: The objection is sustained.

BY MR. TRAFICANT:

Q. Is that not one of my counts or not?

MR. MORFORD: Objection.

THE COURT: We're dealing with your case here. This witness is on the stand.

MR. TRAFICANT: Yes. And I want to know if he bribed me.

THE COURT: Well, the jury's going to have to decide whether or not there was that kind of activity in this case after they've heard evidence in this case, and today we're trying to get evidence to the jury.

MR. TRAFICANT: Well, I think the jury should again have it from an answer from the client -- from the witness on this matter.

THE COURT: Well, unfortunately, that won't be permitted.

MR. TRAFICANT: I recognize that.

Q. Have we established you never worked at my farm?

A. Yes, sir.

Q. Did you ever send workers out to my farm?

A. No, sir.

Q. Did you build a barn for me?

A. No, sir.

Q. Did I ever fly in your private jet?

A. I don't believe so.

Q. Did you fly back and forth from Washington and Youngstown in your private jet?

A. Often.

Q. Did you fly other public officials?
A. Occasionally.
Q. Did you report it?
A. When I flew other public officials, what they do is they pay the cost of first flight airfare, which is required of that --
Q. And did you, in fact, receive their payments?
A. Yes, I have.
Q. And did you give them to the Prosecution?
A. If it was a subject of the subpoena, we did.
Q. Who were some of the politicians you flew in your private jet?
A. I've flown Senator Kennedy. I've flown Vice-president Quayle. I've flown a number of different people over the years.
Q. Now, you dealt with Al Lange on the boat?
A. Al Lange and Richard Detore.
Q. Wasn't it a fact that Al Lange was the mule that did the work?
A. He was the one primarily responsible, yes. You asked me who I dealt with. I dealt with both of them on the boat.
Q. You have any knowledge that the committees of the House responsible for the transactions of members' assets must be checked with?

MR. MORFORD: Objection as to any basis of knowledge this witness would have about any rules of the House, your Honor.

THE COURT: You'd have to establish something by asking him other questions.

Q. Did you or your staff ever inquire about the efficacy, the legality of buying my boat?

A. Not that I know of. I did not.

Q. Did there come a time when your American Express card was terminated?

A. Yes.

Q. Did you use that American Express card for USAG activities?

A. Yes.

Q. Was it also used for clothing, jewelry, furs?

A. Yes. However, Congressman, every bill was then paid for by the appropriate entity. If it was something that was used for my personal use, it was then paid for out of my personal account. If it was USAG, it was then charged to Cafaro Laser.

Q. At that time when it was done?

A. Yeah, at that time.

Q. You never backdated anything?

A. We didn't backdate those. When it's done at the time is when the charges are allocated.

Q. Do you remember meeting with the FBI in the middle of 1999?
A. I don't remember when, but I've dealt with the FBI in '99.
Q. Would you remember their names?
A. Again, I -- most of my conversations were with Mr. Morford, and which other individuals were there, I do not know.
Q. Isn't it a fact that you met with the FBI on four separate occasions?
A. I did not know how many times I met with members of the Justice Department.
Q. Did I ask you Justice Department or FBI?
A. I don't believe that I've met with the FBI without members of the Justice Department being there.
Q. Was any -- were any of these men there when the FBI interviewed you?
A. Mr. Morford was always there when I was there along with my two and/or three attorneys.
Q. Did you see them taking notes?
A. I imagine they were taking notes, yes.
Q. Is it your imagination, or did they take notes, J.J.?
A. I assume they were taking notes. I wasn't paying much attention to what they were doing.
Q. Did they ask to record your conversation?

A. I don't remember that.

Q. Did they ask you if you could give them a sample of the envelope that purportedly contained the $13,000 in cash?

A. Congressman, how can I give them a sample of the envelope that I gave you? It was gone.

Q. Well --

A. You have it. What you did with it, I don't know.

Q. What kind of envelope? Where would you have got it from? Did you go to the store and say I want a special envelope to give Jim Traficant cash with, sir?

A. No.

Q. Where did you get the envelope?

A. When I get my cash, it comes in an envelope.

Q. From where?

A. From the bank. My -- when I order cash, cash will come from Patty to me in an envelope.

Q. And what bank did she go to?

A. I have no idea. I do not remember what bank she went to.

Q. Do you know if the Prosecutor or the FBI met with your secretary?

A. Well, I don't know, it wouldn't have helped them because Patty isn't my secretary.

Q. Well, do you know if they met with Patty?

A. I'm sure they did, yes.

Q. Would Patty have told them what bank?

A. Yes, she would have. As a matter of fact, the Prosecution, when I was on direct, showed me the copies of the checks that were written for that $13,000. I'm sure if you look at the back, we'll know what banks they were cashed at.

Q. Fine.

Did the Prosecution ask you to go with them to the best of your knowledge or demonstrate to you or give you a copy of one of the bank's envelopes?

A. No.

Q. Did they ever ask you to identify the banks, any and all bank envelopes or look at an assortment of bank envelopes to determine which one you used?

A. No.

Q. Did you make Chance a loan, or did you give him a bribe?

A. Congressman, I wish you -- I never bribed Phil Chance.

Q. Did you ever tell the FBI that you did not know Lenny Strollo?

A. I believe I said that, yes.

Q. That you did not know Lenny Strollo?

A. I did not know Lenny Strollo, that's what I think I

told them at the time. I think they asked me if he had been to my --

Q. Fine. I'm asking the questions, sir. And I appreciate for the expedience of time you be direct.

Did you at a later time explain to them that you knew Lenny Strollo?

A. Yeah. After I figured out who Lenny Strollo was, yes.

Q. All right.

You -- at the time when you met him, you didn't know he was Lenny, right?

A. Yeah. I didn't know who he was. I thought he was Strollo from Hannahan and Strollo, the architects.

Q. Oh. Isn't it a fact Lenny Strollo asked you to contact Senator Kennedy about a casino in Puerto Rico?

A. Casino somewhere. I think it was Puerto Rico, yes.

Q. If he was from Hannahan and Strollo and architects would they have had a casino in Puerto Rico, Mr. Cafaro?

A. When the meeting was set in my office, it was set up, I did not realize who and when it was until the man was sitting in my office. I was polite, I was courteous, and I smiled, and I did nothing.

Q. Let me ask you this: Who is Lenny Strollo?

A. Lenny Strollo is the Godfather of the Youngstown mob, I guess.

Q. Okay.

Now, as an executive, your secretary just set appointments for you, doesn't confer with you. She just lines them up for you, Mr. Cafaro, is that your testimony?

A. My testimony is that meeting was set up. I did not realize it was Lenny Strollo until I was -- until he was in my office and we had the meeting. And once it became evident to me that my assumption of which Strollo this was was incorrect, then I was very polite, but I took his request, read it later, called and told him we couldn't help him.

Q. He asked you to call Senator Kennedy. Did you say why do you want me to call Senator Kennedy, what's your interest here?

A. Congressman, I don't remember the conversation in detail. I can just tell you that he requested some type of help with a casino. The casino was on an island. It was a former Sheraton Hotel. It could have been Puerto Rico. It could have been Bermuda. I don't remember which island it was.

Q. Evidently, you have quite a good memory. It must have been conversation of some length. How long was it?

A. Congressman, this occurred in the early '90s, and that was ten years ago, and I cannot recall the length of the conversation that took place ten or 11 years ago.

Q. Well, you recall Puerto Rico, you recall some island somewhere you recall with Senator Kennedy?
A. I recall certain key points of that particular meeting.
Q. Did a man by the name of Frank Forbes ever come to you?
A. Yes. I think -- I don't think his first name is Frank though. Isn't it Stephen Forbes?
Q. Tell me.
A. The only Forbes that ever came to me had to do with a gentleman who wanted to build a car. Is that the gentleman you're talking about?
Q. Yes, sir.
A. Okay. I -- I don't remember. I thought his first name was Stephen.
Q. That's not important. You met with a Mr. Forbes, correct?
A. Yes.
Q. What was the purpose of his call on you?
A. He wanted to make a car called the Prowler, and he wanted to get the rights to the Chevy Capris from GM and wanted investors in the venture, and I put him together with members of your staff.
Q. Why did you put him together with members of my staff?

A. Well, he was interested in creating jobs in the Mahoning Valley. You were interested in creating jobs in the Mahoning Valley, and you were on the transportation committee. He needed something from GM, and that's -- I thought it was a good place to put him.

Q. Why didn't you call Vice-President Gore for him?

A. Because I didn't.

Q. J.J., isn't it a fact that you and I had an informal agreement on U.S. Aerospace?

A. That is correct.

Q. And what was the agreement that we had?

A. The agreement we had, if USAG was ever in a position where we had substantial orders, the manufacturing and also the corporate offices of USAG would be moved to the Mahoning Valley.

Q. And the jobs would be where?

A. In the Mahoning Valley.

Q. And isn't it a fact that that term was not agreed to. I wouldn't have gotten involved with it?

MR. MORFORD: Objection. That's speculation.

THE COURT: You can answer.

THE WITNESS: I think that that was a motivation you had.

Q. You fear me, J.J.?

A. No.

Q. Did you ever fear me?

A. I had a moment of pause.

Q. When was that?

A. When it was reported that you had issued a contract on a lady that worked at your farm.

Q. That I was supposedly to have her murdered?

A. That was what the media was reporting.

Q. And where did you read that?

A. I don't remember if I read it or if I saw it on the news or I heard it on the radio. But that was a rumor that was floating around that would give anybody a moment of pause.

Q. Well, wasn't it more than a rumor? Wasn't, in fact, the woman interviewed?

MR. MORFORD: Objection.

THE COURT: You have to go through a series of questions with him to show that he would know whether or not it was more than a rumor.

BY MR. TRAFICANT:

Q. Did there come a time you found out this woman was interviewed?

A. By who?

Q. By the press.

A. I don't remember, Congressman. I said I don't remember how I found out.

Q. Was I a popular guy back home?

A. With some.

Q. Did people know me?

A. Quite a few.

Q. Do you know if that was an election year?

A. What was an election year?

Q. The time of this so-called murder?

MR. MORFORD: Objection as to any relevance. The question started with his understanding based on theory.

THE COURT: Well, you have to go back.

MR. TRAFICANT: Okay.

Q. So you had a fear at some point and said man, this guy let a contract out, right?

A. The allegation gave one a moment of pause I said.

Q. And when you paused, what was your impression?

A. I don't know if you'd have an impression. I mean, the issue created a moment of pause.

Q. Were you shocked to hear that type of press release about the Congressman?

A. I don't know if it was a press release.

Q. Well, when you heard that information, were you shocked?

A. I think that shock is a relative term, Congressman. It -- it was something that gave me a moment of pause. I

don't know how else to explain it.
Q. But you said you -- at that point on, you could fear me, didn't you?
A. No, I didn't. I said for a moment you asked if I feared you. I said no. You asked if I ever feared you. I said there was a time when there was a moment of pause. You asked me when it was. I explained to you when it was.
Q. Did you ever tell the Government that the convertible was a piece of crap?
A. Yes.
Q. Were you lying to the Government then?
A. No. As they came out on direct, you have the wrong car.
Q. If I have the wrong car, is it still a piece of crap, Mr. Cafaro?
A. The car you have is not a piece of crap.
Q. Shall we take the jury to see it?
A. Congressman, if you want my definition of a piece of crap, you should come see the one you were supposed to get.
Q. Fine. Let me ask you this: You mean you never even took the time to delineate what car the Congressman was going to be buying?
A. I did tell him which car to take. You took the wrong car.
Q. You sold the company for nothing. Were there any

parts of cars included in that sale?
A. Yes.
Q. What kind of parts?
A. Various.
Q. Explain some.
A. Fenders, window mechanisms, radios, HVAC systems, various things that make up a car.
Q. Partially built fiberglass bodies?
A. Partially built fiberglass bodies.
Q. Ready to be put on chassis?
A. Ready to be put on chassis.
Q. Isn't it a fact, Mr. Cafaro, that nearly every car you sold came back with such major defects that you couldn't sell those cars?
A. No.
Q. You could sell those cars? What does your answer mean?
A. My answer is you asked if, in fact, the cars had such major defects that they came back to the plant, and then they couldn't be sold, and the answer to that is you are incorrect.
Q. Go ahead. Explain.
A. You were able to sell Avantis.
Q. How many Avantis did you sell?
A. Avanti was geared to build and sell about 100 a year,

and it was in the'80s to '90s.
Q. How many years was Avanti open?
A. In the Youngstown facility about three and a half.
Q. Cars?
A. No, three and a half years.
Q. Three and a half years?
A. Yeah.
Q. And you sold 80 cars?
A. A year.
Q. You sold 80 a year?
A. About that.
Q. So you sold a total of 250 to 300 Avantis?
A. Yeah, somewhere in that vicinity, manufactured out of that facility.
Q. Did you have another manufacturing facility?
A. It was in South Bend before it was in Youngstown.
Q. Well, didn't you buy it from South Bend?
A. When I bought it, we still operated at South Bend.
Q. So you had now an operation in South Bend and in Youngstown, right?
A. For a short period of time, that's correct.
Q. And you closed down South Bend and moved the management apparatus to Youngstown?
A. That's correct.
Q. Who was the chief executive officer of that company?

A. Michael Kelly.
Q. Did the Government ever ask you questions about your financing a deal for Mr. Kelly?
A. No.
Q. To be more specific, did they ask you about being involved with Mr. Kelly in financing a drug deal?
A. You mean during my proffer sessions?
Q. At any time.
A. During my proffer sessions, they asked that question, yes.
Q. And what was your answer?
A. No such thing ever occurred of that nature.
Q. So you use -- you let your entire company go. Now, how did you finance the Avanti purchase?
A. Which Avanti purchase?
Q. The first one when you got it from South Bend.
A. How did I buy the company?
Q. Yes.
A. I bought it through a 50 percent investment in the company.
Q. Did you get any federal or state monies in the form of grants?
A. No.
Q. Do you know if the company in South Bend had received a grant to build that plant?

A. I doubt it, Congressman. That was the original Studebaker plant where they made Buckies.
Q. So the Al Lange thing was all a joke about his dad working for the company, huh?
A. I don't know, Congressman. That's just what I was told.
Q. Did you ever tell me that you were paying for the boat repairs, J.J.?
A. No.
Q. Why didn't you?
A. Never came up.
Q. Was I your friend?
A. Yes.
Q. Then why would you expose me to this?
A. Congressman, you exposed yourself to this.
Q. Is that right?
A. You exposed both of us to this.
Q. Then why didn't you tell me you were paying for the boat?
A. Never came up.
Q. Then why did you need me to believe that Al Lange was buying the boat?
A. Congressman, you knew where the money was coming from from day one.
Q. How did I know that, J.J.?

A. Well, Congressman, when you asked for the purchase money of the boat, I said I'll give it to Al, and you said no (indicating rubbing finger together.)

And once you said that, it was clear you knew from the very beginning where the money was coming from for the boat.

Q. Did you write a check for $26,948 for the boat?

A. Yes, I did.

Q. Did you just buy that and send that amount for any particular reason?

A. I thought that was the number that Rick gave me for the boat.

Q. For the what, payoff on the boat?

A. Yes.

Q. So you were ready to pay off and buy the boat right outright, weren't you?

A. Yes, I was.

Q. But the check was returned to you, wasn't it?

A. Yes, it was.

Q. And when you got the check back, what account did you deposit it in?

A. Turned right around and had it deposited in my personal account.

Q. Was it a problem to get it put back in your account?

A. No.

Q. You just went ahead and put it right in?
A. Yeah. I guess Patty had to have one check redone. I don't know what she had to do, but it got done.
Q. Was it a different kind of check than normal?
A. It was a cashier's check, bank check.
Q. Oh.
Did you ever give me that money back in cash, J.J.?
A. No. I could only give you $13,000 of that back in cash.
Q. You said you did that -- what? -- years later?
A. It wasn't years later. You have a calendar, we can take a look at those dates again.
Q. I'm sure the Prosecutor will when he comes back.
Bottom line, did I receive that check. Did I take that check from you?
A. No, you did not.
Q. How do you know I didn't?
A. Because I got it back.
Q. Isn't it a fact I handed it back to you in my office, Mr. Cafaro?
A. Congressman, I don't remember it that way. But, if you remember me at your office, I am not going to call you a liar. I just do not remember it that way.
Q. Well, listen let's get into lying right out. This is my question: Did you bring in a book, opened up,

approximately eight by ten, and hand me a book with a check in it, yes or no?

A. No.

Q. Mr. Morford was right when he referred to you as a liar. You're lying under oath.

MR. MORFORD: Objection.

THE COURT: We've been in here a lot of weeks. Let me all ask you if you can disregard that improper statement? Thank you. We'll take a break now for the afternoon.

(Proceedings in the absence of the jury:)

THE COURT: We're going to let the jurors take their regular smoking break, and I expect everybody to be calm and quiet and stand for them when they come out. Are you going to be able to do that, Congressman?

MR. TRAFICANT: Have I not demonstrated constraint?

THE COURT: You've demonstrated that you are not exactly able to control yourself when you should. Would you like to tell me before I let the jurors out whether or not you're going to be able to be calm and quiet while they leave?

MR. TRAFICANT: Are you putting on the record my behavior is offensive?

THE COURT: Your behavior was inappropriate.

MR. TRAFICANT: Is it inappropriate for me to respond to a Prosecutor that's trying to tell me to do certain things and look me in the eye and trying to intimidate me?

THE COURT: I am talking of your behavior in front of the jury, Congressman.

MR. TRAFICANT: My behavior in front of the jury, your Honor -- this is an open courtroom and, in fact, you have stopped me from moving in areas of impeachment that were important to my defense, and I want that on the record.

THE COURT: That's on the record. That's on the record.

MR. TRAFICANT: Now, I'll sit down. I certainly can restrain myself.

THE COURT: What I'd like --

MR. TRAFICANT: No one intimidates me.

THE COURT: I would like to know whether you can be calm and quiet so we can let the jurors have their normal break?

MR. TRAFICANT: Have I ever been disorderly when the jurors have left the room?

THE COURT: I don't believe when the jurors are in the room, you usually are disorderly, but you just did something completely inappropriate in front of the

jury, and you know it was inappropriate.

MR. TRAFICANT: I do not know. I am not an attorney. If I did it, I apologize.

THE COURT: Let's bring the jury out.

(Pause.)

THE COURT: We have about a half an hour here. I'm going to give you a five-minute break. We're going to come back and discuss a couple of things, and we will begin the introduction of evidence as well that you had requested that we begin doing. So we'll use the break.

And I want to give you each five minutes. And I ask that everybody on this side of the bar conduct yourselves in a professional way -- that includes you, and you -- and try and maintain some distance from one another.

Take a break because when we come back, we're going to have some work to do, and we're going to discuss some important issues. Five minutes.

MR. TRAFICANT: Your Honor, I have one question. I have witnesses lined up, and I was trying to establish how much of a time frame we have so I might release witnesses, and if we can come to some stipulation.

THE COURT: We're not able to do that given what's been going on in this courtroom.

MR. TRAFICANT: Should --

THE COURT: Five minutes, you come back in.

MR. TRAFICANT: Thank you.

(Thereupon, a recess was taken.)

(Proceedings in the absence of the jury:)

THE COURT: Okay. We're going to do exhibits.

MR. SMITH: Yes, your Honor.

I probably have about 25 of them here, your Honor.

THE COURT: Thank you.

MR. SMITH: We'll start with in the 8's, your Honor. Exhibit 8-9, which is authenticated by Mr. Cafaro, a memo from Mr. Detore to Mr. Cafaro, dated 10-2-97.

MR. TRAFICANT: Joint exhibit. I move to make it a joint exhibit.

THE COURT: Very well. It'll be a joint exhibit. I want to just check its status. This will be admitted as a joint exhibit without objection.

MR. TRAFICANT: Before we go any further, though, there's a sticker joint exhibit, just a yellow thing that says joint exhibit. I'm not satisfied with that. I want the joint exhibit to say that both the Defense and the Prosecution admit this as a joint exhibit.

THE COURT: I don't think we can put stickers on that many pieces of evidence, but you've asked before, and everyone has agreed that --

MR. TRAFICANT: When I saw it.

THE COURT: -- excuse me. You asked before, and everyone has agreed that the statement that you made about that a couple days back is -- can go to the jury in the form of an instruction. So --

MR. TRAFICANT: So you will instruct them?

THE COURT: Yeah. We'll have to go back to the transcript a few days ago and pick up the exact language, but we'll do that.

MR. TRAFICANT: Thank you. Thank you.

THE COURT: Okay? Next.

MR. SMITH: Next, your Honor -- sorry.

THE COURT: Go ahead.

MR. SMITH: Exhibit 8-11, which is a Bank One check, $26,948 and some odd cents identified by Mr. Cafaro and also Ms. DiRenzo.

MR. TRAFICANT: I want to make that a joint exhibit as well.

THE COURT: It'll be a joint exhibit. It'll be admitted.

MR. SMITH: Next, your Honor, is Exhibits 12(2).

MR. TRAFICANT: What was that?

MR. MORFORD: 8-

MR. SMITH: 8-12(2), which is the return check that went back to Mr. Cafaro after he got the --

MR. TRAFICANT: Want to make that a joint exhibit.

THE COURT: Would it be possible for you not to talk across what they're doing? Shall we do this by standing up and sitting down? You can do that if you'd like. I would like you to recognize when someone is speaking and standing up and not talk across them.

We now have to go back one more time over this so that we have an accurate record, which protects both sides.

MR. TRAFICANT: Thank you.

THE COURT: So just be seated, okay, Congressman, while he does this again.

MR. TRAFICANT: I thought you just asked me to stand.

THE COURT: Please be seated. Okay.

MR. SMITH: Exhibit 8-12(2), your Honor, is a cashier's check on Bank One, returning to John J. Cafaro, the initial check that had gone payable to NationsBank, authenticated by Mr. Cafaro during his testimony and also by Ms. DiRenzo.

MR. TRAFICANT: That's a $26,000 check, right?

MR. SMITH: Yes, it is.

MR. TRAFICANT: Thank you.

THE COURT: Okay. Now, address that if you'd

like in regard.

MR. TRAFICANT: I'd like to make that a joint exhibit, your Honor.

THE COURT: Very well. So it'll be admitted as a joint exhibit without objection.

MR. SMITH: Next is Exhibit 8-12(3), which is the deposit ticket by which the Exhibit 8-12(2) was redeposited into Mr. Cafaro's account.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: It will be admitted as a joint exhibit without objection.

MR. SMITH: Next, your Honor, is Government's Exhibit 8-15, which was authenticated by Mr. Cafaro, memorandum from Paul Marcone to Richard Detore about a bill and to be sent up later this year and attached press release.

MR. TRAFICANT: I object to it on the grounds that it may be a speech and debate clause violation.

THE COURT: Very well. This is a redacted version of this bill, is it?

MR. SMITH: Yes, there is -- there is some language redacted on Page 1, and there's also redaction out of the press release on Page 1 of the press release.

THE COURT: Okay.

MR. TRAFICANT: Your Honor, anything that has been redacted in my opinion, press release, I will not object to. But the other document, if any part of the document was subject to speech and debate clause, then all of that document shall be, in fact, ruled out.

THE COURT: Okay. Maybe --

MR. TRAFICANT: That's my objection.

THE COURT: Maybe it will be more clear regarding this particular exhibit if I hand down to you, Congressman -- because it doesn't appear that you brought your exhibits -- the two pages, and you look at them and decide whether you want to pose your objection or not.

MR. TRAFICANT: The press release I have no objection to.

THE COURT: It'll be admitted.

MR. TRAFICANT: But for the other one, where there is a redaction, where is the redaction in this thing?

THE COURT: Well, it doesn't show. Whatever's been redacted has been taken out --

MR. TRAFICANT: Have you removed anything from this memo?

MR. SMITH: We believe -- I'm trying to rely on memory here, before the word let's, there's a hole and we think --

MR. TRAFICANT: I move that 8-15 not be

admitted because there's been a redaction. When there's a redaction for the purpose of the record, that any and all of that document should not be admitted because part of it violates speech and debate clause and the separation of powers.

MR. SMITH: My reply, your Honor, would be the Congressman did not object to the Magistrate report recommendation. The Court already knows our position on that, but I don't want to waive that.

MR. TRAFICANT: I want to respond to that.

The Magistrate made a recommendation, the Court ordered it, and the Congressman has filed an interlocutory appeal on the Court's motion -- on the Court's ruling. So I'm now making my case that their arguments are moot, and if they win, we'll look at another appeal. If they lose, quite frankly, I won't care about it. Let the House worry about it.

THE COURT: This particular document will be admitted over objection.

MR. SMITH: Next, your Honor, we move to Exhibit 8-30, which are handwritten calendar notes authenticated by Mr. Cafaro as being his own calendar for a meeting on 11-12-98 with other Congressmen.

MR. TRAFICANT: Joint exhibit.

THE COURT: Exhibit 8-30 will be admitted as

a joint exhibit without objection.

MR. TRAFICANT: That's 8-30, your Honor?

THE COURT: Yes.

MR. TRAFICANT: 8-15, that was the two-parter, right?

THE COURT: 8-15, I admitted the entire exhibit, part of it without objection. The first page without objection, but then as I understood you when you looked at it, I went back now and had admitted it over objection because it sounds to me as if you were objecting to, in fact, anything redacted, and both of those pages were redacted.

MR. TRAFICANT: No. I make the press release a joint exhibit, but anything else that's redacted other than a press release --

THE COURT: Okay.

Then I'll go back and rule as I originally had, which was that both parts -- all parts of this exhibit will be admitted. There is no objection to the press release part of this.

MR. TRAFICANT: It'll be a joint exhibit, the press release?

THE COURT: Yes, the press release will be a joint exhibit, but as to the rest of it, apparently, it will be admitted over objection.

MR. SMITH: Okay. Your Honor, next is Exhibit 8 --

THE COURT: Excuse me a minute.

MR. SMITH: Yes.

THE COURT: All right. I'm sorry. Go ahead now.

MR. SMITH: Exhibit 8-31, which is a check that was authenticated by both Ms. DiRenzo and Mr. Cafaro, to cash for $8,000, the testimony having to do with boat repairs -- sorry -- not boat repairs. This is the -- this is part of the $13,000. I'm sorry.

MR. TRAFICANT: Well, it's a check for $8,000, and I object to the fact that they -- how they tried to describe their exhibits. I make it a joint exhibit as being an $8,000 check.

THE COURT: Okay. But, I wish you had your book here. That's what we keep trying to get you to do. But come up and look at the exhibits so that you know exactly what it is we're dealing with. It's not just a check. There's something else there besides a check.

MR. TRAFICANT: He explained that. He said it was a check. He didn't say there was something else with it.

THE COURT: The reason I'm giving you the exhibit, Congressman, although you have been given these

exhibits both by the defense and by the -- and the Court has asked you to bring your entire book in, which you haven't, is so you can see what the exhibit is. If you'll look at it carefully, it has a front and back to it, and there are at least two items on the front.

MR. TRAFICANT: I understand it. I ask it be made a joint exhibit.

THE COURT: Fine. And it will be admitted without objection. Am I correct?

MR. TRAFICANT: A joint exhibit.

THE COURT: Right, but are you objecting to its admission?

MR. TRAFICANT: Is there something on the back I need to see?

THE COURT: I don't know. I handed it to you.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: Okay. It is a joint exhibit, and it will be admitted without objection.

MR. TRAFICANT: I said that three times.

THE COURT: No. You said half of it. Okay. Next.

MR. SMITH: Moving along to Exhibit 8-32, which is the other half of that $13,000 transaction, $5,000

check that the two witnesses, DiRenzo and Cafaro, have authenticated.

MR. TRAFICANT: Ask it be made a joint exhibit. That's DiRenzo and -- that's 8 and 5, right? Joint exhibit.

THE COURT: I'll hand it down to you again.

MR. TRAFICANT: I don't need to see it.

THE COURT: Okay. Joint exhibit, it'll be admitted.

MR. SMITH: Exhibit 8-40, your Honor, was authenticated today by Mr. Cafaro as a business record of USAG, having to do with an attached -- an attached letter to Administrator Garvey and then the attachment is with the letter.

THE COURT: Congressman.

MR. TRAFICANT: I'll have to see it.

THE COURT: There are things behind it so you have to pull it out of the glassine. Thank you.

MR. TRAFICANT: I apologize, your Honor. I'd get a hernia if I carried everything for this trial. I don't believe we should be offering things -- is this attachment -- has that all been blanked out? It has attachment. There's nothing on it. Is this a blank redacted document?

MR. SMITH: My understanding, your Honor, is

where it says attachment, that is the only word that was on that page when we received it.

MR. TRAFICANT: I object to this on the ground that this is congressional matter relating from a Congressman to an administrator of the executive branch on the speech and debate clause grounds and separation of powers. What number is that, Bernard?

MR. SMITH: The last was 8-40.

MR. TRAFICANT: Your Honor, if I could address the bench, the attachment is one up on the top, attachment.

THE COURT: Right.

MR. TRAFICANT: That's all there is.

THE COURT: Right.

MR. TRAFICANT: I mean --

THE COURT: That's all there's ever been on that document, Congressman. We looked at these documents over many months before --

MR. TRAFICANT: Are you positive of that?

THE COURT: Yeah. It has its own special number. We just have to check it here to see what it says.

MR. TRAFICANT: Your Honor, I'd also like to request that if documents were intact -- in fact, attached together by either staple or clamp, that they be offered as such and not be hidden three or four behind each other and

then shown as an exhibit.

THE COURT: Well, this is a -- this is a document that's been subject to prior pleadings in the case. You've had it for a long time. It was one of the documents that the Magistrate Judge referred. It's a document which I then -- or which he looked at, and he responded to, the document that I looked at. It's not a new document.

It's very difficult to divide evidence in this case to staple anything. It's very hard for someone to work with it. This is an acceptable way for an exhibit to be presented. Everybody has watched witness after witness take things out of the glassine envelopes and look at all the pages, so there's no surprises in it. So if that was --

MR. TRAFICANT: Your Honor --

THE COURT: It's overruled. Yes?

MR. TRAFICANT: I want to speak to being overruled.

THE COURT: Well, sir, we aren't --

MR. TRAFICANT: You are now bringing it into admitting it. I am objecting to its admission beforehand. There were just rulings. Now you are making the official court decision.

THE COURT: Right.

MR. TRAFICANT: To admit it as evidence in this trial.

THE COURT: That's true.

MR. TRAFICANT: And I object on the grounds of speech and debate.

THE COURT: I understand that.

MR. TRAFICANT: And all that language is meaningless that we discussed here.

THE COURT: What is the issue about staples that you're concerned about?

MR. TRAFICANT: I'm saying if they have a document that has an attachment, then she should present it as an exhibit with a document with an attachment and have it so attached.

THE COURT: It came across the fax machine, which doesn't accommodate staples, and it's being presented in an acceptable way.

MR. TRAFICANT: Are there three separate sheets there?

THE COURT: There are.

MR. TRAFICANT: Are they one document?

THE COURT: They have one exhibit number.

MR. TRAFICANT: Fine. I'm referring to that.

THE COURT: Fine.

MR. TRAFICANT: So you're letting it in over

the objection?

THE COURT: This document will be admitted over objection in the state that it's in as an exhibit.

MR. SMITH: Next, your Honor, is Exhibit 8-41, which is a one-page fax from Detore to Marcone, which was authenticated by Mr. Cafaro.

MR. TRAFICANT: Ask it be made a joint exhibit.

THE COURT: This will be admitted as a joint exhibit without objection.

MR. SMITH: Next, your Honor, is Exhibit 8-47, which is the Cafaro credit card statement showing the purchase of the -- I believe it's generator of Blalock Cycle Company in Warrenton, Virginia, authenticated by DiRenzo.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: It will be admitted without objection as a joint exhibit.

MR. SMITH: Next is 8-49, which is a memorandum from Capri Cafaro to J.J. Cafaro, which was authenticated by Mr. Cafaro, part of which he read from on the screen, having to do with Government issues -- administrative issues.

MR. TRAFICANT: Administrative issues of

USAG?

MR. SMITH: Right.

THE COURT: Would you like to see the document?

MR. TRAFICANT: If it's a company document, I don't need to see it.

MR. TRAFICANT: Any other pages in it?

MR. SMITH: There were three.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: This will be admitted without objection as a joint exhibit. Next?

MR. SMITH: Government's Exhibit 8-53, identified by Mr. Cafaro, which is a memorandum from Detore to Cafaro, dated November the 5th of '99, where basically funds are short and Mr. Detore's complaining about those kind of issues.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: This will be admitted as a joint exhibit without objection.

MR. SMITH: Next, your Honor, is Government's Exhibit 8-55, which at the time the Congressman requested it be a joint exhibit. It's the $7,000 check from the Congressman to Janet Cafaro, Cafaro in payment for cars.

MR. TRAFICANT: That's already a joint exhibit.

THE COURT: It'll be admitted without objection.

MR. SMITH: Next is Government's Exhibit 8-58, which is authenticated by Mr. Cafaro having to do -- it's a letter to the Congressman saying that the car is being sold as is, and there's a Maryland title as well with this particular --

MR. TRAFICANT: Ask -- I ask it be made a joint exhibit.

THE COURT: This will be admitted as a joint exhibit without objection.

MR. SMITH: Next, your Honor, is Exhibit 8-60. Mr. Cafaro authenticated as supplemental $3,000 check from Congressman Traficant to Mr. Cafaro concerning the automobiles.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: This will be admitted without objection as a joint exhibit.

MR. SMITH: Next, Government's Exhibit 8-66, which Mr. Cafaro authenticated as another memorandum from Mr. Detore to Mr. Cafaro, when the -- again, when the money was short and things were not being paid, checks were

bouncing, that sort of thing.

MR. TRAFICANT: Ask it be made a joint exhibit.

Next would be --

THE COURT: Just a moment. 8-66 will be admitted as a joint exhibit without objection.

MR. SMITH: Exhibit 8-70, which is the press release taken off the Congressman's web site authenticated by detective Hassmann, and Mr. Cafaro made it relevant by explaining its proximity to the Youngstown State meeting, which Mr. Cafaro gave $13,000.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: 8-70 will be admitted without objection as a joint exhibit.

MR. SMITH: Next, your Honor, is 8-71, which is authenticated by language as being the attorney fee letter where, you know, his attorney's fees being paid by USAG was explained between Mearns and Wilkinson, the other two lawyers.

MR. TRAFICANT: I ask it be a joint exhibit.

THE COURT: 8-71 will be admitted without objection as a joint exhibit.

MR. SMITH: And before I move to the -- a couple of other exhibits, 8-62(2) is a group of bulk

documents, which we're not going to offer yet. We are going to summarize those with the agent probably off the chart later so you know that's coming.

THE COURT: Okay.

MR. SMITH: I believe this will be the last series of documents, your Honor, 1-32(1).

THE COURT: Hold on just a second. Could you give me the number again?

MR. SMITH: Yes, your Honor, 1-32(1).

THE COURT: Okay. Hold on until I get to it.

MR. TRAFICANT: I'd like to see that document since now they're going back to a noncontemporary sneak ploy.

THE COURT: 1-32(1)?

MR. SMITH: Right. It's a campaign finance report, certified copy.

MR. TRAFICANT: And while we're looking at this, your Honor, I'd like to ask for the record again, at any time before this trial closes, can I offer exhibits in any and all matters?

THE COURT: It depends on where we are in the trial. You can't offer exhibits at any time that you want to during the trial.

MR. TRAFICANT: No. What I'm saying is before I conclude my defense, if I want to offer all my

exhibits at the end, I have the right to do that. Is that not a fact?

THE COURT: If you want to -- see if this is what you mean. You put on a defense, and you don't put anything into evidence until at the very end, and then you put in all your documents at one time.

MR. TRAFICANT: At the end.

THE COURT: Yeah, that's all right. But it has to be at the end of your case.

MR. TRAFICANT: I ask this 1-32 be a joint exhibit. Thank you, Bernard.

MR. SMITH: For the record, your Honor, that's for the 1998 calendar year.

THE COURT: Right, this will be admitted without objection as a joint exhibit.

MR. TRAFICANT: That's a campaign report, right?

THE COURT: Right.

MR. SMITH: Yes. And also 1-32(2).

THE COURT: Hold on one second.

MR. SMITH: Yes, your Honor.

MR. TRAFICANT: You guys need help over there?

MR. SMITH: No, sir.

THE COURT: You have any record?

MR. SMITH: That's a self authenticating document, not by any witness.

MR. TRAFICANT: 1-32(2).

THE COURT: 1-32(1) the one campaign finance committee report.

MR. TRAFICANT: That's already --

THE COURT: That's in.

MR. TRAFICANT: A joint exhibit?

THE COURT: Yeah.

MR. TRAFICANT: He's talking about 1-32(2).

THE COURT: Okay. He's ahead of me.

MR. SMITH: 1-32(2) is the 1999 federal campaign report self-authenticating not shown to any witness but --

THE COURT: Right, Congressman.

MR. TRAFICANT: That's J.T.?

THE COURT: Yes.

MR. TRAFICANT: And you've shown it to the witness?

THE COURT: Here, let me hand it down to you.

MR. TRAFICANT: Has he shown it to my witness and had it authenticated?

THE COURT: It's self-authenticating. These particular exhibits are self-authenticating. Remember we had some others --

MR. TRAFICANT: They're public records?

MR. SMITH: I believe them to be.

MR. TRAFICANT: I think they are, too. Make it a joint exhibit.

THE COURT: Fine. They'll be admitted without okay. Joint exhibit.

MR. SMITH: Lastly, your Honor, the other day when I did series 7, I neglected to offer the Manevich exhibits from the deposition tape.

THE COURT: Okay.

MR. SMITH: Which are series 7.

MR. TRAFICANT: Might I inquire if you have any more series you're going to get to today, Bernard?

MR. SMITH: No, sir, 7 will be it.

MR. TRAFICANT: What is this?

MR. SMITH: Okay. 7-33(2), which is an aerial photo of the farm, which both the Congressman and I used during the deposition.

THE COURT: Right.

MR. TRAFICANT: Your Honor, let me say this about the farm. The aerial deposition they've shown only showed the nice part of the farm; didn't show any of the dilapidated buildings, and I think that the Government should have a full photograph. They do not show all of the buildings on the farm, and the buildings they don't show on

the farm are, in fact, ready to fall down.

THE COURT: Okay. Well, look at these two. I think you asked these be made joint exhibits. I may be wrong.

MR. TRAFICANT: I meant joint exhibits at the time, but I think in all fairness, there has to be a photograph of this farm.

And I just want it brought to the attention of the Court that they attempted to delete the damaged buildings so that it wouldn't look -- from a thousand feet they all look beautiful, but I'll make it a joint exhibit. But I think the Government should have the responsibility, since they made such a deceptive act, to provide a full shot of the farm.

MR. SMITH: Your Honor, all the pictures --

MR. TRAFICANT: At their expense.

MR. SMITH: -- all of the pictures were given to Congressman Traficant before trial. If he has any others that he wants in, we'll be glad to consider it.

MR. TRAFICANT: No. I am going to make it a joint exhibit, but I think the Court should order for fairness that the attempt by the Prosecution was to show the jury what they only wanted the jury to see of that farm and not all the buildings on that farm. And that it was a deceptive act, a ploy, a mischievous, deceitful, ridiculous

act.

THE COURT: Congressman, this -- this exhibit was already admitted several days ago.

MR. TRAFICANT: Yes. But I'm talking about now I think you should order on the strength what I have just said.

THE COURT: To the extent that that is an oral motion, it's denied. You'll have a chance to do what you want to about flushing out pictures or whatever.

MR. TRAFICANT: But how do I do all that? That ain't fair.

THE COURT: There is a pilot picture in there.

MR. TRAFICANT: There is?

THE COURT: Yes.

MR. TRAFICANT: How about taking the Sugar car out on the tape. Will they introduce that one?

MR. SMITH: Your Honor, I'm ready to move.

THE COURT: That'll be a good idea.

MR. SMITH: 7-34, which is the photos of the back of the house, there's three of them, with the improvements made to the back of the home.

MR. TRAFICANT: I ask they be made a joint exhibit.

THE COURT: It was already admitted as a

joint exhibit.

MR. TRAFICANT: Then why do you keep offering these things? I must ask that.

THE COURT: Well, because we have a record of it, and this is a good opportunity to see whether our records jive with the Government's. Why don't you take a minute, and look through our record on this series and see if it's the same thing.

MR. TRAFICANT: Let me inquire of the Court. If we agree to a joint exhibit, do they have to have a special additional admission exhibit, or do they just want some press out of this?

THE COURT: No. They -- having a joint exhibit, the exhibits still have to go through a process where they're offered for admission. It's just one of the rules of the game here.

MR. TRAFICANT: You know, it's included on the master list, and I've got witnesses waiting that have to drive all the way up here, and I don't appreciate it.

THE COURT: There is nothing wrong with what's going on here. The jury is having its break and hopefully enjoying their break, and in a few moments, they'll be back, and we'll go forward with the witness who's on the stand. It's probably not a real -- there probably isn't a real good chance we'll get to any of your

witnesses, if any, today.

MR. TRAFICANT: Can I relieve my witnesses?

THE COURT: Sure you can, but wait until we finish doing this evidence, and then you go out and relieve them. The Government, as I understand it, after the witness who's on the stand now, still has another witness.

MR. TRAFICANT: Yes. Well, I have to relieve myself as well for the Court.

THE COURT: Okay. Well, then you can do that. Can we go forward with this?

MR. TRAFICANT: Yes.

THE COURT: All right. Thank you.

MR. SMITH: The last two exhibits are a pair, and I gave the Congressman a copy this morning as well as the Court. When I did Leisel Bucheit, I showed her 7-38(1) and 7-38(2). She was unable to identify those.

THE COURT: Right.

MR. TRAFICANT: I object if they're not authenticated.

THE COURT: Wait. He's standing up. He's in the middle of a sentence. Be quiet so we can --

MR. TRAFICANT: I thought he was done.

THE COURT: Be quiet when I'm talking, too. Just wait. These court reporters cannot write down two conversations at once, and you need a good record, sir. So

help us make a good record for you, sir.

MR. TRAFICANT: Why do I need such a good record?

THE COURT: Because it's your lawsuit and their lawsuit. We have to have a good record.

MR. TRAFICANT: Let's get this straight. It is their lawsuit. They filed the lawsuit. And why do you need a good record, your Honor? Do you expect me to get convicted?

THE COURT: You need a good record, Mr. Traficant.

MR. TRAFICANT: I'll have a good record, a better record than you think I have, and I -- unless this has been authenticated, the Court should not allow it and should bring a witness into this room to authenticate it period.

THE COURT: Well, I'm not going to be able to consider that long talk you just gave me until I hear what it is that he was trying to say.

MR. TRAFICANT: I thought he was done. Mr. Smith is usually curt to the point, not like Mr. Morford.

THE COURT: Are you ready to sit down and let him talk?

MR. TRAFICANT: I am. Thank you.

THE COURT: Thank you.

MR. SMITH: Okay, your Honor. This morning, we provided to the Congressman and to the Court under the appropriate federal rule a certificate of authenticity of business records now recognized by the Rules as an appropriate way to authenticate a business record such as this, and we are offering those two exhibits under that provision.

MR. TRAFICANT: Let me see them because you dropped so much garbage off, I want to see it.

MR. SMITH: Okay. I have to get them out.

MR. SMITH: This is what I gave you a copy of this morning.

MR. TRAFICANT: And Ms. Bucheit could not authenticate these.

MR. SMITH: That's correct, she could not.

MR. TRAFICANT: Then bring in Mr. Aey. I object. You have him listed as a witness. You want to bring in records, or you want to bring in witnesses?

MR. SMITH: Your Honor, we offer it under 902(11).

THE COURT: Thank you. It'll be admitted. Anything further?

MR. TRAFICANT: What number was that?

THE COURT: 7-38(1).

MR. SMITH: Yes, your Honor.

THE COURT: Thank you.

MR. SMITH: Lastly, your Honor, one cleanup item, which I mentioned to your law clerk this morning and going back through old transcripts, we discovered that when Exhibit 1-21 was offered, that has been admitted, and 1-26(1) has been admitted according to your law clerk's notes and our notes, however, in the transcript, on Page 1298 and 99, when 1-26(1) was offered, it came out in the transcript as 1-21, and we want to make that note for the record.

MR. TRAFICANT: I would like to see that and what the discrepancies are and how -- how it was made and what way it was made.

THE COURT: Why don't we take a five-minute break? We will get the transcript and look at it and show it to you, and that'll give you a chance to have your five-minute break before the jury comes back.

MR. TRAFICANT: Maybe Mr. Smith and I can take a second to discuss it before we can proceed. It may not be a significant thing. I just want to see it.

THE COURT: Fine.

MR. SMITH: All right.

MR. TRAFICANT: He is known for a few funny acts, you know. Okay.

MR. SMITH: 1-21.

MR. TRAFICANT: Just show it to me.

MR. SMITH: Yes, sir.

MR. TRAFICANT: You're looking for press, forget it. I ask 1-21 be a joint exhibit.

THE COURT: It'll be admitted as a joint exhibit without objection.

MR. TRAFICANT: Where was the discrepancy?

MR. SMITH: Mr. Semesky.

MR. TRAFICANT: Where and what was the discrepancy?

THE COURT: They're talking about a transcript discrepancy.

MR. TRAFICANT: Yes.

MR. SMITH: Discrepancy was when we offered 1-26(1) it came out in the transcript as 1-21. That's the discrepancy.

MR. TRAFICANT: Well, then, I have no problem with 1-26(1) being a joint exhibit, but I'm at a loss for words how we can have two documents listed as 1-21, and I do ask for an explanation of the Court. I mean, what's going on here?

MR. SMITH: I'll try again, your Honor.

MR. TRAFICANT: I'm not an attorney, and I mean it. I want to know what's going on.

THE COURT: Okay.

MR. SMITH: I will try.

THE COURT: Listen carefully.

MR. SMITH: Government's Exhibit 1-21 was offered and admitted. We then at some point on some date offered 1-26(1). In the transcript at Page 1298 and 1299 at the point where we offered 1-26(1) it came out in the transcript as 1-21, which we believe to be a typographical error, and therefore, we're covering it now to make sure both documents have been admitted.

MR. TRAFICANT: I'd just like to address the Court. The Court Reporters have done an excellent job. And I believe that they're going so fast with their exhibits that they're, in fact, confusing everybody. And I'd ask them to slow down, constrain themselves and behave, and offer them in an appropriate fashion.

THE COURT: I'm going to ask that the transcript be corrected. Anything further?

MR. SMITH: No, your Honor.

MR. TRAFICANT: Your Honor, I have -- I want to offer Defense Exhibit AL-101, which is, in fact, a survey of the boat by -- that was ordered by Mr. Lange and authenticated by Mr. Lange during his testimony.

MR. MORFORD: I have no objection, your Honor, other than I'd like to ask that the cover fax sheet

from Akin, Gump and Strauss be taken off the exhibit.

MR. TRAFICANT: No. I would object to that. I received it this way. I offered it this way, and it came, in fact, not from the Government; it came from another party, and that party is clearly delineated as being named in the indictment, and that it, in fact, shows that I had to get documents of relevancy, knowing full well that the Prosecution had this document and did not make it available to me upon discovery.

MR. MORFORD: It is in the discovery materials that were given to Congressman Traficant that he told the media he never bothered to look at.

MR. TRAFICANT: I really didn't.

MR. MORFORD: How do you know it's not --

MR. TRAFICANT: You want to make it a joint exhibit now that you've explained it? But I do object, and I think that first page should be on there because it shows where it came from, and he was shown the document, and he was shown the front page as well.

THE COURT: Well, I'm not going to admit this document under the circumstances. I'll discuss this sometime whether we're not -- when we don't have a jury sitting back there ready to go forward.

MR. TRAFICANT: Let me say this.

THE COURT: Not under these circumstances.

MR. TRAFICANT: You're going to leave the whole document out or just the front page out and rule on it later?

THE COURT: I'm not going to leave anything out yet. We're discussing whether or not the front page of this document under the circumstances set forth in the last four or five minutes here is something that's going to take a while, so we're not going to keep our jury locked up in the back room any longer. We're going to bring them out give them a chance to hear evidence.

We'll do this when they go home today. Okay?

THE COURT: Thank you.

MR. TRAFICANT: Thank you.

THE COURT: You're welcome. If you want to release your witnesses, this will be the time to do it, Congressman.

MR. TRAFICANT: I have to release more than my witnesses.

THE COURT: Five minutes.

(Thereupon, a recess was taken.)

(Proceedings resumed in the presence of the jury:)

THE COURT: You're still under oath.

THE WITNESS: Yes, ma'am.

BY MR. TRAFICANT:

Q. When I was sheriff, isn't it a fact I investigated

the Cafaro Company?
A. That's my understanding.
Q. Were you working for the company at that time?
A. Yes, I was.
Q. So by your understanding, is that a yes?
A. Congressman, I was not involved. That's just my understanding. I have no direct knowledge.
Q. Would you say you're one of the wealthiest families in the 17th Congressional District of Ohio?
A. I'd have no way of knowing that.
Q. Would you say you're one of the top five?
A. I would say that the family has been very successful. And that's -- it shows in its net worth, but I don't know what anyone else is worth.
Q. Wasn't it a fact that if the sheriff investigates the Cafaro family, he treats everybody alike, doesn't he?
A. Congressman, that's your characterization. I have no idea.
Q. Now, isn't it a fact you had pickets outside of the Avanti plant when it first started?
A. We had pickets. I don't know if it was when we first started but we had pickets at some point.
Q. You know who was responsible for having the pickets removed?
A. Actually, we beat a vote.

Q. You know who recommended that the union back off of picketing Avanti and giving it a chance?
A. Congressman, I previously testified that I know that you had made a statement in the paper that they should back off. If you had involvement directly with them beyond what the news reported, I'm not aware of it.
Q. Tell the FBI that I had such strong union support, that as soon as I entered the picture and made that recommendation, the problem went away?
A. I don't know if those were my exact words, but I gave you credit for the union issue, having dissipated after your involvement. I think that's factual.
Q. Isn't it a fact if those union picket lines would have stayed you would have been in real serious trouble to start with?
A. Congressman, that requires a great deal of speculation and speculating on something that happened 11 years ago and could not possibly answer that question.
Q. Isn't it a fact that on the first black Avanti you testified, that you personally asked me to drive it to D.C. for people to see --
A. Yes, that's what I testified to.
Q. And did you not ask me to drive it as often as I can so that maybe someone would see the merits of your vehicle?
A. Yes, I did, Congressman.

Q. Isn't it a fact that I reported to you that the car was not road-worthy?
A. You reported that car had some problems, and if my memory serves me correct, it had some type of leaking problem, the car you had.
Q. Wasn't it a fact that when it rained, all the floors would fill up with water. Did I not tell you that?
A. That's what you reported to me.
Q. Did I not tell you I had to stop at every rest stop because it overheated?
A. That's what you told me.
Q. Isn't it a fact that I told you the car was stored, and do you want it back?
A. Yes, you did.
Q. And what did you tell me?
A. I asked you to please keep the car, and keep it in storage because I had nowhere to move it to.
Q. Isn't it a fact that you were called by people who had the car stored what you wanted done with the car?
A. I was called by you. I don't know where you had it stored.
Q. What, if anything, did you say?
A. I said what I just said.
Q. Keep it?
A. Keep it.

Q. But the Prosecutor made it look like that I didn't return it.

MR. MORFORD: Objection to what the Prosecutor made it look like. He's here to testify, your Honor.

THE COURT: Right, that was a statement. Ask a question, please.

BY MR. TRAFICANT:

Q. Did I deliberately withhold keeping your car from you?

A. No, sir.

Q. Did I, in fact, buy that car from you?

A. Yes, sir.

Q. Do you know if that car runs?

A. I don't know if that car runs. I haven't seen it.

Q. Do you know if that car is on blocks?

A. I have no idea.

Q. Would a production model be eligible for parts?

A. Today? No.

Q. Did you not say you sold all the parts to Avanti?

A. Yes.

Q. Isn't it a fact it is not made from a general motors product?

A. Only the chassis and the drivetrain are GM products.

Q. Who made the engine?

A. GM. That's part of the drivetrain.
Q. Stop right there. We have the engine. We have the drivetrain. We must have the axles that fit to the drivetrain. What is different about your Avanti than a Capri Classic?
A. Well, Number 1, it was about four inches shorter.
Q. Which meant you had to cut the frame?
A. That's correct.
Q. Fine. Go forward.
A. It had a different exhaust system. It was not a standard Capris exhaust system.
Q. Let's stop there.
Can I not go to any Auto Zone and buy an exhaust system?
A. Congressman, I have no idea. The exhaust system that that car was built with was designed specifically for that car. Now, if there are parts or ways to make parts on the exhaust system, that's very possible, but I don't know.
Q. Mr. Cafaro, isn't it a fact that they can bend two beams and put a muffler on any car no matter how it's designed?
A. Congressman, you're asking me the differences between the cars. I'm simply trying to answer your question.
Q. Okay.
Tell me the difference between a Capris Classic,

which has the motor, the drivetrain, the transmission, the rear end, the axles, the wheels, tell me the difference.

A. Well, all of that is the same. Then you start getting into the differences. You have a different gas tank between the two. You have all of the interior components, your motors to run your electric windows, the system to run your climate control, the motor to run the windshield wiper. All are unique to Avanti.

Q. All right. Then let me ask you this question: Did you manufacture Avanti parts?

A. No.

Q. Then you bought them, didn't you?

A. Yeah.

Q. Where did you buy them from?

A. Various vendors.

Q. Well, if you were able to buy --

A. We manufactured the Avanti parts, but we went ahead and allotted the subcontracted -- the wiring parts are unique to Avanti.

Q. All right.

Let me ask you this question: Yes or no, did you do anything other than install the body and put it together?

A. Yes.

Q. What did you manufacture?

A. We manufactured the Avanti automobile, which included

many component parts.
Q. What component part did Avanti build itself?
A. We built, as I started to tell you, all of the doors, all of the windows are unique to Avanti, all of the interior electric is unique to Avanti, all the wiring harnesses are unique to Avanti. There are many pieces that are unique to Avanti.
You cannot go to a store and just get it off of the shelf. The lights are unique to Avanti. The taillights are unique to Avanti, the rear windshield. The side windows are all unique to Avanti.
Q. Isn't it a fact they're unique because none of them worked, and they had to throw them away?
A. No.
Q. You're sure of that?
A. Yes.
Q. Now, talking about lighting, you made a big issue about that. Let's use an example in this court room. Let say's say this beautiful courtroom, the chandelier, all of a sudden the wiring went bad, they'd either have to tear the whole beautiful ceiling apart or run a new wire, wouldn't they?
A. I don't know, Congressman.
Q. So you're saying that lighting problems of an Avanti can't be solved?

A. I didn't say that. You're saying that. I don't know what you're saying.
Q. You built a Capris Classic and put a plastic body on it, didn't you?
A. Congressman, if it makes you happy, I'll be glad to go along with that characterization. I mean, I know what we did, and what we did is what we did, and you can characterize it if that's -- if that is your characterization and that makes you happy, then I'll be more than happy to make you happy.
Q. Thank you for making me happy.
Did you tell the FBI that Traficant bought three cars from you?
A. Yes.
Q. Did I ever ask you to give me those vehicles?
A. No.
Q. Did you not feel that $7,000 was enough for all three vehicles?
A. Yes.
Q. Who was the one that felt that maybe after reading in the article all this stuff, that you should get a little more money?
A. You did.
Q. Did I send you more money?
A. Yes, you did.

Q. Did you, in fact, get the first check?
A. Yes, I did.
Q. Was it made out to you?
A. It was made out to my wife.
Q. Because who owned the cars?
A. Well, the cars were owned -- the Jeep was in her name, and the other two were untitled.
Q. Okay. Now they were not prototypes?
A. Well, one was supposed to be, but neither of them were.
Q. Okay. Now, back to this: To the best of your knowledge, did you report under law the VIN numbers, registration numbers, serial numbers, to the Ohio Bureau of Motor Vehicles or any entity?
A. When Avanti was in production, one of the things that had to be done was paperwork had to be filled out to the Ohio Department of Motor Vehicles. I believe that's the proper place that registered the VIN numbers of the various cars. We also had to go through the fact that the first car we started with was a full car. So we had to take and officially do away with that VIN number and then a replacement with an Avanti VIN number, and that was done.
Q. And you did that, didn't you?
A. That's correct.
Q. And then this prototype business came up, didn't it?

A. I don't know what this prototype business came up means, Congressman.
Q. Did the Prosecution bring up prototype and the difference between the costs?
A. No, I did.
Q. Okay. Did you tell that to the Prosecutors?
A. Tell what to the prosecutors?
Q. That they were not prototypes; they were production models?
A. Ultimately, yes. When I found out that the one convertible you had was a production vehicle, I explained that to the Prosecution.
Q. Was there any evidence that it's a production car?
A. If you look on the windshield, you'll find a number, and I think the number of the convertible that you have is probably my 415 or 450, one or the other, but that's the VIN number for Avanti, and I chose it. There was a production vehicle.
Q. Did not the Prosecutors and your attorneys talk about the black car in storage?
A. They mentioned that, yes.
Q. Did they not, in fact, say they searched the storage place and saw the car?
A. They never told me that. I don't know where the storage place was. At some point in time, I do believe

they showed me photographs and asked if that was, indeed, the car, but the details of where it was, how they got them, and things of that nature, I have no idea.

Q. Isn't it a fact they told you they couldn't even see the car unless they paid for the storage, Mr. Cafaro?

MR. MORFORD: Objection. Hearsay and relevance.

Q. All right. Let me put it to you this way --

THE COURT: The objection is sustained.

Q. -- is it not a fact you told me you had no room as it is; you were trying to clean the Ross Industrial Park out and just keep it stored, Jim? Yes or no.

A. Congressman, I said yes to this question at least five times. Yes.

Q. Did you tell the Government that they're after me, and I'm giving you this $3,000 more because they're after me?

A. Who's after who?

Q. That the Government was after me, and that's why I was giving you this $3,000?

A. I didn't say that.

MR. TRAFICANT: 9-15-2000. I don't have a clean one, your Honor, 9-15-2000, transcribed, same date. They were really hot on this one.

THE COURT: Let's see if this is the same

one.

MR. TRAFICANT: I'll be talking about Page 7.

THE COURT: Okay. He can't read it out loud.

MR. TRAFICANT: You let them read it out loud.

THE COURT: Under the circumstances we have here.

MR. TRAFICANT: I object.

THE COURT: He can read it to himself.

BY MR. TRAFICANT:

Q. I want you to read all of this paragraph.

Is your memory refreshed?

A. I read what it says there.

THE COURT: Here, Congressman, this is your copy.

MR. TRAFICANT: I want him to take yours.

THE COURT: Mine doesn't have all those clips on it.

MR. TRAFICANT: Fine.

Q. So you did tell them that, didn't you?

A. Congressman, I disagree with your characterization -- I disagree with your characterization of what that paragraph says.

Q. Did the FBI -- did you tell the FBI that Traficant gave you the $3,000 because the FBI's after me, and here's

the $3,000. Did you tell them that? Yes or no.
A. That is not the way I said it to the best of my recollection, and I don't believe what you are reading from says that.
MR. TRAFICANT: Your Honor, give me your clean copy again.
MR. MORFORD: Your Honor, I object to this because that is not what it says.
MR. TRAFICANT: I want the clean copy.
THE COURT: He wants to look at it.
THE COURT: Show me what you're talking about, Congressman.
MR. TRAFICANT: I'm talking about the second paragraph, and I want you to read from where it says Traficant, right there says --
THE COURT: Not out loud. Just to yourself.
Q. See what it says right there?
A. Yes. Okay. I see what that says, and then the --
Q. No. I'm asking you, do you see what that says?
A. Yes. I see what that says.
Q. What does it say?
A. It says --
Q. What did you tell the FBI, J. J.?
A. They're after me.
Q. They're after who?

A. After you.
Q. You said I said they're after me, right?
A. Right. But you're mischaracterizing two pieces together.
THE COURT: Well, the jury can figure this out.
MR. TRAFICANT: I think the jury can figure it out.
THE COURT: Okay.
Q. J.J., do you know what it means to be under oath?
A. Yes, I do.
Q. You know what the difference is between lying and perjury?
A. Yes, I do.
Q. Isn't it a fact that your attorney advised you not to accept that check?
A. Yes. Actually, I gave the check to my attorney.
Q. And you just testified that you agreed to sell me three cars for $7,000?
A. That's correct.
Q. And did you know that the one had to stop at every rest stop and filled up with water?
A. That's what you reported to me.
Q. Then I sent you $3,000 because of all the flack, and you say -- gave it to my attorney?

A. That's correct.
Q. What were you worried about, J.J.?
A. At this stage of the game, Congressman, everything I did was checked with my attorneys.
Q. Why? What did you do wrong?
A. It's prudent. What I did wrong? What I was worried about? Is that what you're asking me?
Q. Yeah.
A. I was worried about what you and I did with the boat; scared the living heck out of me.
Q. Well, this is a question that you went -- it's been said here, and you said that you got the boat back because it would look improper, right?
A. I never had the boat.
Q. No. But you got the check back, the $26,000. You're saying that you did not give it to me personally, that you eventually got it back from someone else. Who gave it back to you?
A. I think Richard Detore gave it back to me.
Q. And what, if anything, did Richard Detore say to you when he gave it back to you?
A. He said that the Congressman doesn't want to do it this way because he doesn't want a reporter to get ahold of this. It may look bad. He doesn't want to go down that road, something to that effect.

Q. At the time, was Al Lange on your staff?
A. Yes, he was.
Q. Who was his boss?
A. Richard Detore.
Q. Who was the chief engineer?
A. He was.
Q. Would it be just as improper with Al Lange?
A. Congressman, I do not know. I have no idea. I know it was improper for me to do what you and I did.
Q. J.J.?
A. That much I do know.
Q. Are you familiar with the word intent?
A. I know the word intent.
Q. What does intent mean?
A. This is an English list. Intent is what someone -- what is in the mind of someone while they're doing something.
Q. Isn't it a fact that somebody could -- I could accidentally break this valuable piece of equipment without intending to break it?
MR. MORFORD: Objection.
THE COURT: Sustained. Intent also has legal meanings, and it's one thing to just define what all of us talk about every other day. Intent in terms of any legal meaning will be defined to you by the court if it's

necessary or relevant in this case.

BY MR. TRAFICANT:

Q. But understanding what intent means just on the surface, did you intend to break the law with Jim Traficant?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. You're the boss, and you write the checks?

A. Where?

Q. U.S. Aerospace?

A. Yes.

Q. You write the checks?

A. I approve them.

Q. You hire an attorney real fast, don't you?

A. Yes, I do.

Q. Did you tell the Government that U.S. Aerospace concocted the maritime use of the laser system in order to cover up the purchase of Traficant's boat?

A. No.

Q. Isn't it a fact that I asked you to help put fiberglass on that boat?

A. Yes.

Q. Did you know of anybody else that applied fiberglass in Youngstown?

A. No.

Q. Did you have a company to put fiberglass on?
A. Not at the time. I had one previously.
Q. And did I inquire about that?
A. Yes.
Q. Wasn't it a fact that you were informed that it would make the boat too heavy?
A. At some point in time, someone told me if you did that, it would sink.
Q. The boat would sink?
A. That's what I was told at one point in time. If you made the boat too heavy, it would actually sink is what I was told. I have no knowledge if that's correct or not.
Q. Do you know if the Traficant boat was used up and down the river?
A. No, I didn't, Congressman.
Q. Did you ever go up and down the river on it?
A. No, sir.
Q. Did anybody ever tell you they saw it going down the river?
MR. MORFORD: Objection, hearsay.
THE COURT: Sustained.
Q. Did your workers tell you someone was living on the boat, whether they went to work on it?
MR. MORFORD: Objection, hearsay.
BY MR. TRAFICANT:

Q. Did you ever tell me in any way that you were paying for the boat repairs?
A. Other than giving you the $13,000 in cash, no.
Q. You remember where that car was parked that day?
A. On --
MR. MORFORD: Objection. Asked and answered.
THE COURT: He can answer it.
THE WITNESS: On the side street between the two buildings at YSU, on that side street.
Q. Were they both of equal size?
A. Pardon?
Q. Were they both of equal size?
A. Was what of equal size?
Q. The two buildings?
A. No. One's on the left. The Williams building is taller than the one on the right side.
Q. When you drove, what direction did you leave?
A. We went down towards the City of Youngstown. So we went south. Then we went to Rayon, made a right hand turn, went to the first block, made a right-hand turn, went to the back of the first block, made a right-hand turn, ended up where we started, and that was just literally went around the block, did not take long, Congressman, to do what needed to be done.
Q. And we waited for all the people to leave, right?

A. I didn't say that. I said I don't remember anyone seeing us leave.

Q. Wasn't it a fact, J.J., that you not only didn't give me $13,000, you were hiding expenses on U.S. Aerospace and other company expenses?

A. Congressman, I gave you $13,000, and I had no expenses on U.S. Aerospace. U.S. Aerospace was being funded by me. Anything that was ever done personally was paid by me. U.S. Aerospace didn't even have a credit card.

Q. Well, if U.S. Aerospace didn't have a credit card, what kind of company was it?

A. It was a company without a credit card.

Q. And you didn't tell the prosecutors where you got the money from, for them to go get an envelope or see if you could identify an envelope?

A. Congressman, I think I previously testified to the fact that I instructed Patty DiRenzo to get me $13,000 in cash. She did so. I informed the Prosecution of that.

Q. You never had any conversation with anybody about that?

A. I just told you we did have conversations about that. I informed the Prosecution what I did, who I instructed. We gave them copies of the checks. They know where the checks were cashed.

All of that was made available to the Prosecution.

Q. Are you aware of the fact that the -- your secretary said she took $20,000 a week out of the bank cash for you?

MR. MORFORD: Objection.

THE COURT: The objection's sustained. Maybe you can rephrase something.

Q. Would your secretary, in fact, take on an average $15 to $20,000 a week out of the bank for you in cash?

A. No.

Q. So this would have been unusual, this one, right?

A. In a week, in one day, yes, unusual, but not unique.

Q. J.J., didn't you always have an awful lot of cash in your possession? Yes or no.

A. No.

Q. Did I, in fact, ask you not to fire Richard Detore?

A. Yes.

Q. Did I, in fact, tell you if you fired Richard Detore, you had no one out there that was professional enough to make your company a success?

A. Yes.

Q. And what did you say?

A. I'm firing you.

Q. And what was the reason you gave me for firing him?

A. Congressman, I don't remember all of the reasons, but I'm sure the one you're going for is the straw that broke the camel's back, were things -- scurrilous remarks he made

about my daughter.
Q. Did you ever investigate whether or not Richard Detore really did that?
A. It was confirmed by more than one person.
Q. Who were they?
A. Al Lange, and I forget the other gentleman's name who was there at the time.
Q. Who succeeded Richard Detore?
A. As what?
Q. COO?
A. Al Lange.
Q. Did you ever ask Mr. Detore what, if anything, he said about your daughter?
A. No, because I was going to let Mr. Detore go in any event. I was already in discussions with my other partners in this venture, Doctor Vetter and Doctor Shemwell. We had already come to the conclusion we were going to do this, and we would have done it a few days later in any event.
So the straw that broke the camel's back only moved up the timing, did not cause it.
Q. Now, when Mr. Detore was there as COO, how much did he get paid, Mr. Cafaro?
A. Congressman, I don't remember.
Q. You got a company sitting on the edge, and you don't know what the pay is?

A. Congressman, between that company and the Cafaro Company, there were several hundred employees, and I don't remember what he was getting paid.
Q. Well, did you pay Al Lange the same amount of money you paid Mr. Detore for the same job?
A. No.
Q. Wasn't he your chief engineer?
A. Yes.
Q. Didn't he advance to chief operating officer?
A. Yes.
Q. And you left his pay the same?
A. I didn't say that either. I said I didn't pay him the same thing he was getting paid that I was paying Richard Detore.
Q. Did you give him a raise?
A. I don't remember. He was here. You could have asked him.
Q. After Sheriff Traficant investigated the Cafaros, wasn't it a fact that there was a tremendous amount of bad blood between the Cafaros and Traficant?
A. Congressman, I don't know about the Cafaros. The only bad blood I can speak to is my feelings about you personally, and that began during your congressional run. My father was a man who held no grudges, and so I don't know if you could have bad blood between you and he, but I

cannot characterize your relationship with my father. And I can only characterize my feelings towards you. It started not with you being sheriff but with your congressional campaign.

Q. Isn't it a fact that after I was elected I paid a courtesy call on your father that you would not attend?

A. I was told not to attend, yes. Again, I did not have the graciousness that my father has, and it's something I feel badly about.

Q. Is that why you hate your father, J.J.?

A. Never hated my father, Congressman.

Q. Why did they throw you out of the company, J.J.?

A. We had a difference on direction of the organization.

Q. Well, J.J., why didn't you say look, Jim, we're going to get in trouble over this boat. Why don't you get me the $26,000 in cash, we'll shut up about it, and sell it to one of your neighbors?

A. Wish I would have.

Q. Why did Al Lange take a skipper course that you paid for?

A. Don't know. Evidently from what I was told, Rick Detore told me that an order --

Q. That's hearsay. Let's now start playing the same rules. I don't want to hear what anybody else told you.

A. I have no idea.

Q. Fine. Answer my questions directly.
Did you plan to use the Traficant boat for the nautical experiments? Yes or no.
A. I can't answer your question.
Q. Well, what's the difference between costs of a used wooden boat and a used fiberglass boat, Mr. Cafaro?
A. I can't answer the question. Any question -- any answer I would give you is based upon what someone told me. You just told me I can't do that.
Q. Isn't it a fact that fiberglass boats are much more valuable? Yes or no.
A. I don't know, Congressman. I have no direct knowledge.
Q. Did you have to go back and change tax returns, Mr. Cafaro?
A. Again, Congressman, I have no direct knowledge.
Q. Isn't it a fact you deducted the expenses on the boat as USAG business expenses? Yes or no.
A. I believe we did.
Q. Did you know that that was wrong, Mr. Cafaro?
A. Not at the time it was done, I did not realize that.
Q. I thought you wanted to hide it?
A. Congressman, I thought we were only hiding it from the media. The media didn't have entree into my tax returns. I'm not a public company. So I wasn't trying to

hide it to that extent.
Q. You were, other than concerned about the media, you hired an attorney so the media wouldn't hurt you, is that your testimony?
A. Congressman, don't testify for me. If you have a question, ask me, and I'll answer it.
Q. That's my question.
A. What is it?
Q. Did you hire an attorney to protect you from the media?
A. I hired an attorney to protect my legal rights in this matter.
Q. At this point, are you being sued by Richard Detore?
A. It's my understanding that Rick has refiled the lawsuit, that he voluntarily dismissed several months ago.
Q. Did I not attempt to work something out that would have stopped not only a lawsuit against your company but keep Rick Detore, at least as a consultant, to save your company?
A. You had proposed a settlement that we agreed to but Rick did not agree to.
Q. Isn't it a fact I told you if Richard Detore left that company, that company would fall on its face because no one knew what the hell was going on?
A. That's what you said.

Q. How long after Rick Detore left did the company go belly up, J. J.?
A. Well, Richard Detore leaving the company going belly up were two issues that had nothing to do with one another. The company going belly up was caused by what you and I did, and once it came to light and it became obvious that the bright lights of a hearing such as today was eventually in our future, we closed up the company; had nothing to do with Richard Detore leaving.
Q. Let me ask you this then:
The Traficant investigation broke through the news in 1999. You had a MEANPALS.
MR. MORFORD: Objection, your Honor. He's not asking questions. He's testifying now.
MR. TRAFICANT: No. It's part of the question.
THE COURT: Okay.
Q. Traficant investigation started and became public knowledge rumors in '99 regarding cars and everything. Did you not get a $1.3 million appropriation in the Year 2000?
A. Congressman, we've gone through this and --
Q. You got it, didn't you?
A. The U.S. Aerospace issue did not become public in the paper until some time I believe it was in February of 2000. And the appropriation does not go to U.S. Aerospace. The

appropriation went to the United States military. They, in turn, were going to issue a contract, but by the time it went through that process, we were not in a position because of what you and I did to move forward with that contract.

Q. Mr. Cafaro --

A. All of your work, all of my work, all of everybody's work was for naught because of the stupid thing we did.

Q. Mr. Cafaro, you make a lot of speeches. The bottom line is when the United States Congress appropriates a law, you know and I know it must either be reprogrammed or spent. That money was for MEANPALS, and it was never reprogrammed.

MR. MORFORD: Objection. That's not a question; that's testimony.

Q. Isn't that a fact?

THE COURT: Excuse me. Do you have any personal knowledge of that?

THE WITNESS: The money was spent, and it was not spent with U.S. Aerospace.

Q. It was spent on the military side of their part of the $4 million, wasn't it?

A. It was spent for buying the exact technology that MEANPALS represented but was not done with U.S. Aerospace.

Q. Was your money ever taken back -- did you ever get a

letter saying your money was rescinded?
A. I never had any money.
Q. Did you ever get a letter saying that the appropriation for MEANPALS had been rescinded, Mr. Cafaro?
A. No; used that money to buy a system exactly like MEANPALS without the name.
Q. Isn't it a fact that they bought that after MEANPALS went out, after you were done?
A. Yeah. That's what I just told you.
Q. Had you been in business, who had the rights to MEANPALS?
A. Had you and I not did what we did, we would have been in business.
Q. Had you not bankrupted the business, sir.
MR. MORFORD: Objection. This is not a question.
THE COURT: Right. That comes at a later time in this case, if at all. So the witness is the one testifying. Listen to the witness.
Q. J.J., were you lying then in the Chance case, and now you're telling the truth in the Traficant case?
A. That is correct.
Q. And in the Chance case, you were not subject to any jail time, were you?
A. No.

Q. Did you have any plea agreement?
A. No.
Q. Do you have one now?
A. Yes.
Q. Would you be surprised nearly every member of your staff has called you a liar?
MR. MORFORD: Objection.
Q. Have you lied to your staff, Mr. Cafaro?
THE COURT: That's the proper question.
THE WITNESS: There are times when one sets goals and doesn't meet them. There are times you set -- when you think things, funding will come but doesn't happen. If one wants to characterize that as a lie, then yes, I have.
Q. Did you lie to Paul Marcone about a contribution to an Italian-American organization?
A. I don't know what you're talking about, Congressman.
Q. Were you referred to as the source at any times by the Government?
A. Again, I don't know what you're talking about, Congressman.
Q. Were you ever asked to wear a body mike to me?
A. Congressman, by the time I had spoken to the members of the Justice Department or the FBI or anyone else, I had already had counsel and I wasn't speaking to you or anyone

else associated with this issue. So the answer to that is no.

Q. Did my staff, during this time, call you for meetings?

A. Yes -- well, your staff had called.

Q. And what, if anything, did you do about it?

A. Did not return the calls.

Q. Now, did the FBI at any time ask you to go ahead and corroborate your truthfulness about the boat and all these other allegations that Traficant wants to meet with you, let's set up a meeting and put a little wire on you, J.J., did they do that?

A. They never made such a request.

Q. Did they say let's bug your car, and if you're worried about that, bug your car and take him for a ride? Did they suggest that?

A. Never made such a request.

Q. Did the FBI ever attempt to corroborate your words into evidence?

A. Congressman, I believe they had evidence.

Q. That's not the question I asked. Did they ask you to corroborate your words?

A. I think that we gave them evidence that helped corroborate my words.

Q. Internal Revenue Service ask you to wear a mike?

A. No one has asked me to wear a mike.

THE COURT: Congressman, it's 4:30. How many more questions do you have?

MR. TRAFICANT: I didn't realize it was that late. I don't have much more with this witness, but if you want to come back tomorrow --

THE COURT: Well, really depends on how many more.

MR. TRAFICANT: I don't know, could be ten, 15 minutes, and I don't want to belabor the jury.

THE COURT: We'll recess the jury and see you at 9:00 tomorrow.

(Proceedings in the absence of the jury:)

THE COURT: Gentlemen, I ask that we take up the next break the issue of defendant's AL-101 and the cover sheet, which appears on the front regarding a fax transmission. I've now had a chance to look at that. The document itself, without the fax, is something which, as I understand, was supplied to you, Mr. Traficant, during discovery in this case by the Government. The fax transmission sheet dated January 28th is irrelevant to this case.

And the fax itself of the materials seems to have all the pages on it. And so we will admit this but not with the front fax sheet on it, which is not relevant.

But, we will admit --

MR. TRAFICANT: I object to that insofar as the Government did not offer it as an exhibit; I did.

THE COURT: That's right. You offered something called Defendant's Exhibit AL-101, which has a fax transmission sheet on the front and then is the marine -- Virginia Marine Institute survey performed on behalf of Captain Al Lange.

I have no difficulty putting in the copy itself, but the fax on the front is confusing to the jury. There's no way they'll be able to understand anything with the fax on the front of it.

So if you would like it to go in as AL-101, Defendant's Exhibit AL-101, I'm happy to put it in without the front cover.

MR. TRAFICANT: I do so without objection.

THE COURT: All right. It'll be admitted AL-101, and it will begin with the first page, Virginia Marine Institute Survey performed on behalf of Captain Al Lange, August 26, 1998.

Congressman?

MR. TRAFICANT: Yes. You're ready?

Both Mr. Lange and Mr. Cafaro are familiar and have testified that they are familiar with the voices of Jim Traficant and Richard Detore. Richard Detore is charged,

as you know, as a co-conspirator in this case. His counsel has other concerns of Mr. Detore, and his counsel has decided that he will not have his client testify in this trial insofar as he's unavailable.

We have two witnesses who have, in fact, identified -- know our voices; that the Richard Detore tape should be made into evidence because of unavailability of the witness.

THE COURT: Okay. There has been filed with this Court a motion to quash by Detore. The Court hasn't yet ruled on it. It's a motion to quash the subpoena. But, we are in a position to rule on it. I've just been on the bench all day, so I will be ruling on that motion to quash. As I understand your subpoena is for Mr. Detore for tomorrow; is that correct?

MR. TRAFICANT: I subpoenaed Mr. Richard Detore, yes, through his attorney as requested.

THE COURT: But, what day did you subpoena him for?

MR. TRAFICANT: I don't know the exact date. I think he was to be here on the time frame I was given -- honestly given as well I might say by the Prosecution.

THE COURT: So you don't know the answer to what day he's supposed to be here? We'll look at the subpoenas and see.

But in any event, the law in the Sixth Circuit requires that a person who's going to exercise the Fifth Amendment right come into court and exercise it, do it out of the presence of the jury. We've done it in this case before, so I'll put out a ruling tonight on that motion to quash.

But that would be the first stage of what is a longer process than just invoking the Fifth Amendment, and I think we've talked about it so many times; that we don't need to talk about it tonight, but it's not an option just to have a lawyer notify the Court as you've seen in other cases where the lawyers have notified the Court.

The witness has to come in, and we, without the jury present, go through a series of questions and answers and so forth. You are then left perhaps -- I don't know, we'll see how that goes -- but it's possible you'll be left with an unavailable situation.

But that doesn't solve the next problem, which is that there's more that has to be established, and that's what we have gone over before. Something's hearsay in itself, having somebody invoke the Fifth Amendment doesn't transform it into something else. So we went over that before, and you -- unavailability itself is not the hearsay exception I guess would be the easiest way to say it.

There is further work that needs to be done and can

be done, and I'll give you time as we do in everyday of this trial at the morning break, at lunch, at the afternoon break, and from the time we dismiss the jury at 4:30 up until at least 6:00, the Court's available to take on whatever further inquiry is appropriate so I can rule.

MR. TRAFICANT: I want to make it known for the record --

THE COURT: Okay.

MR. TRAFICANT: -- I notified you there was a motion to quash. And I want --

THE COURT: Actually, I think I notified you there was a motion to quash.

MR. TRAFICANT: No. I had it faxed to me. You didn't notify me of anything.

THE COURT: I just did a few minutes ago, but you may have known before I did.

MR. TRAFICANT: Yes.

THE COURT: Okay.

MR. TRAFICANT: And the motion to quash I want on the record.

THE COURT: It is. It's filed in the case.

MR. TRAFICANT: And if you do rule to quash in their favor and the person does not come in and take the Fifth, I'm now concerned about all nine tapes I have on witnesses that concern this case and their admissibility.

And I think you said at some point you would rule on them.

They have been made available to the Government. They were made available to them before January 9th. One was made of them -- several were made at later dates because they were made at later dates with my investigation, and they were done in a proper form, in reasonable time, and in a timely fashion for the Government with their extensive resources to validate the reliability of these tapes.

THE COURT: Okay. Well, first of all, I don't know what you're talking about, but you can make a list for us, and that will help. We have not had any information about how you are intending to go forward with your defense, and, in fact, we haven't finished the Government's case yet.

MR. TRAFICANT: Your Honor, I am instructing the Court one way or another this Court go over those nine tapes to be played publicly, and I want a ruling on those nine tapes before I go forward.

THE COURT: Okay. Let's -- let's do the list here.

MR. TRAFICANT: I don't have the list with me.

MR. MORFORD: We have the list, your Honor.

THE COURT: Okay.

MR. MORFORD: He didn't give us the list. He gave us the tapes. We can tell you what the tapes are, but, your Honor, several days ago I raised this as a matter in limine, and my objection was under Rule 804(b), that Congressman Traficant not only has to show unavailability; he has to show which of the very limited exceptions to the hearsay rule under 804(b) that he believes these tapes would be admissible under.

My understanding was the Court told him to, I believe, file something or else raise it with the court and let the Court know his theory of admissibility, but that the matter should not be placed before the jury prior to the time that he does that. And then --

THE COURT: I think the Defendant understands that.

MR. TRAFICANT: I have followed all procedures.

THE COURT: Right. I think he understands it. He's now telling us there were nine.

MR. MORFORD: Yeah. I would just like to ask he be instructed not to raise the subject of the tapes in front of the jury unless and until the Court has ruled if they're admissible.

THE COURT: It would be improper to raise the issues of the tapes in front of the jury until we've had an

opportunity to see whether or not you are bringing forward the various things you would need to do under the Rules of Evidence out of the hearing of the jury. So we'll make plenty of time for that.

MR. TRAFICANT: Your Honor, I'd like to respond.

THE COURT: But I'm starting with the fact that you didn't file a motion to quash; someone else did. It's a matter of record in the case, and I am going to rule on it when I get off the bench. Okay.

MR. TRAFICANT: I want the person to testify, but that person has problems evidently in other areas. And his counsel has talked with him. Now, he's unavailable. Now, what the Government is trying to do is say Traficant, you want to bring these tapes in, you'll have to bring them in yourself. Here's what I'm saying to the court.

These are all given on discovery. They were made by the Defendant, I admit that, and they are valid. They have gotten first generation copies. There were no -- nothing done with those tapes. They were not altered, and, in fact, in my opinion, 804 and the law that Mr. Morford is talking about states that the best evidence available shall be used by the Defendant to defend himself. And if it's not the words of the individual involved, then tell me what's better.

THE COURT: Okay. Well, there is a rule best evidence concept in evidence, but we're talking about something now -- I need to know what the tapes are. If either of you know.

MR. TRAFICANT: They can give you the names.

MR. MORFORD: I'll go through that whenever the Court's ready.

MR. TRAFICANT: I want to give you the names now. There's tapes on Bucheit's deal, Sinclair and DiBlasio's deal.

THE COURT: Wait a second. Which are we talking about?

MR. TRAFICANT: Well, the Bucheit.

THE COURT: Who's on the tape?

MR. TRAFICANT: Mr. Bucheit.

THE COURT: And who else?

MR. TRAFICANT: Me.

THE COURT: Okay.

MR. TRAFICANT: I'm on all the tapes.

THE COURT: All right. Okay.

MR. TRAFICANT: With Mr. DiBlasio concerning himself and Mr. Sinclair with --

MR. MORFORD: You want me to just tell the Court what they are? Would that be easier?

THE COURT: Well, I don't.

MR. MORFORD: He's coming over now to get the tapes. I don't know if he knows -- here.

MR. TRAFICANT: I don't have the tapes. Hand me the tapes. Just a couple at a time.

THE COURT: It's late in the afternoon, guys, let's do --

MR. TRAFICANT: You're getting very testy, Mr. Morford.

THE COURT: Do they have numbers?

MR. TRAFICANT: D-1, Mr. DiBlasio who's talking.

MR. MORFORD: Why don't you give her the date on those as well?

MR. TRAFICANT: 7-11-01.

THE COURT: Okay. That's Traficant and DiBlasio, right?

MR. TRAFICANT: Defendant's Exhibit D-2, Traficant and DiBlasio, 6-19-01.

THE COURT: Okay.

MR. TRAFICANT: DD-1, Richard Detore, May 16, 2001.

THE COURT: You need to slow down a little.

MR. KALL: Who?

THE COURT: This is also with you. They're all with you; is that right?

MR. MORFORD: These are his interviews of witnesses, your Honor.

THE COURT: All right.

MR. TRAFICANT: No. These are taped conversations on the phone.

THE COURT: Between you and --

MR. TRAFICANT: And the witness.

THE COURT: Okay.

MR. TRAFICANT: This one here is a copy of conclusion of tape Number 2, K-1, which was -- I don't have it marked, your Honor. It's marked improperly.

THE COURT: 2-K-1.

MR. TRAFICANT: No, two that are K-1.

THE COURT: All right.

MR. TRAFICANT: There's one that is N-1 relative to Mr. Nemenz.

MR. MORFORD: I believe one is a conversation with someone called cheese 1, whoever that is.

MR. TRAFICANT: These are the Kerchum tapes.

THE COURT: Hold on N-1 is Nemenz and who?

MR. TRAFICANT: A woman by the name of Robin Best.

THE COURT: Go back to Nemenz, please.

MR. TRAFICANT: N-1.

THE COURT: Yes. But say Nemenz's first

name.

MR. TRAFICANT: Henry.

THE COURT: Thank you.

MR. TRAFICANT: Nemenz. But since the Prosecution didn't move into that area because they know I have this tape, I may not offer it. I'll decide later. PB 1-A is a tape of 8-6-01 with Pete Bucheit.

THE COURT: And you?

MR. TRAFICANT: And me. They're all with me.

THE COURT: Okay.

MR. TRAFICANT: PB 1-B is a conversation with Mr. Bucheit on May 7th of 2001. I would add for the record these have all been submitted as well, be submitted for prosecutorial misconduct. SS-2 is a tape involving Harry Manganaro in the Sugar case.

THE COURT: But it's not in a case itself. It's a telephone conversation?

MR. TRAFICANT: These are all telephone conversations that I had recorded.

THE COURT: Okay.

MR. TRAFICANT: And there is a second DD tape, DD-3, dated August 1, 2001.

The Government has received these nine tapes. They had them in a timely fashion.

THE COURT: Okay.

MR. TRAFICANT: If they want them, they can have them back.

THE COURT: Harry Manganaro and you -- I don't have a date for that.

MR. TRAFICANT: These weren't exactly dates like girls date boys, your Honor.

THE COURT: It's called SS-2.

MR. TRAFICANT: It is?

THE COURT: That's what you said.

MR. TRAFICANT: SS-2 is January 27th of this year.

THE COURT: Okay.

MR. TRAFICANT: And it was given to the Government in an expeditious fashion as it could possibly be.

THE COURT: DD-3, I have the date, but now whose tape is it?

MR. TRAFICANT: DD-3?

THE COURT: Right.

MR. TRAFICANT: That is Detore.

THE COURT: And 2K-1?

MR. TRAFICANT: Pardon?

THE COURT: You have two tapes that are K-1.

MR. TRAFICANT: Yes.

THE COURT: Who's on those tapes?

MR. TRAFICANT: That is a man by the name of James Kerchum.

THE COURT: K-E-R.

MR. TRAFICANT: C-H-U-M best I can recall.

THE COURT: Okay. What are the dates of those two tapes?

MR. TRAFICANT: I do not know if they have a date on them. They would have a date on the tape itself memorialized, but the date of the transcription is not on there. The date of the -- that they were made is not on the tapes. K-1 -- it's K-1 is conclusion of K-1, I guess. There's one wrong tape to -- K-1 consists of two tapes evidently.

MR. KALL: Your Honor if it helps the transcript, we were given lists April 26, 2000.

MR. TRAFICANT: April 26, 2000?

THE COURT: So you've given the Government a transcript of each of these tapes. Is that what it is?

MR. TRAFICANT: I gave them the tape not the transcript.

MR. MORFORD: There are a couple tapes where he did give us a transcript, your Honor.

MR. TRAFICANT: Where I had an unofficial transcript, I made it available to them, and where I didn't, I didn't --

THE COURT: Well, I think I have nine here if we count the two Ks as two tapes making one exhibit. And I have dates for everything except Henry Nemenz. Do you have a date on --

MR. TRAFICANT: I didn't have a conversation with Henry Nemenz. I have an affidavit dealing with Henry Nemenz. I have a tape of his associate and business partner, Ms. Robin Best.

THE COURT: And that's N-1. When was that tape made of Robin Best?

MR. TRAFICANT: I don't see it here.

MR. KALL: Based on the transcript, your Honor, September 5, 2001.

MR. TRAFICANT: Did you guys steal my tape?

MR. MORFORD: Those are our tapes, sir. We brought them today.

MR. TRAFICANT: There's one in my pocket. Got to watch a sheriff.

THE COURT: It's that one.

MR. TRAFICANT: It's N-1.

THE COURT: That's Robin Best.

MR. TRAFICANT: Robin Best, and the date is covered up by the exhibit number. Matthew, if you'd be so kind.

MR. KALL: September 5, 2001, based on the

transcript, your Honor.

THE COURT: Thank you. I think I have a list now. Thank you very much. Anything further?

MR. MORFORD: Yes. In addition to the hearsay objections on several of these tapes, there are also relevancy objections, particularly the tapes of Kerchum, Best. I don't have the list in front of me as to who they are, but they are totally irrelevant to this matter, and Manganaro, also Best. Manganaro and Kerchum have not been shown in any way to be unavailable.

THE COURT: Okay.

MR. TRAFICANT: Well, I'll call Harry Manganaro. And I want the tape to be listed now, to be known that it was an agreed tape, a consent tape.

MR. MORFORD: The testimony of Mr. Manganaro I don't believe would be relevant either, your Honor.

THE COURT: Okay. Well, we're going to have to spend sometime on this --

MR. TRAFICANT: Wait a minute here.

THE COURT: -- out of the presence of the jury.

MR. TRAFICANT: Wait a minute here. Mr. Sugar took the stand, and I have a tape that shows what happened to Mr. Sugar whom he confided in, the co-worker. And you're telling me I can't put that person on the stand?

THE COURT: I haven't ruled yet.

MR. TRAFICANT: That's what the Government is trying to do now. You let Jackie Bobby, Grace Yavorsky lie through their teeth about a dead man, and you let hearsay on a person dying where the Government took a fruit basket ploy and pressured to put him in a medical facility if he didn't sign an affidavit.

THE COURT: Well, we have some way to go on all of these tapes. Some of the tapes, we need to you establish unavailability on, and that's the first step, but it has nothing to do -- it is not itself a hearsay exception, and so you still have to do work on that. The Government hasn't finished their case yet. There's plenty of time.

This is a good step forward because now we know what the tapes are you wish to introduce, but you will have to establish unavailability for people who are not -- who have not yet had unavailability established if that is the way you're trying to get the tapes in.

MR. TRAFICANT: Let me inquire --

THE COURT: That doesn't take care of your --

MR. TRAFICANT: Let me inquire of the court.

THE COURT: Yes.

MR. TRAFICANT: Prosecutor Morford takes the stand and says he did not commit misconduct.

THE COURT: That is not part of this lawsuit.

MR. TRAFICANT: No, I'm making an example.

THE COURT: That's a really poor example.

MR. TRAFICANT: All right. Jim Traficant takes the stand and says he did not commit prosecutorial misconduct, and then Mr. Morford knows that Jim Traficant has committed prosecutorial misconduct, and that Mr. Traficant has lied under oath because Mr. Traficant told directly Mr. Morford what the truth was.

You're saying that Mr. Morford can now not be used to impeach the untruthfulness, unworthy statements of Mr. Traficant?

THE COURT: Congressman, you know what? I think it's time for everyone to go home.

MR. TRAFICANT: No. I don't think it's time to go home. I think you're going to rule these tapes out, and I say for the record I'm going to play these tapes because you're leading me down the road to conviction with an unfair, unbalanced playing field, and I don't like it, and I can see it.

THE COURT: Congressman, Congressman, we'll deal with the tapes, but we'll --

MR. TRAFICANT: If you're telling me Manganaro can't testify here, then I'm telling you this: You may have to put me in jail for contempt and bring the

jury downstairs because you've had a guy that's had it.

THE COURT: I didn't say anything about any of that, but we are some way -- we've gone some distance today, and we'll continue to work on it. See you.

MR. TRAFICANT: Last thing for the record: I am going to have one of these tapes played period regardless of what happens in this trial, and I want the American people to know I'm going play them on national television, and I'm going to play them directly in this area. I want them to know what the hell's going on, how they pressured people, pressured to indict their families.

THE COURT: Meanwhile --

MR. TRAFICANT: -- to bring out statements.

THE COURT: Meanwhile, you have a trial here, and the Government is close to getting to the end of their case but they haven't quite gotten there. Okay.

MR. MORFORD: Thank you, your Honor.

MR. TRAFICANT: And I want to also state for the record you have treated some of these cases I submitted as evidence very lightly.

THE COURT: I think if you come in at ten of 9:00 tomorrow, it will be soon enough.

(Proceedings adjourned.)

DIRECT EXAMINATION OF JOHN J. CAFARO CONTINUED..... 3988

CROSS-EXAMINATION OF JOHN J. CAFARO..... 4044

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON WEDNESDAY, MARCH 20, 2002

Jury Trial

Volume 22

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Wednesday Session, March 20, 2002, at 9:00 A.M.

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: Sir, you're still under oath.

THE WITNESS: Yes, ma'am.

THE COURT: Congressman.

CROSS-EXAMINATION OF JOHN J. CAFARO CONTINUED

BY MR. TRAFICANT:

Q. Good morning, J.J..

A. Good morning, Congressman.

Q. Did you stay overnight or go back to the district?

A. I've been staying in Cleveland.

Q. I have a couple questions I'd like to ask of you. And can you tell the jury how much money you've paid for Mr. Lange's defense?

A. I have no idea, Mr. Congressman.

Q. Do you know who paid the money for Mr. Lange's Defense?

A. I will be paying for Mr. Lange's defense.

Q. Pardon?

A. It will come out of my account ultimately.

Q. Have you been billed at all yet?

A. Again, that's being handled by my accounting department.

Q. Who authorized the payment?

A. The authorization will come from my personal counsel.
Q. Do you have the same counsel as Mr. Lange?
A. No, I do not.
Q. Are they affiliated in any way?
A. No, they are not.
Q. When did you make the first payment for any of his fees?
A. Mr. Congressman, I said I don't know. It's being handled by the accounting department.
Q. On your personal account?
A. It will ultimately be charged to my personal account.
Q. Will it be paid -- you said ultimately -- initially paid from the Cafaro Company account?
A. Congressman, I don't know. I have not been kept in the loop on that issue. I've not been asked to write my personal check, and I don't know what they have done with it up to this point.
Q. Have you had meetings about paying Mr. Lange's attorney?
A. We have not.
Q. Did you inform the Prosecution that Mr. Lange's attorney was being paid by you?
A. I did not.
Q. Do you have any knowledge that, in fact, the Prosecution had come to learn through any of your people

that you are, in fact, paying for Mr. Lange's bill?
A. I have not -- I have no direct knowledge of the conversations my counsel has had with the Prosecution in that regard.
Q. Well, let me ask you this: When you -- when your attorney met with the Prosecution to, in fact, discuss your plea agreement, were you present?
A. I was present when I discussed the plea agreement with the Prosecution.
Q. Your attorney was not present?
A. My attorney was present also, yes.
Q. And who else was present at that meeting?
A. Well, I had -- I believe three of my attorneys there. Mr. --
Q. Who?
A. Three of my attorneys were there.
Q. Who are they?
A. Mr. Mearns, Megan Frient, and Mark Beck.
Q. Mearns, Beck and who?
A. Frient.
Q. And is that the name of their law firm?
A. No. They're with Baker and Hostetler.
Q. And where are they located, their home office?
A. I don't know where their home office is. We're dealing in this particular issue with the Cleveland office.

Q. They're all in the Cleveland office?
A. Well, two that belong to that law firm are.
Q. Who, which two?
A. Mr. Mearns and Ms. Frient.
Q. Ms. Frient?
A. Megan Frient.
Q. Where is Mr. Beck from?
A. Mr. Beck is my personal attorney.
Q. And where is he from?
A. He resides, I believe, in the Mahoning Valley. He works at the Cafaro Company.
Q. Who was present at that plea agreement for the Government?
A. I didn't pay much attention. All the conversations were with Mr. Morford, but I think there were some other people in the room at the time.
Q. Do you remember any of their names?
A. No.
Q. Are any of them seated at the table? Would the gentlemen please look at the witness?
A. Again, I don't know which people were at that particular meeting.
Q. Well, in addition to Mr. Morford, how many others were there approximately?
A. Congressman, I told you I don't know. I was focused

on Mr. Morford. I was focused on the gravity and the substance of the agreement, and I don't remember how many others representing the Government were there or which ones they were.

Q. But there were more than Mr. Morford, is that your testimony?

A. That's my testimony.

Q. Do you know if they were IRS or FBI agents?

A. Congressman, I don't know who they were. I do know there were more than Mr. Morford. I know that there was always a representative of another branch of Government when I was there with Mr. Morford, but if they were with the IRS or the FBI, I do not know.

Q. So there were always other branches present when they interviewed you and you were present, is that it?

A. It was always someone else there, that's correct.

Q. From another branch of the Government, be it IRS or FBI?

A. That's correct.

Q. Did you pay any legal fees for Richard Detore?

A. No, I have not.

Q. Did you have any agreement in writing with Mr. Lange relative to paying these legal fees?

A. Not that I'm aware, no.

Q. Did you ask Mr. Lange to help him out, or did he ask

you to help him out?
A. When this matter came down, Mr. Lange was still an employee of U.S. Aerospace. I thought it was important that he have good representation, and the offer was made through my attorney to assist in his legal fees.
Q. So Mr. Beck arranged for his attorney?
A. Either Mr. Beck or Mr. Mearns --
Q. Mr. Mearns?
A. Yes, was involved in making sure that he knew that we would underwrite and pay for good, competent legal advice.
Q. And you say we --
A. But they did not choose his attorney.
Q. When you say we, who are you referring to?
A. Actually, I was -- I was the empirical "we," Congressman. I apologize. It was -- I was going to pay.
Q. So that was just like a little slip and --
A. Yeah, that was a little slip. I was referring to several people involved in the process, and it came out a "we" as opposed to an "I," and I apologize.
Q. Now, after Al Lange was no longer an employee of the Government, did you stop paying for his legal fees?
A. No. I will pay all of his legal fees for this lawsuit process.
Q. You have any written agreement for that?
A. Congressman, I do not know. Again, it was handled by

very competent counsel, and we've left it in -- I've left it in their hands, and I'm sure that whatever is necessary, they have done.

Q. Did your attorney at any of these meetings inform the Government of who was paying for Mr. Lange's legal defense?

A. As I told you previously, Congressman, not in my presence that I can recall. I'm sure that at some point in time it was conveyed to the Government either by Mr. Lange or by my attorneys. I do not know. That was not a subject of discussion when I was in the room for the proffers, and we were there on more immediate issues.

Q. Well, Mr. Cafaro, an employer pays for a former employee, who, in fact, has called you a liar. You're trying to tell me that the Government did not know you were -- that you were paying his legal defense?

A. I didn't say that, counsel.

MR. MORFORD: Objection to the relevance of this line of questioning. Your Honor, we brought this out, and we gave it to the Congressman. It's irrelevant.

THE COURT: Congressman, we've been over this.

MR. TRAFICANT: I object to his objection.

THE COURT: Okay.

BY MR. TRAFICANT:

Q. You tell the FBI that the legal fees were being paid

for by --

MR. MORFORD: Objection. Irrelevant and asked and answered.

MR. TRAFICANT: I never asked that.

THE COURT: How many more questions do you think you have in this area?

MR. TRAFICANT: I have some questions here, and I'd like to get to it. I think it's a legal matter that's very serious.

THE COURT: Okay. We'll take it up the next break whether it's a relevant issue. Proceed.

BY MR. TRAFICANT:

Q. Did you discuss your testimony with Mr. Lange?

A. No, I have not, and no, I did not.

Q. How about with Mr. Lange's attorney?

A. Never met Mr. Lange's attorney until he was walking out of here his last day.

Q. How long has Mr. Lange been represented by this attorney?

A. Congressman, I don't know. I would assume -- I don't know.

Q. Did Mr. Lange's attorney ever give you any legal advice?

A. He has not. I never even met him or spoke to him.

Q. Were you ever sent a bill by this attorney?

A. Congressman, I don't know if he's been sent the bill. It's either been processed through Baker and Hostetler, or it's been processed through my accounting department. As I have told you before, I have not seen any bills. I've stayed out of the process completely, and that's all I can tell you about it.

Q. Was there a limit or a cap put on any fees?

A. Congressman, I've told you, I have not been directly involved. I do not know what the arrangements are. The only thing I know is that ultimately, when the day is done, I will personally be paying for Mr. Lange's legal fees. That's all I can tell you.

The process of how the bills are going to be processed, get paid, who they're billing, when it gets billed, where it gets billed, how it gets billed, why it gets billed, I do not know.

Q. Was the agreement made in Ohio or in Virginia?

A. Congressman, the agreement was made and was handled by my counsel. I don't know.

Q. Are you a very close friend with Mr. Lange?

A. Mr. Lange was a business associate.

Q. You consider him a friend?

A. I consider him a friend.

Q. Is Mr. Lange, in your opinion, a truthful person?

A. I believe that he is.

Q. Did you ever discuss truthfulness between the two of you?
A. Not that I can recall.
Q. During presidential administrations, did you not have their private phone numbers?
A. Pardon me?
Q. Did you have the private phone numbers?
A. Of Mr. Lange?
Q. Of the presidents of the United States?
A. No. I have -- I usually have the White House phone number.
Q. Do you know an employee by the name of Loni Czekalski?
A. Yes, I do.
Q. And how long did she work with you?
A. Not a very long time.
Q. Roughly how long?
A. Congressman, I don't remember, but it was less than a year.
Q. You keep and maintain records?
A. Yes, we do.
Q. Do you know if she was a former FAA administration worker?
A. It was my understanding that she worked for the FAA, yes.

Q. You know how many years she worked for the FAA?
A. No, I do not.
Q. Did you interview her for the job?
A. Actually, Mr. Detore did when she was hired on his recommendation, but I had met her before she was hired.
Q. Did Ms. Czekalski ever say she would refer Traficant and Lange to other members of Congress?
MR. MORFORD: Objection, hearsay.
THE COURT: Sustained.
Q. Did you have knowledge of referrals made to other members of Congress made by me?
MR. MORFORD: Objection, unless he has knowledge outside the hearsay he just asked.
THE COURT: Sustained.
BY MR. TRAFICANT:
Q. Was a prototype for the trailer for MEANPALS ever built?
A. Yes.
Q. Where is it located?
A. Where is what located?
Q. The trailer that was built for MEANPALS.
A. I don't know.
Q. Did you ever see the trailer?
A. Yes.
Q. Were you ever told by Mrs. Czekalski there was a

generator --

MR. MORFORD: Objection, hearsay.

THE COURT: Congressman, that will get into a hearsay issue.

Q. You have conversation with Ms. Czekalski?

A. Some.

Q. She discussed a welder and a generator with you?

MR. MORFORD: Objection.

THE COURT: Sustained, same reason.

Q. Was Ms. Czekalski a truthful and good employee?

A. I didn't know her well enough to characterize her in any way, but I would assume she was a fine person.

Q. Did you ever call Mr. Detore into Youngstown to meet with you and your brother and your sister relative to the ongoing loans regarding U.S. Aerospace Group?

A. I don't recall if he was ever called for exactly that purpose.

Q. What purpose was he called to Youngstown for?

A. Well, he was in Youngstown on a few occasions, and some of it, usually it was basically to report as to the status of various issues at U.S. Aerospace.

Q. Well, since you had to get approval from your brother, did you ever suggest that he bring in your chief operating officer to explain the need for those loans?

A. Congressman, I do not recall right now if Mr. Detore

ever was in Youngstown and addressed that specific issue. I don't recall one way or the other.

Q. Once the budget exceeded the expenses for the boat, did you yourself personally monitor those expenses?

A. No, I did not.

Q. When did you become aware that the boat expenses had, in fact, gone beyond the budget?

A. When I wrote the check that exceeded the $20,000 they told me it was going to take.

Q. Is that what the survey said it was going to take?

A. I don't know what the survey said, Congressman. I never saw the survey.

Q. As a businessman, do you make bids?

A. Yes, I do, in the normal course of business.

Q. And in the normal course of business, when you're building a mall, do you let out bids?

A. Yes, Congressman, I do. But this boat was not the normal course of business.

Q. Did you know if there had been a bid survey on the boat?

A. I told you, Congressman, I never saw a survey.

Q. Then how do you know you exceeded the boat?

A. Rick told me it was going to cost $20,000.

Q. Well, who got the survey?

A. Congressman, I couldn't tell you who got the survey.

If I didn't know there was one.
Q. Well, if you are were going to go ahead and just do a favor, why did you need a survey?
A. Well, Congressman, I didn't know there was one.
Q. I didn't ask you that. I showed you the survey yesterday. Why did a survey -- was it needed or necessary since this was a scam?
A. As I've told you previously, I didn't know there was one. However, it looks like very good documentation to support what you and I were doing.
Q. Did you ever get a bill to pay the surveyor?
A. Congressman, I didn't know there was a survey. I do not recall ever paying a bill for the survey.
Q. Do your accountants itemize each item?
A. That -- all of the boat repairs were paid for out of my personal account with the exception of one check. So I would assume that if there was a boat survey bill to be paid, it would have been given to me and run through my personal account.

And I've seen nowhere in my personal account and nowhere I can remember in the corporate accounts where a survey was paid for. So I do not know that answer.
Q. Now, on the morning of January 14th, what was the color of the building that the meeting was held in?
MR. MORFORD: What date and what building,

your Honor?

Q. January 14, 1998, when the Regional Development program was recommended, and you were invited, and you attended on November 14, 1998.

THE COURT: We have January 14 and November 14th both in that sentence. Which one?

MR. TRAFICANT: November 14th, 1998.

A. Okay. Congressman, we'll try this one more time, and ask me this question again because I'm confused.

Q. What was the color of the building in which the Regional Development Authority was proposed by me in an open public meeting?

A. I have no idea. I've been staying in a hotel for the last four nights. I can't tell you the name of the color it is.

Q. How many sets of doors were there in that building to get in?

A. I don't know, Congressman.

Q. Was the meeting in a room?

A. Yes, a large room. There were a lot of people there.

Q. Was it a room or an open space?

A. Well, something that has four walls and a ceiling and a floor is a room to me. So it was a room. It was inside a building. It wasn't an open space outside.

Q. Well, you do not remember the color of the building?

A. I went to Youngstown State University, and I don't remember the color of the building.

Q. Do you know the color of your car?

A. The color of my car was green.

Q. What's the color of your current car?

A. The color of my current car is white.

Q. Did you and your brother, Anthony, fall out over U.S. Aerospace?

A. We have not.

Q. Is your brother familiar with the legal fees being paid for Al Lange?

A. I don't know what my brother's familiar with. He and I have not spoken about it.

Q. Did you ever meet an Mr. Ernst deGroot?

A. I don't think so. I mean, I -- I meet a lot of people, Congressman, so the name itself doesn't do anything for me. That's not saying I haven't. I just can't place that name.

Q. Did you ever send workers to my farm?

A. No, I did not.

Q. Were you ever on my boat?

A. No, I was not.

Q. Did you ever see my boat?

A. No, I have not.

Q. Have you seen Mr. Lange's boat?

A. No, I have not.
Q. When did you sell your boat?
MR. MORFORD: Your Honor, all these questions have been asked and answered, some of them two or three times.
THE COURT: He can answer this one.
A. You asked me yesterday. I said I don't remember when I sold my boat. I probably sold it some time in -- I don't remember when I sold my boat.
Q. Do you keep documents and receipts of your sales activities, Mr. Cafaro?
A. I'm sure that there is proper documentation in the office.
Q. To your knowledge, was your daughter's involvement with the U.S. Aerospace the subject of media inquiries?
A. I don't think I understand the question, Congressman. Could you rephrase it?
Q. Was your daughter's involvement in the United States U.S. Aerospace the subject of media inquiries?
A. Her involvement in the company -- I don't think I can -- I don't know.
Q. Is it a fair statement to say that your memory is not too good?
A. Congressman, my memory is just fine. You are picking minutiae out of life, and when you pick minutiae out of

life, you're going to get people sitting here saying they don't know, and if that is your intent, so be it, but my memory as to what you and I did, the subject of why I am here is perfectly clear. I gave you $13,000 in cash. That's what my memory is good about, sir.

Q. I know you said that about five times.

Now, let me ask you this: You know everything about supposed cash, but you know nothing about U.S. Aerospace and any of its bills; is that correct?

A. That's not what I testified to.

Q. Did you not testify yesterday that you lied under oath?

A. Yes, I did.

Q. Was that a part of your charge in your information agreement with the Government?

A. I was not charged with that.

Q. As a businessman, is it a wrongful act to lie under oath?

A. Yes.

Q. Did your attorney ever discuss your lying under oath with the Prosecutors?

A. I don't know what my attorneys discussed with the prosecutors. I can tell you that when my proffer in this instance came up, the very first time this issue came up of the Chance issue, came up in my proffers regarding this

case, I was truthful with the Prosecution.
Q. Did the Prosecution at any time, through any of their agents, either IRS or FBI, threaten the Cafaro Company with five years of audits?
A. No one has ever threatened me, Congressman. Every conversation I have had with the members of the Government are represented in these 302s. I was represented by counsel at every meeting, and you can read for yourself. I was never threatened with anything by anyone.
Q. Do you know who writes the 302s?
A. I have no idea who writes the 302s.
Q. Did you write the 302s?
A. I did not write the 302s.
Q. Did anyone ever threaten to involve your daughter Capri in this investigation?
A. My daughter, Capri, was never threatened with involvement or Prosecution. As a matter of fact, my daughter was interviewed. She was given immunity from the very first time she spoke. And there was never a reason to implicate her beyond her being a witness ever.
Q. You mean the Prosecution made that statement to you?
A. I'm telling you that my daughter, Capri, had immunity from the very first time she said hello, and that immunity stayed through each of her proffers and through her Grand Jury testimony.

Q. So there was a proffer made to your daughter?
A. Not a proffer made to my daughter. When she would meet with the Justice Department, every time she met with them, she had immunity. So she was never in danger of having a problem whatsoever.
Q. How many times did she meet with the Government?
A. Congressman, I can't tell you. She met on her own, and I can't tell you how many times.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. MORFORD: No questions.

THE COURT: Thank you. You're excused.

MR. SMITH: The Government calls Bruce Hess.

THE COURT: Sir, would you raise your right hand.

BRUCE HESS

of lawful age, a witness called by the Government, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF BRUCE HESS.

THE COURT: Speak loudly so we can all hear you.

BY MR. SMITH:

Q. Sir, would you please state your full name, and spell

your last name for the court reporter?
A. Bruce Hess, H-E-S-S.
Q. How are you employed?
A. I'm employed with the IRS office of Chief Counsel.
Q. Where?
A. Philadelphia, Pennsylvania.
Q. How long have you worked for the IRS?
A. I worked for the IRS -- I've worked for the office of Chief Counsel 30 years, and prior to that with the Commissioner of Internal Revenue for three years.
Q. So total of how many years?
A. 33 years.
Q. And what is your present job title?
A. Technical adviser to the area counsel criminal tax, area 1.
Q. Are you here, in part, to testify concerning summary charts that you have prepared from evidence in this case?
A. Yes.
Q. Turning your attention to Exhibit 8-62(1) on the counter before you, do you recognize that document?
A. Could you repeat that exhibit again, please?
Q. 8-62(1). Do you recognize that document?
A. Did you say 8-62 or 8-67?
Q. 8-62(1). Should I come up?
A. Yes, I have it.

Q. You have it?
A. I have it.
Q. Do you recognize that document?
A. Yes, I do.
Q. Who prepared it?
A. I did.
Q. To prepare Exhibit 8-62(1), did you examine or review certain evidence in this case?
A. Yes, I did.
Q. Specifically did you examine the series of documents constituting Exhibit 8-62(2)?
A. Yes, I did.
Q. In preparing Exhibit 8-62(1), did you consider the testimony of J.J. Cafaro?
A. Yes, I did.
Q. Did you also consider a transcript of the testimony of Albert Lange?
A. Yes, I did.
Q. What information did you extract from Government's Exhibit 8-62(2) to put in this chart?
A. I extracted information relating to expense reports submitted by Richard Detore to U.S. Aerospace Group for dinners at -- where either Congressman Traficant was in attendance or at the Taverna Restaurant.
Q. Does the chart fairly and accurately summarize

Richard Detore's restaurant expenses as reflected in 8-62(2)?

A. Yes, it does.

MR. SMITH: Your Honor, may I place Exhibit 8-62(1) on the screen?

THE COURT: Yes.

BY MR. SMITH:

Q. Sir, is that the exhibit we've been talking about on the screen?

A. Yes, it is.

Q. All right.

Now, if you would begin with -- is it broken down by the years 1998 and then 1999?

A. Yes, it is.

Q. All right. If you'd start with 1998 and explain to the jury, first of all, the left-hand column, what's in the left-hand column?

A. That's the date that the meal was provided with the date of the meeting.

Q. All right. And what's in the middle column?

A. I'm sorry. What?

Q. What is represented in the middle column of the chart?

A. The detail column is the restaurant or the place where the meeting -- dinner meeting was held.

THE COURT: Would you, Mr. Smith, it's a little hard from here to read the last of those three columns. No -- well, I think if you -- you can put it back in the same size, but just try and get -- there we go. Can the jury see all three columns?

THE JURY: Yes.

THE COURT: Okay. Good.

MR. SMITH: Okay.

BY MR. SMITH:

Q. The middle column, would you tell us what that is?

A. The middle column with the detail column represents the place where the restaurant, where the dinner or the meeting took place.

Q. All right. And the column over on the right-hand side?

A. The total column, that's the actual cost of the dinner, based on the expense reports submitted by Richard Detore.

Q. All right.

And did you create -- did you add those up and create a subtotal for the year 1998?

A. Yes, I did.

Q. And what was that subtotal?

A. $1,874.35.

Q. Did you do essentially the same process for the year

1999?
A. Yes, I did.
Q. All right. And do the three columns represent the same sorts of information for the year 1998?
A. Yes.
Q. And did you subtotal the 1999 expenses for Mr. Detore?
A. Yes, I did.
Q. And what was that subtotal?
A. $1,801.96.
Q. And finally, what was the total for the whole amount for both years 1998 and 1999 combined?
A. $3,676.31.
Q. Sir, if you would now direct your attention to Government's Exhibit 8-67(1) on the counter before you. Do you have that in front of you, sir?
A. I have it.
Q. All right. And you recognize that document?
A. Yes, I do.
Q. Who prepared it?
A. I did.
Q. To prepare that particular document, did you consider the testimony of J.J. Cafaro?
A. Yes, I did.
Q. Did you also consider transcript of the testimony of

Albert Lange?

A. Yes, I did.

Q. And prior to coming here today, did you also look at Government's Exhibit 8-36(1), 8-36(2), 8-36(3), and 8-38 in preparing this chart?

A. Yes, I did.

Q. And specifically what did you do in order to prepare this chart?

A. I looked at the receipts and the bills relative to the boat repairs or testimony indicated on a boat owned by Congressman Traficant, and from that, I took the expenses from those receipts that were submitted by Albert Lange, receipts and the bills relative to the repair of the boat.

Q. Okay.

A. And other expenses related to the boat.

Q. All right. What does the chart show?

A. It shows total expenses by payee and by year necessary to repair the boat.

Q. Does your chart fairly and accurately summarize, based upon the exhibits and testimony looked at, the boat repair expenses?

A. Yes.

MR. SMITH: Your Honor, may I put Exhibit 8-67(1) on the board?

THE COURT: Yes.

BY MR. SMITH:

Q. We'll go to separate parts later, but is that the document in its whole, in its entirety?

A. Yes.

Q. All right.

We'll have to deal with parts of this at a time.

First of all, if you could describe for the jury what the left-hand column of this -- this document represents?

A. The left-hand column represents the date of payment of either the receipt by the contractor doing the repairs or the date -- or the check that was used to actually pay the bill.

Q. And then there's -- I'm sorry?

A. The repair, I'm sorry.

Q. Is there a second column that says how paid?

A. Yes.

Q. And what is -- what information did you extract from the documents to create that column?

A. I extracted paid receipts and bills and also checks that were actually provided by Albert Lange.

Q. And moving to the column referred to as payee, do you see that column on the chart?

A. Yes.

Q. All right.

And are there three payees on your chart?

A. Yes, there are.
Q. All right. How did you get the information to put in the payee column of this chart?
A. From the paid receipts, from bills that were submitted, and from checks that were written by Albert Lange.
Q. And who were the three payees that you were able to identify from the exhibits?
A. Bruce Sannino, Ernst deGroot, and Eastern Power Boat Club.
Q. And did you, for the years 1998 and 1999 combined, create a subtotal reflecting how much each of those persons or entities was paid?
A. Yes.
Q. All right. Let's start with Bruce Sannino. For?
A. Bruce --
Q. I'm sorry, go ahead. Go ahead.
A. Bruce Sannino was paid $3,600; Ernst deGroot was paid $16,880.62, and Eastern Power Boat Club was paid $4,321.17.
Q. Now, did you also break the expenses out, not only by the identity of payee, but by which year the expense was paid in?
A. Yes, I did.
Q. And is that reflected on your chart under a portion that says amount and then two years underneath it?

A. Yes, it is.
Q. And did you create a subtotal for each year to reflect how much of the boat expenses were paid in each year?
A. Yes, I did.
Q. All right. For the year 1998, how many boat expenses had occurred in that year?
A. $15,223.34.
Q. And for the year 1999?
A. $9,578.45.
Q. In addition, did you also break the expenses out by category of expense?
A. Yes, I did.
Q. And is that reflected at the bottom of your chart?
A. Yes, it is.
Q. And looking at the bottom of the chart, is there an item that says expenses by category?
A. Yes. The -- it's broken down by a total boat repair expenses, which includes a $600 survey and also slip rent, electric, and membership fees paid to Eastern Power Boat Club.
Q. And did you calculate the total repair expenses?
A. Yes.
Q. And how much were they?
A. $20,480.62.

Q. And how about slip fees, electric, rent, membership, how much was that?
A. $4,321.17.
Q. And what's the grand total then of expenses for the boat?
A. $24,801.79.
Q. All right. If you'd flip that document that you have over, is there another chart on the back?
A. Yes, there is.
Q. And do you recognize that chart?
A. Yes, I do.
Q. Who prepared that chart?
A. I did.
Q. And what is that chart -- what does it show?
A. It shows the reimbursements that were received by Albert Lange from John J. Cafaro, the Cafaro Company, and United States Air Group, U.S. Aerospace Group.
Q. To prepare this chart, did you consider the transcript of Albert Lange's testimony?
A. Yes, I did.
Q. Did you also consider the testimony of J.J. Cafaro?
A. Yes, I did.
Q. Did you also, prior to coming here today, look at Government's Exhibit 8-19, 8-20, 8-21, 8-22, 8-24, 8-28, 8-33, 8-35, and 8-39 in preparing this chart?

A. Yes, I did.
Q. Does your chart fairly and accurately summarize the reimbursements to Mr. Lange concerning the boat?
A. Yes, it does.
MR. SMITH: Your Honor, could I put this up?
THE COURT: Yes.
BY MR. SMITH:
Q. First of all, as I place the entire document up on the board, is that the document? Is that Exhibit 8-67(2) up on the board?
A. Yes.
Q. Okay. Now, again, we'll take this in parts, pull parts of it out. The first three columns, let's deal with that first.
What information did you extract to create those first three columns?
A. The first column is the date of the check. The second column is the payor of the check. Third column is the check number, the payor's check number, and the fourth column is the payee.
Q. Okay. And the payee is reflected on the face of the check itself, is that correct?
A. That's correct.
Q. As well as the payor?
A. That's correct.

Q. All right.

And then the fifth column is what?

A. Fifth column is the amount of the check.

Q. All right.

And summing all those checks up, what total did you come to with -- with respect to reimbursements to Albert Lange?

A. $26,472.17.

Q. All right.

Now, if you compare the final total of boat expenses on Government's Exhibit 8-67(1) of $24,801.79, compare that with -- on 8-67(2), $26,472.17, do those numbers differ?

A. Yes.

Q. All right. And can you explain to the jury the reason for that difference?

A. Some items, the reimbursements, were greater than the amount of the expenses that are listed on 8-67(1).

Reimbursed total, $26,472.17, the total expenses included were $24,801.79, and the difference -- the reason for that is some expenses that were on reports submitted by Albert Lange were not included on 8-67(1) because they weren't directly related -- I couldn't determine whether they were directly related to boat repairs, and the other items, there were some overpayments by the Cafaro Company to Albert Lange.

And I'm not sure how they were accounted for.

Q. Okay.

A. Whether Albert Lange ever returned the money or not, it's only a small difference.

MR. TRAFICANT: Could you repeat the question and that answer for me, your Honor?

THE COURT: I'll have you read that back if you will.

(Thereupon, the record was read back by the Court Reporter.)

THE COURT: You said something while she was reading, and she can't transcribe what you said while she was reading and I also couldn't hear what you said. So if you'd like to -- if you remember what you said, you can say it now; just that when she's reading out loud from her equipment, she can't take down what you said, and I think you might want to repeat it. I don't know what it was.

MR. TRAFICANT: I just wanted the last sentence, some expenses, et cetera, I didn't want --

THE COURT: Okay. Thank you.

MR. SMITH: May I proceed, your Honor?

THE COURT: Yes.

MR. SMITH: Thank you.

BY MR. SMITH:

Q. Mr. Hess, in Government's Exhibit 8-67(1), the items

that you did not include in the chart from the underlying documentation, what types of expenses were those?

A. They were essentially gas charges, miscellaneous charges.

Q. There were a few restaurant charges and so forth as part of the bills that were included in Albert Lange's documentary evidence that you submitted from your review of the documentation. You were unable to determine whether those directly related to the boat or not; is that right?

A. That's correct.

Q. And, therefore, you did not include them in 8-67(1); is that correct?

A. That's correct.

Q. Moving to a different area, do part of your duties as a technical adviser to criminal tax counsel in Philadelphia include identifying specific items of unreported income on federal income tax returns?

A. That's correct.

Q. And to perform that function, are you required to be familiar with those provisions of the Federal Internal Revenue Code that concern what constitutes income?

A. Yes.

Q. For how long have your duties included being able to identify specific items of unreported income on tax returns?

A. For over 30 years.
Q. Would you please describe any training that you have received, that enables you to identify specific items of income unreported income on tax returns?
A. Yearly attendance, continuing professional education courses, also continuing legal education courses, review -- constant review on a daily basis of cases being submitted for review, technical review, both civilly and criminally.
Q. Have you ever been an instructor in the field of identifying specific items of income under the federal tax code?
A. Yes, I have.
Q. And please tell the jury what sorts of circumstances under which you have been an instructor in that field?
A. Being instructor to the different methods of proofs used to determine additional income and usually in-house Internal Revenue Service, either with IRS counsel, IRS appeals, and approximately 20 different training sessions.
Q. And who were the students in those instruction sessions of yours?
A. I'm sorry. The question?
Q. What type of students you have in those instruction sessions of yours?
A. Generally, the -- they were IRS counsel people, IRS appeals people, and IRS revenue agents.

Q. Are you a member of any professional associations or societies?

A. A member of the American Institute of Certified Public Accountants.

Q. Have you ever previously testified as an expert witness in federal court in the field of federal income taxation?

A. Yes, I have.

Q. Approximately how many times?

A. Approximately 15 times in both civil and criminal proceedings.

MR. SMITH: Your Honor, at this point we would tender Mr. Hess as an expert in the field of federal income taxation.

THE COURT: You have demonstrated that he meets the Rule 702 requiring to testify as an expert in a special knowledge, special skill and experience, training, education to qualify him. There are other issues we also have to address regarding where you're going with the particular testimony.

MR. TRAFICANT: Your Honor --

THE COURT: Maybe we want to do that over a break, Congressman.

MR. TRAFICANT: In qualifying an expert, isn't it a fact that the Defendant has a right to ask

questions relative to that qualification to determine --

THE COURT: We need to break -- we probably need to break and do this during the jury's break because there are other issues that we also have to go through regarding this witness and his testimony here. So it's a little bit early, it's five after 10:00. If we give you a half hour break now, that's all right. Then we'll try to address all those issues so that you don't have to go without your morning break. Thank you.

(Proceedings in the absence of the jury:)

THE COURT: Congressman, you want to make inquiry of this witness?

MR. TRAFICANT: Yeah. I wonder if he ever, in fact, was a student at any seminars.

THE COURT: You can answer his questions. Maybe if you come over a little closer.

THE WITNESS: Yeah. If you can come over.

THE COURT: Do you still have people to let out?

DEPUTY MARSHAL: Yes, your Honor.

THE COURT: Okay. Sorry.

MR. TRAFICANT: First, your Honor, for the record, I object to the fact that I was not allowed to, in fact, question this witness relative to his qualifications as an expert in front of the jury.

THE COURT: We also have an obligation to look at his qualifications in terms of his testimony and probability, his opinion, and all the other issues that come up when you use an expert. When we got to a certain point in this, it wasn't clear, I didn't know exactly where the Government was going to go with this, but we have to hold some inquiry, which we don't do in front of the jury, and if you want or they want to go back over some of the qualifications that he's stated, we can do that with the jury here.

Maybe there's a resume or something like that that one side or the other wants to get into, but we also have to look at how his opinion, if he's going to give one, if he is qualified as an expert, holds up against the standards that we have to test it against, and that we don't do in front of a jury. So it's one of those things where something gets near to that, then it's good to take the jury out and explore.

If you want to ask any questions about his qualifications, you may.

MR. TRAFICANT: Now you give me the chance to ask about his qualifications after he has summarized several charts and documents on the board. Now you stop us for qualification. Why shouldn't he have been qualified as an expert before we proceeded with any of his testimony?

MR. SMITH: Your Honor, there's a very clear explanation for that. I wanted there to be a clear demarcation in this record between this witness doing something, for instance, what Agent Samansky did earlier, which was simply to be a Rule 1006 summary witness, which is what the first three charts were, as opposed to tendering an opinion as an expert witness, which is what we're going to get into now for the first time. And that is why I specifically waited to qualify this gentleman as an expert so this jury wouldn't be confused as to what was expert testimony and what wasn't.

MR. TRAFICANT: This jury is not confused --

THE COURT: No, but this is --

MR. TRAFICANT: The jury has heard testimony from a witness who has yet to be determined an expert.

THE COURT: But he wasn't giving expert testimony then, but now they're trying to set him up so he can give expert testimony, and that's the process we're now in out of the hearing of the jury because that's what's required.

So if you have any questions about anything, you can ask this witness and go forward. The Government still has not finished the inquiry they have to make in order to establish that he, in fact, could testify about particular items in a particular way as an expert.

BY MR. TRAFICANT:

Q. Did you ever testify on behalf of a citizen who is being prosecuted by the IRS?

A. No, I haven't.

Q. Did you ever participate in any training sessions where you were the student?

A. Yes, I have.

Q. How many?

A. Many over 30 years. I would have to say probably about 25. That I participated -- your question is whether have I participated in training --

Q. No. How many times were you a student where some other IRS expert had, in fact, given you and trained you in giving you knowledge of the IRS Code?

A. I'd say approximately 15 times.

Q. In 33 years?

A. In 33 years.

Q. And you're familiar with the changes of the tax code?

A. I'd like to think I am, yes.

Q. And have you been qualified as an expert in previous trials?

A. Yes, I have.

Q. Have you ever testified in Cleveland?

A. No, I haven't.

Q. Do you have a certification to show that you're, in

fact, an instructor?
A. I'm sorry, Congressman. I didn't hear you.
Q. Do you have certification that shows that you are a registered IRS instructor of record?
A. I have -- identification of courses that I have taught at, in fact, letters of commendation.
Q. I didn't ask you that.
A. You said certification?
Q. Are you certified as an instructor by the IRS?
A. I have taken -- yes, I have taken the basic instructor training to be certified as an instructor years ago.
Q. Do you have the certificate with you, sir?
A. No, I don't.
Q. Do you have one?
A. Yes, I do.
Q. Is it on file?
A. Yes. It's -- well, it's within my personnel file. When you say on file, I mean -- I don't know that there's a separate file where these are -- in other words, a public file where these are kept.
Q. How many files?
A. But there's a list -- there's a list of people that are called as --
Q. How many are listed?

A. Many, sir.
Q. Certified? Do you have a guesstimate? Is it one, five?
A. I have no idea.
Q. Um-hum.
A. I wouldn't even --
Q. Did you bring with you your resume and your vitae?
MR. SMITH: Objection; been given in the Jencks material, your Honor.
THE COURT: Okay. I think it was -- it was submitted to you, Congressman.
MR. TRAFICANT: I'm talking to him now.
THE COURT: That's true.
BY MR. TRAFICANT:
Q. Did you bring it with you?
A. I sent a copy here. I didn't bring it with me, no.
Q. Do you normally just send a copy?
A. I send a copy to the prosecuting attorney.
MR. TRAFICANT: I will let the Court decide, but I object to the fact that you've allowed this man to identify documents and discuss documents before you officially admitted him as an expert.
THE COURT: Okay. Well, all right. You can make that objection. But I think as the Government has pointed out, they're using you in two different respects as

a witness here, and we're just beginning a process of looking at whether or not you can give opinion testimony as an expert, which is not what he was doing in the beginning. He was explaining and identifying documents.

MR. TRAFICANT: I object because he was summarizing documents that had been presented to him by the Prosecution. He was testifying under oath.

MR. SMITH: And Rule 1006 specifically permits that, your Honor.

THE COURT: All right.

MR. TRAFICANT: Having said that, if there's anything else for the Court, I'd like to use the restroom unless you have something else.

THE COURT: We have a little more to do here now. You want a break, I'll give you a five-minute break now, and we'll come back and do the rest of this, but we still have some other things.

MR. TRAFICANT: I'd rather proceed now and have the five-minute break later.

THE COURT: Okay. Are you going to use this witness to give an opinion at some point? I don't know if you are or aren't but sounds like that's what you were going to do.

MR. SMITH: Yes, your Honor. With respect to Exhibit 6-3, which is the final summary chart.

MR. TRAFICANT: In that regard, I ask if the witness had submitted my tax returns to the prosecutors as well.

MR. SMITH: Your Honor, what I intend to elicit from this witness is that the tax returns of the Congressman were given to him in discovery, which are Exhibit 6-1 and 6-2. I intend to elicit -- this agent looked at those two tax returns, and that based upon the exhibits which are identified on Exhibit 6-3 and the testimony of Lange, Cafaro, and Sabatine, which he has reviewed transcripts of with respect to Lange and Sabatine and heard in court with respect to Cafaro and Alan Sinclair, that it is his opinion that in the year 1998, the tax return did not reflect $13,000 of income from John J. Cafaro, $2,500 from Allen Sinclair, $15,223.34 in value of boat expenses that were paid on his -- on the Congressman's behalf, and $2,400 from James Sabatine.

I anticipate asking this witness whether any of those items are reflected on the tax return. I anticipate the witness will say no.

In '99, then I anticipate asking him what unreported income there was for that year, and I expect him to testify to the amounts in the right-hand column under 1999 concerning Sinclair payments, boat expenses, the welder, generator. I'll then ask the witness to compare those to

Line 22 of the return -- respective returns, which is total income, to add the additional unreported income to the reported total income to come to a corrected total income line for each year.

MR. TRAFICANT: Your Honor, I have found tax returns '94, '95, '96, '97. Is it a fact you submitted these? Were these submitted to you, Mr. Hess?

THE WITNESS: I looked at them, yes, sir.

MR. TRAFICANT: Were they submitted to you?

THE WITNESS: No. They were part of the evidence that I looked at. They weren't submitted to me.

MR. TRAFICANT: Who sent you the evidence? Could you hear me?

THE WITNESS: No, I didn't.

MR. TRAFICANT: Who sent you the evidence?

THE WITNESS: No one sent me the evidence. I looked at them here in Cleveland. They were part of the file, the case file here in Cleveland.

MR. TRAFICANT: Did you, in fact, include everything that was submitted on those returns? Did you return everything that was submitted to you?

THE WITNESS: Yes, I did, sir.

MR. TRAFICANT: Relative to '98 and '99? Did you?

THE WITNESS: Yes.

MR. TRAFICANT: What purpose did you have to look at my file before '98, sir?

THE WITNESS: I looked at those files before the indictment came out, current only for the year 1998 and 1999 and for no other purpose; just to extract the type of file information that was reported on the returns from 1993 to see if it had any significance for 1998 or 1999.

MR. TRAFICANT: So you decided before I was indicted to start an investigation into this matter from Philadelphia?

THE WITNESS: I never investigated this matter.

MR. TRAFICANT: You said you looked at my tax returns before I was indicted.

THE WITNESS: That was not part of the investigation, sir.

MR. TRAFICANT: Why would you, in fact, take the time, precious time of such a high paid Government employee as you, to look into a tax return of a man not yet to be indicted?

THE WITNESS: That's what we normally do to see if there's any information that would affect the years in issue.

MR. TRAFICANT: Who ordered you to do that?

THE WITNESS: Who ordered me to do that?

MR. TRAFICANT: Is there an echo in here?

THE WITNESS: I thought -- not that I can hear.

MR. TRAFICANT: Who ordered you to do that?

THE WITNESS: I was assigned the duty to assist in the trial preparation of this case and came under the direction of the Assistant U.S. Attorney handling the case.

MR. TRAFICANT: Who was the Assistants U.S. Attorney?

THE WITNESS: Craig Morford.

MR. TRAFICANT: So he asked you to look before the indictment came down?

THE WITNESS: We looked at the -- I looked at the exhibits that came down initially before an indictment came down.

THE COURT: Hold on a second. I think the jury's about to come.

(Pause.)

THE COURT: Congressman -- Congressman?

MR. TRAFICANT: Yes.

THE COURT: This isn't really -- this is a hearing for a limited purpose. It's not really a sort of cross-examination. The Government probably should voir dire this witness and ask the questions that need to be

asked, or somebody should ask the question. It's a limited hearing, and so --

MR. TRAFICANT: May I respond?

THE COURT: Yes. You can respond to that part of it.

MR. TRAFICANT: I object to any IRS agent or any IRS employee being an expert since they don't recall 60 percent of their calls and make 50 percent mistakes on the actions that they do take.

THE COURT: Thank you, sir.

Now, I'll ask if you would do some basic voir dire that will get us through this limited purpose here, which has to do with opinion testimony by an expert witness.

MR. SMITH: Yes, your Honor.

THE COURT: Thank you.

BY MR. SMITH:

Q. Showing you Exhibit 6-3 on the counter before you, you have that, sir?

A. Yes, I do.

Q. What is it?

A. It's a summary of additional income from Mr. Traficant's 1998, 1999 tax return based on the evidence and the testimony submitted in the case.

Q. Who prepared that document?

A. I did, sir.

Q. Is your analysis limited to the tax years 1998 and 1999?
A. Yes, it is.
Q. To prepare this document, did you examine the following exhibits: 6-1, 6-2, 1-3(1) through 11 inclusive, 1-4(1) through (4) inclusive, 1-9, 1-32(1) and (2), 8-31, 8-32, 8-43, 8-46, and 8-47?
A. Yes, I did.
Q. Did you also consider the testimony of J.J. Cafaro and transcripts of the testimony of Allen Sinclair, Albert Lange, and James Sabatine?
A. Yes, I did.
Q. Does your chart fairly and accurately summarize additional income for James Traficant, Junior, for the years 1998 and 1999?
A. Yes, it does.
Q. Does your chart focus on Line 22 of the two respective tax returns?
A. Yes, it does.
Q. Why?
A. That's the -- where the income, additional income would eventually have been reported on the tax return.
MR. SMITH: May I put this on the overhead, your Honor?
THE COURT: Yes.

Q. Using Exhibit 6-3, would you please summarize what additional unreported items of income you found.

A. I'm sorry. Could you repeat the question?

Q. Using Exhibit 6-3 on the counter before you -- withdrawn. Let me ask you a couple other questions first.

Did you examine Exhibit 6-1, the 1998 tax return for Congressman Traficant?

A. I looked at Exhibit 6-1, yes.

MR. TRAFICANT: Objection. The objection is these are the things that he is now showing that should have been done before this man was qualified as an expert, and he has now, by his own questions, brought about that information. He should have gone through his vitae, his record, how many times he testified, his experience, his knowledge, but not talk about any specific problem with this case until he testified about this case. And I object, and this is a violation.

THE COURT: Thank you.

MR. TRAFICANT: And Mr. Smith has, in fact, now validated it.

THE COURT: Would you continue, please?

MR. SMITH: Yes, your Honor.

BY MR. SMITH:

Q. Did you look at Government's Exhibit 6-2, the 1999 tax return for Congressman Traficant?

A. Yes, I did.
Q. Looking at both of those returns, were you able to account for -- from the face of the return, all reported items of income?
A. Yes, I was.
Q. Were you then able, based upon your review of the evidence that we've identified, able to identify other items of unreported income for each tax year?
A. Yes, I was.
Q. All right.
Using Exhibit 6-3, would you please explain what those unreported items of income that you found were.
A. First --
Q. Starting in 1998.
A. For the year 1998, there would be funds received from John J. Cafaro, based on his testimony, and Exhibit 8-31 and 8-32; funds from Allen Sinclair for the year 1998 of $2,500, based on Government's Exhibit summary chart 1-9 and testimony of Allen Sinclair; boat expenses paid for the taxpayer $15,223.34 taken from my summary that's 67-1; and funds received from James Sabatine, which is of $2,400, which was taken from transcripts of testimony of James Sabatine.
Q. And what was the total additional income for the year 1998?

A. $33,123.34.
Q. How much was reported on the tax return?
A. Total income reported was $138,985.
Q. Did you calculate a corrected total income that should have been for Line 22?
A. Total corrected income should have been $172,108.34.
Q. Now, with respect to the $2,400 item for Mr. Sabatine in the year 1998, you see that on the chart?
A. Do I have another chart?
Q. With respect to the $2,400 item for Sabatine in the year 1998, do you have that item on your chart?
A. Yes, I do.
Q. All right.
In connection with that item, did you examine Government's Exhibits 1-32(1) and 1-32(2)?
A. I'm not sure what 1-32 --
Q. Would you look at Exhibit 1-32(1) on the counter before you?
A. Oh, yes, I did. I looked at it.
Q. What is that document?
A. Campaign election reports filed with the Federal Election Commission.
Q. And did you examine that exhibit on the issue of whether or not Mr. Sabatine's payment to the Congressman was a campaign contribution?

A. Yes, I did.
Q. All right.
Did you, for purposes of your analysis, classify the Sabatine payment as a campaign contribution?
A. No, I did not.
Q. Based on 1-32(1), why did you do that?
A. It wasn't reported on the Federal Election Commission report that was filed.
MR. TRAFICANT: What was the amount?
THE WITNESS: Under the Federal Election Commission report?
MR. TRAFICANT: Yeah.
THE WITNESS: There was a contribution of $300 from Mr. Sabatine listed in the Federal Election Commission report. The total amount given or testimony from James Sabatine was $2,400.
MR. TRAFICANT: I see.
BY MR. SMITH:
Q. All right. Moving to the year 1999, would you please again summarize, using Exhibit 6-3, what the unreported income was in that year.
A. The first item are funds from Allen Sinclair, based on the summary Exhibit 1-9 and testimony of Allen Sinclair of $30,000. Next item are boat expenses paid in the year 1999, $9,578.45, based on my summary Exhibit 8-67(1). Next

item are the purchase of a welder by U.S. Aerospace Group for $2,415.39 and $491.74, which it was taken from Exhibit 8-43 and the testimony of Albert Lange.

Next item is purchase of a generator by Cafaro Management Company for $2,714.91, and that's taken from Exhibit 8-46 and 8-46 and 8-47 and the transcript testimony of Albert Lange.

Q. Did you total the amount of unreported income for the year 1999?

A. Yes, I did.

Q. And how much total additional income was there?

A. $45,200.49.

Q. Did you add that to the total income that was actually reported on Line 22 of the return?

A. Yes, I did.

Q. And what was the resulting corrected total income figure for Line 22?

A. $185,3363.49.

MR. SMITH: Your Honor, that is where I wind up.

THE COURT: Very well.

MR. TRAFICANT: I object to this man being deemed an expert. I don't believe there's any IRS agent that's an expert. I think they're thieves that prey upon the American people. Other than that, I have no other

knowledge if he even knows how to spell his name.

MR. SMITH: Your Honor, the Government's position is that is an insufficient basis in law to exclude this man as an expert and request an instruction that the Congressman not make such speech type remarks in front of the jury during his cross-examination.

THE COURT: Well, it is certainly an insufficient basis in law. It is an opinion you hold, Congressman, but it's not --

MR. TRAFICANT: Yes. I would not be subject to having anybody instruct me what I can or can not ask a witness in this trial.

THE COURT: I want to just go over some of the factors that we have to consider and make sure we handle it. There's no question but that the subject matter is appropriate. There's no question but that this witness is qualified as an expert. We also have to look at reliability of what he's doing here, what his -- the methods that he's used.

He does show specialized knowledge that would assist the jury, who is the trier of fact, in understanding how, depending on what they do as a jury, they might find certain facts that they'll have to find. It helps them understand evidence. It's relevant; it's based on sufficient facts and data, and they come directly from the

case itself. So that's important.

MR. TRAFICANT: One last question, your Honor.

THE COURT: Wait. I am not through.

This is an analysis that has to be carefully done, so be patient with me, and let me get through it.

There has to be a proper factual basis, and we have that in the evidence that has been relied upon in this case, that this expert has looked at.

This is not guesswork or speculation, but it's actually based on experience and expertise of this gentleman.

MR. TRAFICANT: Well --

THE COURT: I need to -- I need to ask just a couple of questions about the application of the principles and methods that you used to the test that you were given and have you talk a little bit about that to me so that I understand how you came to the principles that you applied.

I understand your factual basis, but can you talk for a minute about your method and your principles that you applied?

THE WITNESS: Using the provisions of the Internal Revenue Code to determine the taxability of the evidence that's been presented is basically what I would be testifying to.

THE COURT: Okay. And in terms of putting together this -- these -- this summary chart that was up on the board just now, tell me exactly what you did. Just start at the bottom in terms of your methodology and putting that together.

THE WITNESS: Essentially what I did, as far as the boat expense and the chart on the boat expenses. Was divided out by year -- for instance. The Internal Revenue Code provides a tax basis a taxpayer would have to pick up income in the year in which property is received for services rendered.

The property would be received in the year the boat expense is paid so I broke it up by year.

THE COURT: Okay. Just keep going.

THE WITNESS: Oh. And I did that by taking the date of the check, the date of payment that was indicated in paid receipts that were given by the contractor to Mr. Lange and dates for payments that were indicated on bills that were also submitted by the contractors; also determining that using the expenses that were actually used for boat repairs. I did that by checking them into invoices or bills that were presented by each individual contractor to Mr. Lange, and Mr. Lange submitted that as part of the evidence that he submitted to the Government.

THE COURT: All right.

THE WITNESS: And I also took the amounts from that, also.

THE COURT: Very well. Anything further?

MR. SMITH: I have nothing, your Honor.

THE COURT: Thank you. All right. I'll make the finding that the subject matter is appropriate for expert testimony, that the testimony is relevant, and there's sufficient facts, it's a product of a reliable set of principles and methods the expert has applied in a reliable way. He's qualified. He has support, proper factual support, and basis for what he's doing, and there is no just guesswork or speculation about this, it's something that can be relied upon.

And so we will permit you to go forward with this expert in front of the jury after we take a break.

MR. TRAFICANT: I offer now an objection for the record that you allowed evidence that he will be displaying and talking about before he was qualified and let that be shown to the jury, and you did not allow this qualification process to be seen by the jury in any other form.

THE COURT: Okay. Congressman, Rule 1006 is different than what we were looking at. Here we're looking at Federal Rule of Evidence 702 and the requirements that

have been imposed by Supreme Court of the United States on courts to be in a gatekeeper kind of position before any expert offers anything to a jury. And we'll follow with the law. Your objection is preserved for the record. I think we should take a break. Okay?

MR. TRAFICANT: How much time we have?

THE COURT: Ten minutes. Thank you.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: You're welcome. Thank you, sir. You may stand down.

THE WITNESS: Thank you.

(Thereupon, a recess was taken.)

THE COURT: Sir, you're still under oath.

Mr. Smith.

RESUMED DIRECT EXAMINATION OF MR. HESS

BY MR. SMITH:

Q. Mr. Hess, showing you what's been marked as Government's Exhibit 6-3 on the counter before you, you have that, sir?

A. Yes, I do.

Q. Do you recognize that item?

A. Yes, I do.

Q. What is it?

A. This is a summary additional income for James A. Traficant's 1998 and 1999 personal income tax returns.

Q. And who prepared that chart?
A. I did.
Q. Is your analysis limited to the tax years 1998 and 1999 on that chart?
A. Yes, it is.
Q. In preparing that chart, did you look at Government's Exhibits 6-1 and 6-2 in order to prepare that chart?
A. Yes, I did.
Q. And could you tell the jury what Exhibit 6-1 is?
A. 6-1 is the income tax return of James A. And Patricia Traficant for years 1998.
Q. Was that a certified copy of the tax return?
A. Yes, it is.
Q. And what is Exhibit 6-2?
A. 6-2 is a certified copy of James A., Patricia's 1999 income tax return.
Q. And did you use those two documents, 6-1 and 6-2, in part, in preparing your chart, which is Exhibit 6-3?
A. Yes, I did.
Q. In -- before coming here today, have you also examined Exhibits 1-3(1) through (11) inclusive, 1-4(1) through (4) inclusive, Exhibit 1-9, Exhibit 1-32(1), Exhibit 1-32(2), Exhibit 8-31, 8-32, 8-43, 8-46, and 8-47?
A. Yes, I did.
Q. Did you consider the testimony of J.J. Cafaro in

preparing this chart?
A. Yes, I did.
Q. Did you consider a transcript of the testimony of Raymond Allen Sinclair, Albert Lange, and James Sabatine in preparing this chart?
A. Yes, I did.
Q. And what method did you use in preparing this chart that is available to someone who's doing a tax computation?
A. Used the specific items method of proof.
Q. Would you explain to the jury what the specific items method is?
A. You identify specific items of income, which are not reported on the tax return.
Q. And in doing your computation, did you use a cash basis or an accrual basis?
A. Congressman's is a tax basis, being a taxpayer. It's a cash basis for determining the additional amount.
Q. Are all individual taxpayers cash basis taxpayers?
A. Yes.
Q. In examining -- excuse me, in looking at Exhibits 6-1 and 6-2, did you focus upon any particular line item of that return, returns --
A. I focused on Line 22 of the return, which is total income.
Q. In looking at Line 22, from the face of the returns,

the returns and their various attachments, were you able to account for all of the income that was reported on the face of the return?

A. Yes, I was.

Q. From the evidence that you looked at, did you find any income items that were not reported on the 1998 and 1999 returns?

A. Yes, I did.

Q. And does your chart, Exhibit 6-3, fairly and accurately summarize those items of specific unreported income for the Congressman for the years 1998 and 1999?

A. Yes, it does.

MR. SMITH: Your Honor, may I display Exhibit 6-3 on the board?

THE COURT: Yes.

BY MR. SMITH:

Q. Beginning in the year 1998, would you please use Exhibit 6-3 and identify which items of additional unreported income you located?

A. The first item, just covering year 1998, were funds received from John J. Cafaro, which was taken from Exhibit 8-3(1), 8-32, and the testimony of John J. Cafaro.

Next item are funds from Allen Sinclair received in the year 1998. And that was taken from summary -- Government's Exhibit summary Exhibit 1-9 and the testimony

of Allen Sinclair. And the amount is $2,500.

The third item are boat expenses, which were paid for the taxpayer year 1998, and that was taken from my summary Exhibit 8-67(1), and that amount was $15,223.34. And fourth item were funds received from James Sabatine, and that's taken from the testimony of James Sabatine, and the amount is $2,400.

Q. Now, with respect to that last $2,400 item of James Sabatine, did you look at the question of whether that should be attributed to be income or a campaign contribution?

A. Yes, I did.

Q. Did you classify that $2,400 figure as a campaign contribution?

A. No, I did not.

Q. In not classifying it as a campaign contribution, did you look at Government's Exhibit 1-32(1)?

A. Yes, I did.

Q. And what is Government's Exhibit 1-32(1)?

A. Reports filed with the Federal Elections Commission related to the contributions received of over $200 that has to be reported to Federal Elections Commission.

Q. In the year 1998, did Exhibit 1-32(1) show a $2,400 contribution from James Sabatine in that year?

A. No, it does not.

Q. Does it show any contribution from Mr. Sabatine that year?
A. Yes. It shows a $300 contribution. I believe the date -- I have to go into the report -- is July 20, 1998.
Q. But, does the report show a $2,400 contribution?
A. No, it does not.
MR. TRAFICANT: Object after the fact. It was asked and answered, and they continue to do that as well as I do.
THE COURT: Thank you, Congressman.
BY MR. SMITH:
Q. All right. Did you then arithmetically generate a sum total of unreported additional income for the year 1998?
A. Yes, I did.
Q. What was the total of the additional income?
A. $33,123.34.
Q. Now, how much income was actually reported on Line 22 of the tax return as is?
A. $138,985.
Q. And did you add the additional income to the income that had already been reported to arrive at a total corrected income figure for Line 22?
A. Yes, I did.
Q. And what is that figure?

A. $172,108.34.
Q. Moving to the year 1999, did you identify any specific items of unreported income for that year?
A. Yes, I did.
Q. All right.
And using Exhibit 6-3, would you please explain to the jury what those specific items were?
A. The first item were funds received from Allen Sinclair, based on Exhibit 1-9 and the testimony of Allen Sinclair and the amount received in that month, 1999, was $30,000; next item boat, expenses paid for the taxpayers, payer for the year 1999 of $9,578.45. Next item --
Q. Where did that come from, sir?
A. That came from my summary Exhibit 8-67(1).
Q. Go ahead. Next item?
A. Next item is purchase of a welder by USAG for the Congressman and the amount broken down into two amounts $2415.39 and $491.74, and that's taken from Government's Exhibit -- or Exhibit 8-43, plus the testimony of Allen -- not of Allen Sinclair. It was taken from Albert Lange -- sorry -- taken from the testimony of Albert Lange. Next item is a purchase of a generator by Cafaro Management for Congressman Traficant in the amount is $2,714.91, and that's taken also from the testimony of Albert Lange and Exhibit 8-46 and 8-47.

Q. Did you add up those respective items of unreported income for the year 1999?
A. Yes, I did.
Q. What was the total of the additional unreported income?
A. $45,200.49.
Q. How much income, total income, was actually reported on Line 22 of the return?
A. $140,163.
Q. And did you add the additional income to the income that had already been reported to arrive at a total corrected income figure for Line 22?
A. Yes, I did.
Q. What was that figure?
A. $185,363.49.

MR. SMITH: Your Honor, I have no further questions of the witness at this time.

THE COURT: Thank you. Congressman.

CROSS-EXAMINATION OF BRUCE HESS

BY MR. TRAFICANT:

Q. How are you, Mr. Hess?
A. I am fine, Congressman.
Q. How long have you stayed in Cleveland?
A. I'm sorry. I didn't hear your question.
Q. How long have you stayed in Cleveland?

A. Would you repeat that again? How long what --
Q. How long have you been in Cleveland?
A. Off and on, probably total of about five weeks.
Q. And who paid your expenses?
A. The Government.
Q. Who authorized the expenditure?
A. The office of Chief Counsel.
Q. Who is the Chief Counsel?
A. The Chief Counsel is B. John Williams currently Chief Counsel of the IRS.
Q. Did you not at one time work for the Commissioner?
A. I don't know whether -- was B. John the Commissioner?
Q. I'm asking the questions. Did you ever work for a commissioner directly?
A. Yes.
Q. Who was it?
A. The Commissioner is -- Charles B. Rosatti is the Commissioner of the IRS.
Q. Who was the Commissioner you worked for directly?
A. I worked directly -- I work directly for the Commissioner is the title, not commissioner -- I work under the Commissioner of Internal Revenue. It's Charles B. Rosatti. My boss is the Chief Counsel, who is B. John Williams, who I believe now under the new reorganization probably is equal with the Commissioner or now under the

Commissioner.
Q. Did you ever work for any commissioner underneath their supervision and report directly to any IRS commissioner?
A. No, I did not.
Q. Where do you live?
A. I live in Philadelphia.
Q. To the best of your knowledge, do you know if there are tax experts in Ohio?
A. I have no present knowledge of that, no. I'm sure there are -- you're talking about within the IRS?
Q. I'm not talking about the rotary.
Are you a member of the IRS, sir?
A. Sure there are tax experts within the State of Ohio.
Q. Isn't Cincinnati one of the biggest regional offices in the IRS?
A. I wouldn't say one of the biggest. It's a large district office. I would say it's one of the largest agencies.
Q. Are there tax experts in Cincinnati?
A. I imagine there are, sir.
Q. Why is it that you were chosen to come all the way from Philadelphia?
A. They wanted to bring somebody else out from a different area I guess to get a fresh look at the case. I

was just assigned a duty to come out, Congressman.
Q. Who were they? Who assigned you?
A. My boss and my immediate boss, and the -- and also the director of the criminal tax division in Washington.
Q. Who is the director of the criminal tax division?
A. The director now? Barry Finkelstein now works under -- the current one is now on maternity leave. I imagine the acting right now is Barry Finkelstein.
Q. Were you appointed and directed by memo or letter?
A. Neither. I was just told verbally.
Q. And you were told verbally by what person?
A. My immediate boss, the area counsel of Philadelphia, Ken Rubin.
Q. Was he notified by the Washington office to assign you?
A. I guess he was.
THE COURT: I don't think we got his name. Ken -- I don't think we got his name. Ken?
THE WITNESS: Ken Rubin, R-U-B-I-N.
Q. And there was a Mr. Finkelstein. And what is his role.
A. He's currently the head of the -- I guess the acting head of the criminal tax function. Nancy Jardini was his boss, and we -- she's now currently on maternity leave. Barry Finkelstein was directly under her, and I believe

that he's assistant or was assistant to the criminal tax function, the associate, actually associate Chief Counsel of criminal tax.

Q. So your boss is in the Philadelphia office, right?

A. My immediate boss, yes, sir.

THE COURT: How do you spell Nancy's last name; do you know? Nancy?

THE WITNESS: J-A-R-D-I-N-I.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Now, you said your boss got an order from the head of the criminal division, correct, IRS?

A. I'm not exactly sure how that worked out. He indicated to me that I would be assigned to go out to Cleveland to go to trial.

Q. Mr. Hess, isn't it a fact that the orders came out of Washington, D.C. to your boss at the request of the Cleveland Prosecutors and IRS agents? Yes or no.

A. I'm not aware of that. No, sir. I don't -- I don't know exactly the chain that actually caused me to come out here.

Q. Did you ask?

A. No, I did not.

Q. Now, isn't it a fact that you started looking at Traficant tax returns before Jim Traficant was indicted?

Yes or no.
A. Yes.
Q. Why would an IRS expert in Philadelphia be reviewing a taxpayer's returns in the State of Ohio, subject to custodial and memorialized records being in Cincinnati?
A. I didn't look at the records until I came out here and was assigned to trial, and it was part of the evidence that was here.
Q. Mr. Hess, are you now saying you did not review my charts before I was indicted?
A. You're talking about your tax returns, Congressman?
Q. Yes.
A. Did I refute them?
Q. Did you review my tax returns before I was indicted?
A. I looked at them, sir.
Q. Well, what -- what do you do when you just -- did you just look at the name?
A. I didn't examine them. I looked at them for purposes of determining the exact items, particular items that were actually reported on the return.
Q. So you were sent from Philadelphia to Cleveland, is that your testimony, before I was indicted?
A. Yes, sir.
Q. Who led to you believe I was going to be indicted?
A. The investigation was ongoing, and the timing of it

was there was just prior to an indictment being handed down by the Grand Jury.

Q. How do you know it was prior to being handed down by a Grand Jury? Did you have a Grand Jury knowledge?

A. No. I was out here -- I was just out here reviewing and taking a look at the evidence preliminarily and just taking a look at it, and I know that it was prior to the indictment. The timing of the indictment and when it was going to be reached, I have no independent --

Q. At whose request were you in Cleveland, Ohio, from Philadelphia before I was indicted?

A. My superior.

Q. Doesn't, in fact, the IRS memorialize through documents like the FBI does their activities?

A. When documents -- with documents, yes, sir. Not every activity is memorialized.

Q. When you look or become involved in a case, do you write a report similar what the FBI writes as known -- you know what a 302 is of the FBI?

A. I'm not really familiar with a 302.

Q. Does the IRS agent, when they meet with somebody, summarize, memorialize the contents of their communication with that subject?

A. If they're communicating with the subject, normally they would, yes.

Q. Did you make reports back to Philadelphia and/or to the Justice Department in Washington relative to your findings before the Traficant indictment?
A. No, I did not.
Q. Did you make reports to the Prosecution seated here?
A. No, I did not. The only thing I did for the Prosecution was prepare the schedules that you see here.
Q. Who asked you to do that?
A. The Assistant U.S. Attorney, sir.
Q. Is he seated here?
A. Yes, he is.
Q. What's his name?
A. Craig Morford.
Q. Could you identify him?
A. Sitting right over there.
Q. How many times did you meet with Mr. Morford before I was indicted?
A. Approximately five times.
Q. How many days did you spend in Cleveland away from your Philadelphia office before I was indicted?
A. Approximately two weeks.
Q. Who paid those expenses?
A. The Bureau of Chief Counsel, IRS.
Q. Located where?
A. Washington.

Q. Did you look at the tax return of Jim Traficant of 1993, sir?
A. I believe I did, sir, yes.
Q. Do you believe, or do you know, Mr. Hess?
A. I'm not sure how far back the returns, available returns that we had for those years. I know it was probably -- I'm guessing because I don't have it exactly in front of me.

It was probably four years prior to the years at issue here in this case: I'm not sure if it was '93 or '94.

MR. TRAFICANT: '94 return.
MR. SMITH: May I see it?
MR. TRAFICANT: '93 return.
MR. SMITH: Okay.

Q. What years were you here to investigate, Mr. Hess?
A. The years that ultimately ended up being indicted were the years 1998, 1999 were the years --
Q. I didn't ask you what I was ultimately indicted for. What years were you here to summarize for?
A. I was here to summarize the years that were indicted, sir.
Q. What were those years?
A. 1998 and 1999.
Q. Would you say that's when you started?

A. Started what, sir?
Q. Looking at Traficant documents? Would you look at the top of it? Are you familiar with IRS forms?
A. I may have.
Q. Are you --
A. This is the -- what are you saying started with? I probably looked at the return to get an idea of what the types of income that were reported in prior years.
Q. What year is that -- would you read the name of the year?
A. It's 1993.
Q. So you went back to '93. Does '93 through '99 have a particular statutory requirement?
A. I'm sorry. I didn't hear your question.
MR. SMITH: Objection to any testimony about law.
Q. Are you familiar with the Internal Revenue Service Code?
A. Internal Revenue Service Code or the Internal Revenue Code?
Q. Internal Revenue Service Code.
A. I don't know what you mean by Internal Revenue Service Code.
Q. Do we have an Internal Revenue Service?
A. We do.

Q. You want to split hairs? Is there a difference between an Internal Revenue Code?

A. An Internal Revenue Service Code?

Q. Yes.

A. Well, yes, there is. The Internal Revenue Code is the law that's passed by Congress relating to taxes of the country.

Q. Mr. Hess, you're an expert. Is there a difference between an IRS Code or an Internal Revenue Code?

A. Yes.

Q. What's the difference?

A. The difference is an IRS Code is something that is within -- it's -- it would be an internal code -- as far as I understand the question being an internal code relating to IRS. The Internal Revenue Code is something very different. It's the law relating to tax.

Q. So you are an expert on the Internal Revenue laws; is that correct?

A. Well, yes, sir.

Q. Is there a statutory limit relative to charging a taxpayer on an income tax violation?

A. There was a statutory limit, yes, sir.

Q. What is it?

A. It's six years.

Q. Is that why you went back to 1993?

A. No. That is not why I went back to 1993.
Q. Why did you go back to 1993?
A. To take a look at the -- if it would have any effect on the years that either could have been or were indicted. It was just part of the evidence that was available here in the office that had been surfaced during the investigation.
Q. Who gave you that evidence?
A. The U.S. Attorney, sir.
Q. Which one?
A. Craig Morford.
Q. You're an IRS agent. Did you meet with the chief of the IRS department in Cleveland, Ohio?
A. No, I did not.
Q. Did you meet with Mr. Perkins, criminal division IRS?
A. Yes, I did.
Q. How many times did you meet with Mr. Perkins?
A. He was the investigating IRS agent. I met with him a number of times, many times.
Q. Is Mr. Perkins an expert?
A. I consider him an expert in conducting investigations of the criminal tax -- criminal tax investigations and putting together criminal tax cases for the IRS.
Q. Couldn't a criminal tax investigator put together the chart you put together?
A. No. He's not qualified to do that. He's qualified to

do criminal investigations, not to summarize tax and tax liability.

Q. In other words, you're saying that criminal tax investigators never do summary reports in a criminal trial; is that your testimony?

A. I wouldn't say never. It would be highly unusual.

Q. Don't you think it's highly unusual for a guy to come from Philadelphia on orders from D.C. to come all the way to Cleveland?

MR. SMITH: Objection as to orders from D.C., which has not been established.

Q. Wasn't it a fact that your boss was --

THE COURT: Whoa, wait. The objection is well taken.

Q. Wasn't it a fact that your boss indicated to you that Washington, D.C. wanted you to come out on this case?

MR. SMITH: Objection, hearsay.

THE COURT: Sustained.

Q. Mr. Hess, did you come here to swim in Lake Erie?

A. No, I did not.

Q. Did you ever work on my farm?

A. No, I did not.

Q. Did I ever hug you?

A. No.

Q. Did you ever hug me?

A. No, sir.
Q. Did you audit the '93 return?
A. No, I did not.
Q. What did you look at in the '93 return?
A. Just a categorization of the income tax report --
Q. For what year?
A. -- determining if it had any effect in subsequent years. Sometimes there are items on the return that are either half reported or a disclosure of certain information that may relate to any years that would become an issue in the case; for instance carry-forward --

THE REPORTER: Could you repeat that?

THE COURT: Carry-forward losses.

THE WITNESS: Right.

Q. Mr. Hess, if I am being too loud, I'm a little hoarse, but I would ask you to speak clearly and to speak up and in a manner in which you can be recorded. And I would appreciate yes or no answers.

Were you aware of the fact that Jim Traficant's wages were being garnished since 1991?
A. Yes.
Q. Were you asked to do a summary of that?
A. No.
Q. Now, this was in with the tax returns that I got. I want you to look at that document. Does that refresh your

memory, sir?

A. This is a transcript of account for year 1980, showing tax deficiency assessment of payments.

Q. You didn't see this form before?

A. No, I did not.

Q. It was just stuck in between '93 and '94?

A. It wasn't part of the information I received, sir.

Q. So you weren't asked to summarize a half million dollars that the Congressman paid in taxes due to a civil trial, were you?

A. No, sir.

Q. Has there been a change in the status of burden of proof in a civil trial, sir?

A. Status of a burden of proof changed in 1998 somewhat.

Q. Do you know?

A. In civil matters.

Q. Do you know who authored that legislation?

A. No, I do not.

Q. Did the status change relative to the seizure of Americans' homes in 1998?

A. Yes, sir.

Q. Do you know who authored that law?

A. No, I do not.

Q. Did the status of wage attachments change in 1998?

A. As far as I -- as far as I can remember. The act

that was passed in 1998, yes, it did.
Q. The status of property change as a result of the 1998 law?
A. Yes, sir.
Q. Do you know who authored that legislation?
A. No, I do not, sir.
Q. What is the difference now in the burden of proof in a civil tax case than there was before 1998?
A. Prior to 1998, the burden of proof remained totally with the taxpayer. In the 1998 litigation matters, the burden would shift to the Government unless the taxpayer failed or did not cooperate or provide documentation, in which case, the burden would still remain with the taxpayer.
Q. But if cooperation was made through an accountant, the burden of proof was on whom, sir?
A. If the case was mitigated and cooperation was made with the IRS and the taxpayer fully cooperated with the IRS, the burden would be in mitigating the case with the IRS.
Q. Isn't it a fact that home seizures dropped from 10,000 to 50 the very first year to 51 seizures of homes versus 10,067 the first year?
A. I am not aware of that, sir, the statistics.
Q. Are you aware the wage attachments dropped from 3.1

million to 500,000 the first year?
A. No. I'm not aware of that.
Q. Are you aware property liens dropped, went from 168,000 to, in fact, 160,000?
A. No, I'm not aware of that.
Q. In the first year?
Are you aware of the fact the IRS recommended a veto to President Clinton of the '98 tax bill because of the burden of proof and the seizure laws?
A. No, I'm not aware of that. I did -- the burden of proof issue did change. I am aware of that, sir.
Q. Did you look at the 1994 return, sir?
A. Yes, I did.
Q. And to what degree and extent did you review the '94 return?
A. I'm sorry. Could you repeat the question, sir?
Q. To what extent and degree did you, in fact, review the '94 tax return?
A. I just looked at it, sir.
Q. What did you look at, the names, signatures?
A. I looked at the categories of reported income that were reported on the return.
Q. Now --
A. And other items that would effect or could affect the years at issue.

Q. So in order to do that, you had to make a brief cursory audit and compare it to '93, wouldn't you?
A. No, I did not do an audit.
Q. I didn't ask you if you did an audit. You did a cursory audit review to compare and analyze '94 and '93. Did you or did you not?
A. I compared 1993 and 1994.
Q. Well, how did you compare them?
A. Just by category, sir, what was reported. I didn't make a determination of what was reported was improper; whether there was any unreported income for those particular years to look at.
Q. Did you only look at the front page, Mr. Hess?
A. No, I did not.
Q. If you didn't look at the front page, that meant you opened it up, didn't you?
A. Yes, I did.
Q. Tell me what sections in 1994 you looked at.
A. I looked at all the file forms that came with 1994.
Q. Tell me the file forms you looked at, looking through it.
A. There was a schedule B when it was reported, interest income, a schedule C, where there was business income reported, and a schedule B, but it was for rental income or whatever type of income was reported, category of income

that was reported on the schedule A. I looked at all the types of income that were reported.

Q. Isn't every page something to do with income, sir?

A. No. Some have to do with deductions. For instance, itemized deductions there would be a separate page for that.

Q. Do you know if they were itemized?

A. Probably did not check that, but taking a look at it, there were itemized deductions.

Q. So you took a pretty good cursory review of '94, didn't you?

A. I looked at it, sir.

Q. Now, did you do a look at '95?

A. Yes, I did.

Q. Did you compare '95 with '94?

A. Yes, I did.

Q. Did you compare '95 with '94 and '93?

A. Yes, I did.

Q. Did you look at all of the income matter in 1995?

A. I looked at the schedules that were of reported income, sir, yes.

Q. Who asked you to do that?

A. No one, sir.

Q. That's just a part of your normal expertise?

A. Yes.

Q. To really make sure that what you were documenting is, in fact, a fact?
A. I don't understand that question, sir.
Q. Do you document that it is a factual conclusion when you're done looking at an item of IRS income?
A. Just a document of the types of income that were reported on a -- there's nothing -- I didn't do anything to either audit or examine particular items that were on there.

I just looked at the particular categories of income that were reported and possibly the amount of gross receipts that were reported for a particular category, and that was it, to see if anything -- and compared it with prior years, to see if anything was different, much different from prior or subsequent years of returns.

Q. So you say you looked at, for example, Sabatine, right, his transcript?
A. I did not look at transcripts, sir, no.
Q. Well, how can you summarize Mr. Sabatine's involvement if you didn't look at --
A. You're talking about the transcripts, the Court transcripts, sir? I did -- I did read Sabatine's transcripts. I'm sorry, sir.
Q. Um-hum.

And did you interview Mr. Sabatine?

A. No, I did not.
Q. Did you know if he was charged with a felony violation of serious nature?
A. Only if it was in the transcript, sir.
Q. Did you read the entire transcript?
A. Of James Sabatine, yes, I did.
Q. Do you know that there was, in fact, a serious felony that had been plea bargained?
A. Yes, sir.
Q. Did that lead you to look at Mr. Sabatine's tax returns?
A. No, sir.
Q. Was it suggested to you by the Government that you do so?
A. No, sir.
Q. So your summary of Mr. Sabatine is what he said on the witness stand, right?
A. Yes, sir.
Q. Did you corroborate it through any other evidentiary proof?
A. The only evidentiary proof is what was submitted in the court proceedings, and it was just his testimony, sir.
Q. Well, now, let's go to 1996. We're getting a little closer now.
How much of a look did you give '96 returns?

A. I just looked at the return.
Q. All of the income revenue sections?
A. All the various categories of reported income and all the schedules attached.
Q. Well, being -- not to interrupt you, excuse me. I thought you were finished.

Being an expert, tell the jury how many segments of an IRS return, in fact, contain income documentation?
A. There's many different segments. Depends on the income and the activity that's involved.

There's schedules for almost every -- every type of income, except if you're a lay person where you get a W-2 or some other category, but you have a business, depending on the type of business, you have a separate schedule. Each category of income is usually reported on a separate schedule.

Even interest income, if it's over a certain amount, has to be reported on a separate schedule. So there's many different schedules that have to be filed with an income tax return related to reporting of income.
Q. Well, in 1996 -- there are approximately what, 15 pages there? How many pages would include income revenue matters? Would the first page?
A. Yes.
Q. Would the second page?

A. No. The second page would not itemize deductions. It doesn't relate to --
Q. You didn't look at deductions?
A. I probably looked at them, sir. I mean, when you say look at -- I just looked at the dollar figures that were on there.
Q. So you did review the dollar figures on Page 2?
A. I did not review them. I looked at them, sir.
Q. All right. Fine.
A. Then there's a schedule C that was filed with the return.
Q. And did you look at that? Is that -- is that income?
A. It -- it reflects income and deductions relating to a business, yes, sir.
Q. So out of the first four pages, you looked at three for income. Now, would you look at the fifth page? Go ahead. We can hear you.
A. The fifth page is just supporting documentation for deductions taken on the Schedule C.
Q. Did you look at it?
A. Very, very quickly.
Q. Okay.
A. And the sixth page is a schedule E file, reports supplemental income and loss from rental activity. In this case, there's a specific activity relating to oil and gas

wells that's reported.
Q. Fine. What was the amount?
A. The net amount, which is the gross income received from it, the gas well, less expenses $2,400, sir.
Q. So you did look at that. So that's five out of the first seven pages of income?
A. Yes, sir.
Q. You missed one date, didn't you? You might be going a little too fast, or did I make a mistake?
What is that page?
A. That's a computation of self-employment tax relating to the schedule C reported income.
Q. So that's now six out of eight pages with income, right?
A. Yes, sir.
Q. Look at the next page.
A. It represents -- I believe these are supporting schedules for computation of business expenses and unreimbursed employee expenses, which I believe relates to your congressional salary, the statutory amount that's allowable for congressional -- this relates to deductions.
Q. Does it say my name on it?
A. No. It says unreimbursed employee expenses and says FPR --
Q. Is there a name on the --

MR. SMITH: Objection.

THE WITNESS: James A. and Patricia Traficant, both of yours.

THE COURT: Okay. You need to stop interrupting. Okay? Slow down.

MR. TRAFICANT: Fine.

Q. Did you look at that page?

A. Very quickly, sir.

Q. Does it include anything to do with income?

A. No, it does not.

Q. Okay. Six out of nine. Look at the next page.

A. This page contains a summary of your W-2 gross income and withholding of the various taxes that are required to be withheld relating to your W-2 income.

Q. You would have looked at that, wouldn't you?

A. Yes, sir.

Q. That's seven out of ten. Would you go to the next one?

A. That's a computation of the amount of itemized deductions to which you would be allowed since there's a statutory limit based on the amount of your adjusted gross income, separate.

Q. Does it have an effect on income, though?

A. Effect on deductions, not on the --

Q. Doesn't deductions -- don't deductions have an effect

on income?
A. Gross income or taxable income?
Q. Taxable income.
A. Yes, it does.
Q. Did you look at that page?
A. Very quickly, sir.
Q. Eight out of 11. What's the next page?
A. Summarization of schedule A.
Q. What is that, sir?
A. It's computation of deductions, allowable deductions that the -- or deductions which were claimed for state and local taxes, real estate taxes, and so forth.
Q. Did you look at that?
A. Yes, I did.
Q. That's nine out of 12.
What's the next page?
A. Next page contains a listing of deductions relating to Patricia Traficant, schedule C.
Q. And what does it deal with?
A. This is deductions claimed on the tax return.
Q. Does that not affect income?
A. Yes, it does.
Q. Did you look at it?
A. Took a quick look at it, sir.
Q. 10 out of 13. What's the next page?

THE COURT: Wait a minute, we need you to speak louder because I don't think people in the back can hear you anymore so just talk into the microphone if you would.

MR. TRAFICANT: I'll help you with the pages, Mr. Hess.

THE WITNESS: Thank you.

Q. Are we at 10 out of 13 now?

A. I haven't counted, sir.

Q. What's the next page?

A. Has to do with the deductions relating to the oil and the gas well property reported on schedule A.

Q. Did you look at that?

A. I took a quick look at it, sir, yes.

Q. That's 11 out of 14.

A. This is a different IRS filing form; has nothing to do with the return that you filed. That's part of the processing of the filed tax return.

Q. Would you, in fact, read what it says in the upper right-hand corner?

A. It gives a number, and it says criminal investigation.

Q. And what was the date of the year?

A. This is a 1996 tax year.

Q. Fine.

Did you look at that, sir?
A. Yes, I did, sir.
Q. You're a criminal investigator, aren't you?
A. No. I'm not a criminal investigator.
Q. You summarize criminal investigation work, do you not?
A. Yes, I do.
Q. So you would look at that, wouldn't you? Now we're 12 out of 15. What's the last one?
A. That's your W-2 from the U.S. House of Representatives.
Q. Is that income?
A. Yes, it is.
Q. So fair to say after having looked, you looked at 13 of 16 pages, right?
A. Yes, sir, I probably looked at all the pages, the 16 out of 16.
Q. And why wasn't a criminal investigation listed on a '96 return?
A. I don't know, sir. That's handled by the criminal investigation unit. They must have had an ongoing investigation, which involved that particular tax year.
Q. Do you know if there were forms for '95 and '94 and '93, sir, of that nature?
A. No, sir. No, sir.

Q. Well, we'll, come back to that. But in 1996, there was a criminal investigation document placed in the return that was filed in evidently Cincinnati; is that correct?
A. Yes, sir.
Q. You then looked at the '97, which is now moving towards your target dates; yes or no?
A. Yes.
Q. Could you identify what this is, sir?
A. It's a form attached where this indicates that it's a criminal investigation, has either put a hold on the account or has put in -- these two years were part of the years I think that were initially investigated.
Q. So '95; '93 and '94 were not?
A. I'm not sure if they were ever part of the criminal investigation or not, sir. Statute of limitations, they probably were not part of the criminal investigation years.
Q. Well, what is the statute of limitations again?
A. I'm sorry, sir. Could you repeat that?
Q. What is the statute of limitations for the Internal Revenue Code?
A. The Prosecution is generally six years from either the due date of the return or the date the return is filed.
Q. Do you own a home?
A. Yes, sir, I do.
Q. In what office site are you actually located?

A. Philadelphia.
Q. On what street?
A. Market Street.
Q. Is there anything special about that office? Is it a major national office?
A. No, sir. At one time it was a regional office, and now it's the office where the area counsel for CT is now located.
Q. Did you interview Mr. Sinclair?
A. I was present when Mr. Sinclair -- when he came up to the office was there. I did not interview him, no.
Q. Who was all present when you were there from Philadelphia?
A. Craig Morford and Don Samansky, and I -- I believe they were the ones that were present when he initially came up.
Q. And there were no local IRS agents in the room?
A. No, sir, there weren't.
Q. Now, you said you listened to Mr. Cafaro's testimony?
A. Yes, sir.
Q. And, in fact, you were seated right here, were you not?
A. Yes, sir.
Q. And you heard his testimony?
A. Yes, sir.

Q. Are you aware that both Mr. Sinclair and Mr. Cafaro had received plea agreement deals with the Government?
A. Yes, sir.
Q. Now, Al Lange, did you -- did you meet with Mr. Sabatine when he come up to meet with the IRS or FBI?
A. No, I did not.
Q. Did you -- were you at any meetings with Mr. Cafaro?
A. No, I was not.
Q. Any meetings with Mr. Lange?
A. I attended one meeting with Mr. Lange.
Q. And when was that?
A. When was that, sir?
Q. Yes.
A. That was -- I guess about a month ago.
Q. What is the IRS reporting mechanism to memorialize a summary of a meeting interview called?
A. There really isn't a special form where you have to fill out, memorialize a meeting. Normally, it's done like an interoffice memo where you put down, summarizing where agents investigate the case and go out and contact a witness, and it's done by the person who's conducting the interview of the witness.

Normally, if you go out and talk to somebody and they don't have either much to say or does not really -- anything, they're just getting some documentary evidence,

normally, the memorialization of that would be nothing more than just a notation in the agent's report; would be in the report.

Q. Were there any prosecutors in the room at that time when you met with Mr. Lange?

A. Yes.

Q. Who were they?

A. Mr. Morford.

Q. Were there any FBI agents in there when you met with Mr. Lange?

A. No, sir.

Q. Were there any IRS agents in there when you met with Mr. Lange?

A. I don't remember whether Don Samansky was there or not. I was there, but we would be the only IRS people that would have been there.

Q. Did you write a summary report on any of the meetings you attended relative to Mr. Lange and Mr. Sinclair?

A. No, I did not.

Q. Did you, in fact, conduct a cash review of Traficant activities during the years 1998 and 1999?

A. No, I did not.

Q. Did you meet with any FBI agents and ask if they had any cash transactions in the last ten years involving Mr. Traficant and somebody else?

A. No, I did not.
Q. Is this case about cash, sir?
A. Yes, sir.
Q. Is it about cash coming in?
A. Yes, sir.
Q. Now, there's no physical evidence other than the testimony of these witnesses. Would it not be prudent to investigate the use of cash by the Defendant?
MR. SMITH: Objection; assumption contrary to fact.
THE COURT: Thank you. The objection is sustained. Don't answer that.
Q. Anyone ever suggest that a cash expense investigation be conducted on Congressman Traficant?
A. No, sir.
Q. How long you been a criminal investigator?
A. I'm not a criminal investigator. I am an agent who assists in a criminal investigations.
Q. For how many years?
A. 30 years.
Q. Now, you find you have no physical evidence, don't you try to go out and see if the guy bought a Cadillac, or if the guy bought a horse, or see if the guy bought a boat? Yes or no.
MR. SMITH: Objection. He said he's not a

criminal investigator.

THE COURT: Objection sustained.

Q. Now, when you looked at the receipts of these boat repairs, how would you know that Mr. Lange and Mr. DeGroot weren't doing $10 worth of work and putting $5,000 in their pockets?

A. I'm only looking at the direct evidence, the invoices and the bills.

Q. You're looking at the invoices and the bills only, right?

A. And the payments, sir.

Q. Did you ever ask any FBI agent if they had any proof that, in fact, that had or had not occurred?

A. I just used the evidence that was presented, sir.

Q. And that was through the transcripts?

A. Yes, sir.

Q. And the documents?

A. Yes, sir.

Q. Did any agent say that they had conducted such an investigation?

MR. SMITH: Objection, hearsay.

THE COURT: Sustained.

Q. Now, isn't it a fact that a Mr. Sannino received $3,600?

A. Yes, sir.

Q. You know if he received that in one payment or in two payments?
A. According to the records that I looked at or reviewed, he received it -- I think he received a $600 payment and a $3,000 payment. There were two payments.
Q. Now, in looking at the summary, did you ask what the payments were for?
A. It was indicated in Mr. Lange's testimony that the payments to Bruce Sannino were for work he was doing on the boat.
Q. Did you read that transcript well?
A. Yes, sir.
Q. Wasn't it a fact that Mr. Sannino did the boat survey and didn't do any work?
A. He received $3,000, and apparently that received was applied to the work that Ernst deGroot was doing.
Q. So on the so-called boat expenses, you just took the testimony; you took the cancelled checks, and you put them on the chart?
A. That's correct, sir.
Q. Did you ask for any and all bank accounts of any of the individuals you have just testified about?
MR. SMITH: Objection. Not his function.
THE COURT: Okay. It's maybe a good time to break for lunch. We're at 12:00. The objection is

sustained.

This witness wasn't engaged for that purpose. Are you ready to take a break, Congressman, or you have a couple questions?

MR. TRAFICANT: Your Honor, I didn't want to keep the jury late. I didn't realize the time. I think we should quit now. I have other questions.

THE COURT: The jury will have lunch. We'll be back at 1:30, and remember all those admonitions about letting yourselves be exposed to anything in any way regarding this case that isn't inside the courtroom. Enjoy your lunch.

(Proceedings held outside the presence of the jury:)

We're going to take you out this side first so that we don't have overcrowding out here. This half of the courtroom is going to go out now, and those of you on this side just wait a minute. We'll then take you out. I think we'll let the jury -- we haven't coordinated with the jury. Okay. We're going hold the jury for a few minutes. The rest of you can leave.

Sir, you can step down.

We're going to recess until 1:30 and resume at 1:30. We'll let the jury go after you all have left. Just taking people out in pieces.

MR. SMITH: Very good, your Honor.

(Thereupon, a luncheon recess was taken.)

Wednesday Session, March 20, 2002, at 1:30 P.M.

THE COURT: Sir, you're still under oath.

BY MR. TRAFICANT:

Q. How are you, Mr. Hess?

A. I'm fine, Congressman.

Q. I notice the prosecutors refer to you as Bruce. Are you that close with them now?

A. I'm sorry?

Q. I notice the prosecutors referred to you as Bruce. Are you that close with them now?

A. Am I that close with the prosecutors?

Q. Yes.

A. Yes, we're pretty close.

Q. You have a title for your position?

A. Yes, I do.

Q. What is it?

A. Technical adviser to the area counsel, criminal tax.

MR. TRAFICANT: It's the '93 return.

MR. SMITH: All right.

MR. TRAFICANT: Your Honor, '93 return.

THE COURT: Fine.

Q. Could you identify what year that is, and hand it back to me?

A. 1993.

Q. I want to refer to you a page in the back of this document. Would you read what the service center is? Can you see it there?
A. Cincinnati.
Q. And can you read what, in fact, it says in the block?
A. In the block, it's a number, and 17 221 107 704 24-4, criminal investigation.
Q. So now you recall that there was a criminal investigation as early as 1993?
MR. SMITH: Objection, objection.
THE COURT: You didn't -- I don't think that was his testimony before, Congressman. Congressman?
MR. TRAFICANT: Yes?
THE COURT: I don't think that was his testimony before, was it?
MR. TRAFICANT: He said that -- you have the court reporter. I don't want to disrupt the jury. He said he wasn't aware of anything before '96. We can look at that at a break, I guess.
THE COURT: All right.
BY MR. TRAFICANT:
Q. When did you first see a document on Jim Traficant?
A. Over a year ago -- about a year ago, I'm sorry.
Q. Would that be about February of 2001?
A. Yes, sir.

Q. Well, then, why were you looking at my documents much earlier, earlier tax return before I was indicted?
A. It was about that time that I was asked to come out and assist in the preparation of the case being prepared.
Q. Isn't it a fact that the farm was officially designated as a hobby rather than a business?
MR. SMITH: Objection. Relevance of hobby situation.
THE COURT: Okay. The objection's overruled. You can answer that if you know. But tell him which form we're talking about, which year, which --
MR. TRAFICANT: In any year.
Q. Isn't it a fact that the farm was designated by the IRS as a hobby and not a business?
A. I don't have firsthand knowledge of that.
Q. When you reviewed the reports, did you look at the farm activity for income?
A. Yes, there was initially more items in there relating to a -- relating to the farm activity that did not relate to a -- the issue of a hobby loss.
Q. Briefly explain -- briefly the difference between a hobby and a business.
A. I'm sorry, Congressman. Could you repeat that question?
Q. Briefly explain to the jury the difference between a

hobby and a business.
A. A hobby loss is an activity that's conducted not for profit. A business is an operation, which is conducted for profit. That's for -- that's really a tax definition.
Q. Did you audit my '98 return?
A. No, I did not.
Q. Did you have knowledge if my '98 return was audited?
A. I have knowledge that your '98 return was investigated.
Q. Well, when the IRS investigates, do they audit or not?
A. Yes, they do.
Q. Do you have knowledge that my '99 return was audited?
A. The term has a civil context. A return for 1998 was examined and investigated by the Criminal Investigation Division, which involves looking at every item on the tax return.
Q. Why was there a criminal investigation in '93 included in my stack of discovery?
A. I don't know whether there was any criminal investigation of the 1993 return.
Q. What does it mean when the IRS says that we are to only supply a voluntary tax report?
A. There isn't a provision where a -- in the Code where the filing of a report is voluntary.

Q. Well, then, why is it known that tax returns are supposedly, quote unquote, voluntary?
A. The compliance with the laws of the Internal Revenue Code are supposed to be voluntary. The action requiring of filing a return certainly is not voluntary.
Q. Isn't it a fact that you don't make a return, they'll seize your rubber ducky? Yes or no.
MR. SMITH: Objection.
THE COURT: You can answer that from what you understand.
THE WITNESS: Would you repeat the question, please, sir?
Q. Isn't it a fact if you don't file a tax return they can come out, seize your rubber ducky or anything else?
A. Would you repeat that again, sir? I'm not sure I understand the question.
Q. If you do not submit this voluntary tax return, isn't it a fact they can come out at some point and even seize your rubber ducky?
A. Well, I think it's a little bit -- it's a little more difficult than that. If you don't voluntarily comply, you're subject to the penalties and the rules of the -- and the laws of the Internal Revenue Code as far as the payment and the compliance of the tax laws.
Q. So it's not voluntary, is it?

A. No, it is not.
Q. Then why is the term voluntary used by the IRS?
A. The term voluntary is a term voluntary compliance where people voluntarily go and which 99 percent of the people do and file their returns with the Internal Revenue Service as required under the Internal Revenue Code. The actual payment obviously -- the actual payment of tax and the actual filing of the return is a requirement under the Internal Revenue Code and the Internal Revenue Code statute. It's certainly not voluntary in the sense that any individual can go and sign whatever he wants to or does not have to file an income tax return.

Everyone is required by law of meeting the requirements of filing an income tax return.

Q. Thank you.

Isn't it a fact that in the past the Internal Revenue Service had been used for political purposes, sir?

MR. SMITH: Objection.

THE COURT: Sustained.

Q. How many times have you come to Cleveland to testify as an expert in a criminal case?
A. This is the first time, sir.
Q. Did the prosecutors ever ask you to look into any other Cleveland defendant?
A. No, he did not.

Q. Even in your Philadelphia office?
A. Yes.
Q. They didn't?
A. Could you repeat the question?
Q. Did they ever ask you and send you an item from Cleveland concerning one of their defendants for you to look at in Philadelphia?
A. No, they did not.
Q. So only time you've ever been in Cleveland was with the Jim Traficant case, is that your testimony?
A. That's correct, sir.
Q. Did you ask the IRS agents if they performed audits on the years you were to summarize?
A. They performed investigations for the years that were at issue, which involves examination of everything on the filed income tax return.
Q. Mr. Hess, when the IRS does an investigation, do they not do an audit? Yes or no.
A. They do an audit of the tax return per se, yes.
Q. Do you know if -- have any knowledge if they did an IRS audit on any of the witnesses in the Traficant case?
A. I have no knowledge of that.
Q. Did you recommend it?
A. No, I did not.
Q. Did you meet with Agent Perkins?

A. Yes, I did.
Q. How many different IRS agents have you met with since you've been in Cleveland?
A. Two.
Q. What are their names?
A. Chuck -- Agent Chuck Perkins and Agent Don Samansky.
Q. How many FBI agents have you met with since you have been in Cleveland?
A. I believe four.
Q. You remember their names?
A. Yeah, Rich -- yes.
Q. Pardon?
A. Yes, Rich Denholm.
Q. Denholm. Who else?
A. Dan and Mike. I'm not sure of their last names.
Q. Who else?
A. And that's it, just -- I'm sorry. There were just three.
Q. So it was Perkins and Samansky?
A. Yes.
Q. Did you meet with any judges when you were in Cleveland?
A. No, I did not.
Q. Did you look at the Traficant civil tax fraud transcript of the early -- in the late '80s?

A. I did not look at the transcript, no.
Q. Were they given to you?
A. The transcript was not given to me, no.
Q. Were any individual items of the civil tax trial of Jim Traficant ever given to you, any parts?
A. Just the decision, the tax court decision.
Q. Who gave you that decision?
A. Attorney Bernie Smith.
Q. Is he in the room?
A. Yes, he is.
Q. Did you use that in connection with your evaluation, and did it have an impression or make an impression upon you in your summary report that you've given to this jury?
A. No, it did not.
Q. Was the burden of proof on the taxpayer at that time in the mid'80s?
A. Could you repeat that, sir?
Q. Was the burden of proof on the taxpayer to prove himself innocent in the mid '80s?
A. The burden of proof was on the -- was on the taxpayer as far as the -- it was on the Government, proof of the fraud penalty, but the burden of proof was on the taxpayer as far as the civil court proceeding.
Q. Mr. Hess, were you informed that the Defendant had been acquitted of the criminal charges involving tax

violations in 1983?
A. Yes.
Q. So was it a civil trial or a criminal trial when the tax trial occurred in the '80s?
A. It was a civil trial.
Q. Who had the burden of proof?
A. The Government had the burden of proof as far as proving 6653(b), fraud penalty.
Q. Who had the burden of proof in all other matters?
A. The IRS had the burden of proof as far as only with the penalty and the burden of proof and all other matters also stayed with the IRS.
Q. And the burden of proof was not on me to show I was innocent, is that your statement?
A. That's true.
MR. TRAFICANT: I don't want to bother you guys, but I'll turn this on.
MR. MORFORD: Here.
THE COURT: Thank you.
Q. Now, you looked at the years 1998 and 1999?
A. Yes.
Q. Did the Government show you a document known as James Traficant cash deposits to personal accounts?
A. Yes.
Q. Do you have a pencil with you, sir?

A. I have a pen.
Q. Do you have paper?
A. No, I don't.
MR. TRAFICANT: Can I borrow a -- well, let me just for once be of service to the IRS, sir.
Q. I'm going to give you a pad.
Do you have a pen?
A. Yes, I do.
Q. Does it write?
A. It writes.
Q. Would you identify this?
A. It's an exhibit titled James A. Traficant cash deposits to personal accounts.
Q. Does it have an exhibit number on it?
A. 1-27.1.
Q. And whose exhibit is it?
A. It's a Government exhibit.
Q. Okay.
I'm going to put this on the screen and leave this pad with you. Okay?
As an IRS agent, do you not deal with figures? You deal with figures, sir?
A. Yes, sir.
Q. You see the lines there? Let's start with the first part.

What year are we talking about in your summary, sir?
A. 1998, 1999.
Q. What dates, what years do those cover?
A. 1998, 1999.
Q. How many dates are listed? Just count them.
A. Twelve.
Q. Write down 12.
Now, from looking at this document, watch it as we go straight across. Do we not go to the same point, or you want me to take the whole document down and reduce it for you? Would you say that's the same point, sir?
A. Yes.
Q. Well, then, let's blow that up. How about that? Would you count how many deposits, just by number, not the amount, total amount? Can you see the document? Can you see -- can you see this? Are you counting each one?
A. Yes.
Q. How many are there?
A. There's 12.
Q. Does the 12 here comport with the 12 that you have just testified to? Are those the 12 dates?
A. No, these are --
Q. These are dollars?
A. No, these are -- that's an entirely different item. One doesn't really relate to the other.

Q. Would you look at it again? And can you tell if that is 12 dates and 12 deposits?
A. Yes, it is.
Q. You couldn't tell that from the first time?
A. I believe I told you that the first time.
Q. You just told me you couldn't. It didn't relate.
Let's get to the point. I'm going to put it back on the board.
Now, you have a pencil, pen, whatever the IRS gives you, I want you to add up yourself the total deposits of 1998 and 1999 made by Congressman Traficant in cash.
A. It's $11,700.
Q. You have $11,700? 23, 28, 48, 58, 65, 75, 85, 10,000, 11, 11,700, right?
A. Right.
Q. Divide that by 12.
A. It's a little over 900 something dollars a month if this is what you're trying to draw. You want the exact figure?
Q. I want the exact figure of 12 months, 12 months divided into that amount.
THE COURT: Divided into what amount, Congressman?
MR. TRAFICANT: The total of this amount, 11,700. 12 into 11,700.

THE WITNESS: It's a little over $908.88.

Q. Did you inquire -- did you inquire of the IRS agents if they did a cash analysis of Traficant's income?

A. No. The only thing that was shown was the -- was just used an analysis of the cash, and it was really done, I think, as a covering measure to determine whether cash was, in fact, being deposited. It wasn't used as a method of proof to determine unreported income or additional income.

Q. Is that an exorbitant amount of cash being deposited into a congressman's account?

MR. SMITH: Objection. Calls for conclusion.

THE COURT: Sustained.

BY MR. TRAFICANT:

Q. Did you meet with any other associates or individuals that had any relationship with me in regard to this case, Mr. Hess?

A. No, I did not.

MR. TRAFICANT: Thank you. No further questions at this time.

THE COURT: Thank you.

REDIRECT EXAMINATION OF BRUCE HESS

BY MR. SMITH:

Q. Mr. Hess, you were asked on cross-examination whether you looked at the 1993 through 1997 inclusive return; is

that correct?
A. That's correct.
Q. Now, the Congressman is only charged with tax offenses for years 1998 and 1999; is that correct?
A. That's correct.
Q. Did you personally have any decision-making authority over which tax years were charged?
A. No, I did not.
Q. Did you look at the 1993 through 1997 returns to determine whether they could affect your calculation on the 1998 and 1999 years?
A. Yes, I did.
Q. Did that require you to audit the 1993 through 1997 returns to perform that function?
A. Yes.
Q. Did you perform an actual civil audit on the 1993 through 1997 returns?
A. No, I did not.
Q. Did you -- were you required to actually verify the accuracy of the 1993 through 1997 returns?
A. No.
Q. Now, during your cross-examination, you were asked by Congressman Traficant whether you had examined a particular document. Do you recall that question and answer, whether you had examined a document. You said no, I looked at it.

You remember that series of questions and answers?
A. Yes, sir.
Q. All right.
Now, in your field, does the word exam or examination have a technical meaning from a tax standpoint?
A. Yes, it does.
Q. All right. And did you answer the question in a technical sense rather than in a layman sense when you answered that question?
A. Yes, I did.
Q. All right. Would you please explain to the jury in the technical sense what examine or examination means in the civil tax context.
A. Civil tax context means examining each and every item on the return to take a look at the documentary evidence backing up each particular item, and that's really what an examination is. You're examining the line item on a particular return in order to determine whether, in fact, it's the backup or the support of that particular item is there.
Q. So when you looked at the 1993 through 1997 tax return to Congressman Traficant, did you perform an examination in the technical sense of that term?
A. No, I did not.
Q. Now, you were asked by Congressman Traficant on

cross-examination whether a cash review over the last ten years had been done. Do you recall a question like that from the Congressman Traficant?

A. Yes.

Q. And in what type of case would a ten-year cash review typically be done?

A. It's two different types. Usually, the cash review -- if you're talking about cash expenditures -- here again, we're going into technical terms. Cash expenditure would be a method of proof used to determine additional income, unreported income of a taxpayer, using the expenditures that are made; could also mean bank deposit type where we're using deposits to --

Q. Stop there a minute. Would you explain to the jury what the cash expenditures method of proof is?

A. Yes. Cash expenditure method of proof is where you use expenditures of a nondeductible expenditure of a particular taxpayer for either personal expenditures or capital expenditures on buying a house, and you equate that with what's reported on the tax return and come up with a correct taxable income in order to determine additional taxable income.

It differs from specific items method. You're not talking about specific items that are absolutely minimal in the tax return. You're using expenditures made by the

taxpayer.
Q. Did you use a cash expenditures method of proof in this case?
A. No.
Q. What method did you use?
A. Specific items method.
Q. Did that require you to do a ten-year cash review?
A. No, it does not.
Q. All right. What was the other method you started to refer to with cash review?
A. Bank deposits.
Q. All right. Explain to the jury what a bank deposit method of proof is.
A. Bank deposits method of proof is where you add up most of the taxpayers' transactions run through his bank account, and you use deposits gone from a taxpayer's bank accounts in order to arrive at a corrected gross receipts or additional gross receipts figure.
Q. All right.
Did you use the bank deposits method of proof in this case?
A. No, we did not.
Q. Now, Congressman Traficant asked you on cross-examination whether or not you had looked at a Mr. James Sabatine's tax returns; is that right?

A. That's correct.
Q. And he also asked you on cross-examination whether your review of the Sabatine transcript reflected that Mr. Sabatine had been convicted; is that right?
A. That's correct.
Q. Did your review of the transcript reveal that Mr. Sabatine pled guilty to a tax offense as part of his plea agreement?
A. Yes.
Q. Now, you were also asked by the Congressman on cross-examination about what you had done with respect to the boat expenses. You recall that series of questions and answers?
A. Yes.
Q. All right. Now, in this case and in this trial, what was your role with respect to Government's Exhibit 8-62(2) -- excuse me -- 8-36(1), (2) and (3)? What was your role?
A. To summarize the evidence that was contained therein.
Q. All right.
Were you assigned by anyone to do any independent criminal investigative duties with respect to that exhibit, 8-36, and its subparts?
A. No, I was not.
Q. Are you a criminal tax investigator at all?

A. No, I am not.
Q. Is your testimony in this case about the boat expenses limited to a summary of the other evidence that's already been produced in this courtroom?
A. Yes.
Q. Now, the Congressman asked you whether or not there was some sort of indicator on the 1993 and 1996 tax returns that they were -- they were somehow part of a criminal investigation. You recall that series of questions and answers?
A. Yes, I do.
Q. All right. Does that flag on those two returns tell you anything about when that criminal investigation commenced?
A. No, it does not.
Q. You were asked some questions by the Congressman on cross-examination about his farm as being a hobby. You recall that series of questions and answers?
A. Yes. Yes, I do.
Q. And would you please explain to the jury in a little bit more detail what a hobby loss issue is?
A. A hobby loss is where a taxpayer's activity relating to a particular activity results in a loss, and therefore, because it does, even though you have income that's generated by that activity, because it has a loss and

because of the transactions that are not for profit but just for purposes of being a hobby, you cannot claim a net loss from that activity.

Q. Did any part of your calculation of unreported income in this case, was that affected in any way by a hobby loss issue in 1998?

A. No, it was not.

Q. How about 1999?

A. No, it was not.

MR. SMITH: May I have a moment, your Honor?

THE COURT: Yes.

MR. SMITH: No further questions.

THE COURT: Thank you.

RECROSS-EXAMINATION OF BRUCE HESS

BY MR. TRAFICANT:

Q. You only did '98 and '99, what they just asked you, correct?

A. That's correct.

Q. You only looked at '93 and '97 to more or less understand the dynamics and get some refreshments relative to past activities, right?

A. That's correct.

Q. They asked you about the civil audit of the '93 and '97 returns.

A. Would you repeat the question, sir?

Q. They mentioned a civil audit.

THE COURT: You need a question.

Q. On the 1993 and '97 matters.

THE COURT: Congressman, that's not a question; that's a statement. Would you please frame a question?

BY MR. TRAFICANT:

Q. Were you not asked the question about civil tax matters between '93 and '97?

A. Yes, I was.

Q. Did they not ask you questions about a technical exam and the difference between them?

A. Yes.

Q. Is this a civil case?

A. No, it is not.

Q. Are you a criminal investigator?

A. No, I am not.

Q. Why didn't they send a criminal investigator who could summarize this case, Mr. Hess?

MR. SMITH: Objection. Speculation

BY MR. TRAFICANT:

Q. Isn't it a fact that you really don't know what's happening --

THE COURT: Whoa, whoa, whoa, wait a minute. Okay? There's no way he can really testify about what

somebody else did or why. Ask him questions he can testify to.

BY MR. TRAFICANT:

Q. Isn't it a fact you, not being a criminal investigator, were brought here for your experience only to do paperwork in summary?

A. To summarize the evidence and tax returns, yes.

Q. Do you have criminal investigators that do summary work in Philadelphia?

A. No, they're criminal investigators. Their job is to do criminal investigations. It's -- it involves mainly looking at items on a tax return, verifying it and taking evidence relating to unreported income.

Q. Now, if the Cafaro, Sabatine, Sinclair, and Lange monies that you added to that joint tax return were not, in fact, brought forward, would that tax return submitted by the Traficant family be an honest statement?

A. Could you repeat that question again, sir?

Q. You've made a summary, in fact, on testimony, haven't you?

A. Yes.

Q. Supported by checks and drafts, right?

A. Correct.

Q. And you did no criminal investigation into whether or not there was any corroboration and substantial proof, did

you?
A. No.
MR. SMITH: Objection.
THE COURT: Well, he can testify to that. He has done that several times, but go ahead.
MR. TRAFICANT: No, he did not.
Q. So let's talk about Al Lange. You put his money on and added it up, didn't you?
A. Yes, I did.
Q. And you put Sinclair's money on, and you added it up, didn't you?
A. Yes, I did.
Q. And you put Sabatine's money on and added it up, didn't you?
A. Yes, I did.
Q. And you put Cafaro's money on and added it up, didn't you?
A. Yes, I did.
Q. You know if there's one shred of physical evidence to corroborates the truthfulness of this, other than the testimony?
A. My summary is just based on the testimony and the evidence backing up that testimony that's been brought before the Court.
Q. How do you know Mr. Lange spent that money on the

boat?
A. Only by virtue of the invoices that -- and the bills that were submitted --
Q. Who submitted the invoices
A. -- submitted invoices for work that was done on the boat.
Q. Did you check with any IRS investigative agent in Cleveland if they performed that service?
A. No, I didn't.
Q. Did you suggest to them to do that?
A. No. That's not my job.
Q. Now, if you remove this, noncorroborated by physical evidence money, would the '98 and '99 returns of Congressman Traficant and his wife be reliable?
MR. SMITH: Objection to the characterization of uncorroborated.
THE COURT: That objection is sustained. Without that, you can answer it.
Q. Without physical evidence --
MR. SMITH: Objection to that as counterfactual.
THE COURT: The objection is sustained in terms of your using the word physical evidence. Just rephrase the question, Congressman. There's a question there to be asked and answered

BY MR. TRAFICANT:

Q. Isn't it a fact that you used paper, words, testimony to arrive at this income?

A. Yes.

Q. And isn't every one of this bit of testimony supported by invoices, checks, and other items provided by these subjects?

A. Yes.

Q. Did you look at a case involving a Mr. Bucheit?

A. No, I did not.

Q. You're under oath. I'm going ask you again. Were you asked to summarize a case for Mr. Pete Bucheit, Bucheit International?

A. No, I was not.

Q. Were you asked to look into a case of a Mr. Henry Nemenz?

MR. SMITH: Objection on relevance on Nemenz.

THE COURT: Well, you can answer the question. Were you or weren't you?

THE WITNESS: I'm not sure what you mean by the case.

Q. Did you ever hear the name Henry Nemenz?

A. Yes, I have.

Q. Did you look into that matter for the Prosecution? You're under oath here.

A. I looked at evidence as that was submitted relating to documentary evidence relating to issues involving Henry Nemenz, yes.
Q. And not Pete Bucheit?
A. No. I did not look at anything related to Pete Bucheit.
Q. How about the Bucci brothers?
A. I'm sorry. Who?
Q. Bucci, B-U-C-C-I, as in BS?
A. No, I did not look at --
Q. But you did look at Nemenz?
A. Yes.
Q. Why is not Nemenz a part of your summary?
MR. SMITH: Objection.
THE COURT: Well, he can answer the question.
THE WITNESS: He didn't -- there wasn't any evidence related to Nemenz brought forth in this case. I couldn't include it on my summary.
Q. Now, you have yet to answer my question. If the allegations were not true regarding the four witnesses of which you summarized, would not the Traficant tax returns be honest and totally truthful?
A. The items on there -- the items on there would not be included as -- or picked up as additional income if the -- if it was determined that the witnesses were either not

telling the truth or the evidence submitted was not correct --

Q. I didn't ask you that. And I want you to listen.

If the allegations of Sabatine, Sinclair, Lange, and Cafaro were not true, would Traficant and his wife have submitted an honest, truthful tax return for '98 and '99? Yes or no.

A. There would be no additional income for these proceedings.

Q. What would that mean? Yes or no.

A. That means that there would be no additional income for these proceedings. That doesn't mean that the returns themselves contained all the items that they should have contained. There may be other items that weren't included in the summary for criminal purposes, which may affect your return.

I can't get up here and say that your return is accepted if these items weren't here, your return would be accepted as filed.

Q. Well, do you think --

A. I mean -- there may not be any criminal liability involved in it, but there may not be accepted as filed.

Q. Is that why 60 to 70 percent of IRS calls are not returned to taxpayers because they spend so much time trying to explain a simple yes or no, Mr. Hess?

MR. SMITH: Objection, argumentative.

THE COURT: It is argumentative. Just go on to something else, Congressman.

Q. Now, you weren't asked to do a cash review for ten years, were you?

A. No, I was not.

Q. Are you familiar with a RICO case?

A. No, I am not.

Q. Is your basic experience in civil tax cases, Mr. Hess?

A. Civil and criminal.

Q. How much civil?

A. There was a reorganization that has just occurred that was primarily civil and some criminal, and now it's almost primarily working in the criminal tax area.

Q. When did the criminal tax area start?

A. I'm sorry. Could you repeat that, sir?

Q. You said you were involved in civil for all those years. When did all of a sudden they decide you are now a criminal expert?

A. We had a reorganization in the Year 2000, and apparently what happened is the IRS, based on the law that was passed, became functionalized; functionalized being it was divided up into different areas, large case areas, small business area, and a criminal tax area.

Q. Isn't it a fact that you've been dealing with criminal cases since the Year 2000 basically on a regular basis?
A. Criminal, and also assisting in some civil proceedings, also.
Q. You still assist in civil as well?
A. Occasionally, very little now.
Q. And you mean to tell me the big office in Philadelphia sent down a man with one year's experience in criminal basic summaries, whose major experience was civil, and didn't decide to send down an expert in criminal investigative work and summary?
A. I didn't say that I did just civil before 2000, Congressman. I did probably an equal amount of criminal tax work and civil work. I did an awful lot of criminal tax work and testified in a number of criminal tax trials way before the Year 2000.

I'm also assisting in reviewing cases being recommended for criminal prosecution doing a technical review to those cases.

Q. Now that you're in the criminal division and you saw the tax returns, did you look at the account known as "farm activity"?
A. I looked at the schedule, not whether there was a schedule that was filed relating to farm activity.

Q. And you didn't inquire why there was hardly nothing on the returns?
A. That wasn't part of the case to be considered, Congressman. So I wouldn't have looked at it, no.
Q. Well, isn't it a fact I'm being charged with activities concerning the farm? Did anybody inform you what this case was about?
MR. SMITH: Objection. It's not -- it's not part of Exhibit 6-3.
THE COURT: All right. There's a question at the end of this. You want him to answer the question, did anyone inform you about what the case was about?
Q. Did anyone inform you about the umbrella of this case?
A. Yes, they did.
Q. Did it involve work done at the Congressman's farm?
A. Yes.
Q. And you're telling me you didn't look at the farm section of the other report?
A. No. I did look at the farm section of the report, and one of the years, there was not a Schedule F filed. The work on the farm was not one of the items that was included in the summary attached to the proceedings of this case.
Q. Sir, did you suggest to them that they have a -- the

investigator that investigated Traficant come on the stand?
A. No, I did not.
Q. Can an IRS agent be subpoenaed, sir?
A. I can't answer that, sir.
Q. You have 33 years of experience, and you can't answer that question. Is that your answer?
A. Something about the subpoena in a court proceedings?
Q. No. I'm talking about subpoena for breakfast at McDonald's, Mr. Hess. Come on.
A. The procedures for subpoenaing an IRS agent are usually an agent that's not -- when he is subpoenaed, normally a subpoena does not have to be issued. It would be very rare a subpoena would have to be issued.

An IRS agent would normally be called to testify to that in that case.

Q. Isn't it a fact it's impossible to get federal agents on the stand? Yes or no.
A. No.

MR. SMITH: Objection.

Q. Isn't it a fact that all you did was look at numbers, and you don't know one thing about the source of those numbers, other than what you were given by someone who investigated it? Yes or no.
A. Yes.
Q. And with all your years of experience, did you say

hold it, fellows, what corroboration do you have of these allegations?

A. No. That's up to the attorney, the U.S. Attorney or the Assistant U.S. Attorney trying the case to determine what corroborative evidence he needs in the case.

Q. Isn't it a fact that an accountant down the street could have summarized for this jury what you just did?

A. If he has knowledge of the tax law.

Q. What knowledge of tax law did it take to look at bank checks, deposits, and testimony and write-up a summary, Mr. Hess?

A. Determine the year that it's taxed in, determine the value of the service that's being done for -- it's being -- the value of the service that's given in exchange, the services rendered.

Q. Fine. How did you determine it?

A. I determined it according to the -- my interpretation of the Internal Revenue Code of the year to which it's to be and the amount that has to be picked up as income.

Q. And were you not given bank drafts, checks?

A. I was given the documentary evidence and the testimony that's been submitted before this Court to make my determination.

Q. Yes.

On the checks and the paperwork that you got -- I

want you to listen carefully -- could not an accountant, first year out of Ohio State University or Cleveland State, have provided the same summary you did? Yes or no.

A. No.

Q. What did you do that was so different?

A. Used my knowledge of the tax law, knowledge of the -- looking at the documentary evidence, determining what was there, and the witnesses, testimony of the witnesses in the case.

Q. When we looked at the documents that were shown, all it showed was the dates, the dates of checks, who said they did this, who said they did what, and you added them up, didn't you?

A. Yes, sir.

Q. What else did you do?

A. I had to put them in the proper year that they belonged in for tax purposes.

Q. Are we in the rocket science here, Mr. Hess?

MR. SMITH: Objection. Argumentative.

Q. Come on now. Isn't it a fact they brought you in from Philadelphia because they didn't want to expose their investigators to this Defendant?

MR. SMITH: Objection.

THE COURT: If you have knowledge of any of this, you can answer. If you don't, you don't have to

answer.

THE WITNESS: No, I don't.

Q. Now, the Prosecution was asking you that just because there's some criminal investigation listed in 1993 doesn't necessarily mean that you were involved in a criminal investigation in '93, right?

A. That I personally was not involved?

Q. Yes.

A. I have no knowledge of any criminal investigation late into the year 1993.

Q. Did I show you the '93 tax return?

A. Yes.

Q. Did it say it was subject to criminal investigation?

A. Yes. I have no knowledge of that investigation, other than the fact that the document showed me that -- I don't know the state of the investigation, who was investigating it, the time that it was -- actually the investigation started --

Q. Mr. Hess --

A. -- or still continuing.

Q. Did it say civil, or did it say criminal in 1993?

A. Criminal investigation.

Q. With all years of experience, what does that, in fact, make you conclude?

A. That there was an ongoing criminal investigation

relating to the year 1993.
Q. And wasn't it a fact that from '93 to '99 there was one of those in each one?
A. Yes, sir.
Q. Now, did you see '92?
A. No, I did not.
Q. You see '91?
A. No, I did not.
Q. Isn't it a fact there was a criminal investigation of Jim Traficant the day he walked out of that civil trial court?
A. No. I have no knowledge of that.
Q. So you didn't do anything to count up the money that was supplied to you by the Government from their witnesses, correct?
A. No, that's not correct.
Q. What else did you do?
A. I summarized the testimony of individuals and documentary evidence that's been brought before and evidence before this Court.
Q. What was the documentary evidence?
A. Checks, bills relating to the boat, document -- whatever was indicated on my chart as documentary evidence.
Q. So because --
A. For instance, Mr. Cafaro, we had checks that were

drawn, and we had for the -- what we actually had was the invoices relating to the boat, supported by the -- supported by the testimony of the individuals involved.

Q. Now, Mr. Hess, if I bring the welder in on a dolly and show it's never been used, would that change your opinion?

A. No.

Q. Because you see facts are really not important. What was important is what was delivered to you.

MR. SMITH: Objection.

THE COURT: That's a statement, and you know it's a statement. If you have a question and you can turn something into a question -- please don't make a statement. It's very difficult for me and for the jury to have to constantly sift through your statements, which are not proper evidence.

Thank you. Ask him a question if you have a question, please.

BY MR. TRAFICANT:

Q. Isn't it a fact that what you had were the words of the witnesses and the documents that were given to you by the Government to summarize?

A. The witnesses and the documents submitted into evidence before this Court, yes.

Q. And you did not attempt to corroborate any of those

expenditures?

A. No, I didn't.

MR. TRAFICANT: No further questions, Mr. Hess.

MR. SMITH: May I, your Honor?

THE COURT: Yes

FURTHER REDIRECT EXAMINATION OF BRUCE HESS

BY MR. SMITH:

Q. Was it your assigned job to dig up corroboration in this case?

A. Would you repeat the question, please?

Q. Was it your job to dig up corroboration in this case?

A. No, it was not.

Q. Sir, if a case jacket with a 1993 tax return in it is flagged criminal investigation, does that mean that the criminal investigation started in 1993?

A. No, it does not.

Q. If a case jacket with a tax return 1994 is flagged criminal investigation, does that mean that the investigation necessarily started in 1994?

A. No.

Q. If a case jacket for the 1995 tax return is flagged criminal investigation, does that mean the investigation started in 1995?

A. No, it does not.

Q. How long does the IRS have after a tax return is filed to commence and initiate a criminal prosecution?
A. Any time before the statute of limitations, criminal statute of limitations that is still open, criminal statute is still open.
Q. How long?
A. Six years.
Q. So when a tax return is filed, the IRS can start a criminal investigation any time within six years thereafter; is that correct?
A. That's correct.
Q. If a criminal tax investigation were opened in any particular year, would the IRS generally order up prior years returns to look at in connection with that investigation?
A. Yes, they would.
Q. Is that in the ordinary course?
A. Yes.
Q. Was Congressman Traficant singled out in any way on that score in this case?
A. No, he was not.

MR. SMITH: No further questions.

FURTHER RECROSS-EXAMINATION OF BRUCE HESS

BY MR. TRAFICANT:

Q. Now, you've seen thousands of tax returns, haven't

you?
A. Yes, I have.
Q. When you see a flag with criminal investigation on it, what does it tell you?
A. Usually what it means is that the case, depending on when it got started, is part of a -- part of a criminal investigation. That's really done for service center purposes to avoid any civil proceedings going on while a case is still being jacketed as a criminal investigation case.
Q. Why do they jacket it as a criminal investigation case?
A. They must have pulled it to look at or start an investigation.
Q. Then wouldn't they have pulled it in 1993?
A. Yes. If 1993 was flagged because they were looking -- what they would do normally is look at any years they felt would be applicable to the investigation part of the investigation. They would be required to do that.
Q. Now, you were a little bit not forward in coming forth on the statute of limitations.
MR. SMITH: Objection.
THE COURT: Congressman, it's the jury's job to do those kinds of characterizations. So ask -- just ask a question.

BY MR. TRAFICANT:

Q. When you were first asked about the statute of limitations, you were quite vague, is that correct?

A. No. I don't think I was vague. You're talking about the criminal statute or the civil statute of limitations?

Q. Criminal statute.

A. I don't believe I was vague.

Q. How many years is it?

A. Six years from either the date the return was filed or the due date of the return.

Q. What years are you investigating?

A. I'm not investigating.

Q. What are you summarizing?

A. The years 1998 and 1999.

Q. Subtract 1993 from 1999. How many years is that?

A. Six years. The return was filed -- the statute for the year, assuming timely filed return for 1993, it expired April 15th in the Year 2000.

Q. Do you have any knowledge that the Traficant file was flagged earlier than '93?

A. No, I do not.

Q. Now, when you normally testify as a criminal summary expert, is it not a fact that FBI or IRS agents have, in fact, offered evidence to the jurors first?

A. No. If it's strictly a tax case, there may not be

any FBI agents involved. Normally, in a tax case, the case agent normally would testify because evidence that he has obtained has to be introduced into evidence unless it can be introduced in another way.

Q. Is this a tax case, Mr. Hess?

A. Part of the case is a tax case, yes, sir.

Q. Are you familiar with what the case is?

A. Yes, sir.

Q. Tell me what it is.

A. It has to do with the money, the tax end of it. Technically, there's many different charges in the case, Congressman. The tax end has to do with unreported income received for services rendered.

Q. To the best of your knowledge, has an IRS investigative agency come before this jury and corroborated any of this evidence?

MR. SMITH: Objection.

THE COURT: Sustained.

Q. To the best of your knowledge, has an IRS agent who investigated this case testified before you?

A. Before me?

Q. Yeah.

A. Not before me, no.

Q. Do you have knowledge that an IRS agent will testify?

MR. SMITH: Objection. Personal knowledge.

THE COURT: Well, if he has personal knowledge, he can say so. Do you have any personal knowledge?

THE WITNESS: No. I do not have personal knowledge whether any other IRS agent will testify in this proceeding.

THE COURT: Thank you.

Q. How many times have you flown back and forth from Philadelphia to Cleveland?

A. About six or seven times.

Q. What was the longest duration of stay you stayed in Cleveland?

A. A week.

Q. And what was the average amount of time you spent in Cleveland when you flew into Cleveland?

A. I'm sorry. Could you repeat that, sir?

Q. What was the average length of days you spent in Cleveland when you flew into Cleveland?

A. I'm sorry. You have to repeat the question.

Q. What were the average amount of days you spent in Cleveland after having flown from Philadelphia to the City of Cleveland?

A. Five days.

Q. So you're here seven times. One was a seven-day visit, and the other six were five-day visits. So you

spent 37 days in Cleveland, Ohio?
A. No, it's not that many days. Some of the -- it averaged out to maybe five days, I would say probably 20 days in Cleveland.
Q. Doesn't the IRS maintain records?
A. I have my travel records, yes, sir.
Q. Don't you have to submit a report?
A. Yes, I do.
Q. Did you submit those reports?
A. I submit travel reports, yes, sir.
Q. Are you not also on expense when you're in Cleveland?
A. Yes.
Q. Who pays for those expenses?
A. The office of Chief Counsel of the IRS pays for those expenses.
Q. Who pays for ultimately for your expenses, Mr. Hess?
A. You want me to say the taxpayer?
Q. Are you an IRS agent or not?
A. Yes, I am.
Q. Who pays your expenses?
A. The Internal Revenue Service.
Q. And where do they get their money from?
A. Where do they get our money? From Congress.
Q. And where does Congress get their money from?
A. From the taxpayers of the United States.

Q. Why did it take you five minutes to answer that question?

MR. SMITH: Objection.

THE COURT: Sustained.

THE WITNESS: I didn't understand --

MR. SMITH: Objection.

THE COURT: It didn't take five minutes so the record is clear. We've had a lot of gaps of time in this case.

BY MR. TRAFICANT:

Q. Mr. Hess, isn't it a fact you don't know a damn thing about this case other than what they gave you?

A. Other than what's been introduced into evidence, that's true.

MR. TRAFICANT: No further questions.

MR. SMITH: No questions.

THE COURT: Thank you, sir.

MR. TRAFICANT: Do I have a right to recall this witness?

THE COURT: Well, this is -- if you want to bring witnesses in in your own part of the case, you have to decide what you want to do but not in this part of the case.

MR. TRAFICANT: On defense, do I have a right to recall this witness?

THE COURT: Congressman, let's talk about all of that after the jury is gone for the day.

MR. TRAFICANT: Okay.

THE COURT: Various opportunities.

MR. TRAFICANT: Thank you, your Honor.

MR. SMITH: Your Honor, procedural matter which we need to discuss with you.

THE COURT: I guess you're going to have your afternoon break. It's not a bad time. All right.

(Proceedings in the absence of the jury:)

THE COURT: Mr. Smith.

MR. SMITH: Yes, your Honor. After -- at this point, the Government has called its last witness in its case-in-chief. After offering the last six exhibits during our case-in-chief from the witness Hess and allowing the Court to make the finding, it would be our intention after that to rest, and therefore, that's why we ask to speak to you procedurally how you wanted to handle it.

THE COURT: Okay. I heard you say making a finding, but I didn't hear there's a word you have before it.

MR. SMITH: Under United States versus Vinson and United States versus Enright, co-conspirator hearsay.

THE COURT: What I -- let me just look so I get the sequence here you're talking about. You're going

to offer six exhibits; is that right?

MR. SMITH: Yes, your Honor.

THE COURT: Okay. That's something we can do while the jury's --

MR. TRAFICANT: U.S. versus Vinson and U.S. versus --

THE COURT: Enright.

MR. TRAFICANT: Enright? I have a motion, too, your Honor.

THE COURT: Okay. Just a minute.

THE COURT: None of this requires the jury so it seems to me we ought to let the jury go home.

MR. SMITH: Correct.

THE COURT: It's late in the day. No reason to keep them down here while we do all this.

MR. SMITH: Basically, your Honor, we agree.

THE COURT: Okay. So that's part of the procedure is that I will -- once I get the smokers back, dismiss the jury for the balance of the day. Congressman.

MR. TRAFICANT: Your Honor, can I relieve my witnesses, or you want me to wait until we're all done here?

THE COURT: No. I don't think we'll get to your witnesses today. I think what we have to do is go forward with all the other things that we need to do that

the jury doesn't need to be present for. So hold on. I'm going to let you do it in just a second. Let's make sure we have everything covered here. My reporters could use a break, and so we're going to take a break anyway before we come back here. You can certainly release your witnesses. I don't know whether you want to rest in front of the jury or you want -- what you want to do. You can --

MR. MORFORD: We can do that in the morning, your Honor.

THE COURT: Okay. So we'll start with the introduction of whatever exhibits are left, and then we'll move on through whatever else we have to do, and we also need to get ourselves clear about whether we need the jury back, and that depends on how much work we have. You have a motion?

MR. TRAFICANT: I have a motion for acquittal.

THE COURT: Right. And so we'll have to deal with that today, too. So I need a better handle on all of this. First, let's let you get your witnesses released and let the jurors have their smokes, and we'll take a ten or 15 minute break. How about 15 minutes? We'll be back at 3:00.

MR. SMITH: Yes, your Honor.

(Thereupon, a recess was taken.)

(Proceedings in the absence of the jury:)

THE COURT: Let's begin with exhibits, please.

MR. SMITH: Yes, your Honor. There are only 6. I'll start with Government's Exhibit 6-1, which is the 1998 personal income tax return of Congressman Traficant.

MR. TRAFICANT: Make it a joint exhibit.

THE COURT: Okay. That'll be a joint exhibit, and that will be a joint exhibit and will be admitted.

MR. SMITH: Exhibit 6-2 is the 1999 personal income tax return of Congressman Traficant. We offer that.

MR. TRAFICANT: That's 6-2?

MR. SMITH: Yes, sir.

MR. TRAFICANT: I ask that also be a joint exhibit.

THE COURT: That'll be a joint exhibit, and it will be admitted.

MR. SMITH: 6-3, which is the chart on the summary of the additional income calculation of the agent.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: It will be a joint exhibit, and it will be admitted without objection.

MR. SMITH: Exhibit 8-62(1), which is the

1006 summary of all the Taverna and various restaurant receipts.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: That will be a joint exhibit, and it's admitted without objection.

MR. SMITH: Exhibit 8-67(1), which is the chart summary of the boat expenses.

MR. TRAFICANT: I ask it be made a joint exhibit.

THE COURT: That'll be a joint exhibit, and it will be admitted without objection.

MR. SMITH: Finally, your Honor, 8-67(2), the summary chart of the reimbursements to Lange concerning boat expenses.

THE COURT: That'll be a joint exhibit, and it'll be -- oh.

MR. TRAFICANT: Are you now -- are you now --

THE COURT: No.

MR. TRAFICANT: -- handling my case?

THE COURT: No. I wouldn't want to do that, Congressman.

MR. TRAFICANT: No. I didn't mean to demean you, your Honor. I make those mistakes, too. I want it to be a joint exhibit, but it's a summary of Lange's --

MR. SMITH: Reimbursements on the boat expenses.

MR. TRAFICANT: I ask that be a joint exhibit, your Honor.

THE COURT: It will be admitted without objection as a joint exhibit.

MR. SMITH: That's it for exhibits from the Government, your Honor.

THE COURT: Okay. Congressman.

MR. TRAFICANT: Your Honor, I have noticed that you have ruled on a motion to quash Mr. Detore's motion to quash, that you have denied it.

THE COURT: I denied Mr. Detore's motion to quash. I don't know whether the Government's seen that or not. Have you?

MR. MORFORD: Yes, we have, your Honor.

THE COURT: Okay.

MR. TRAFICANT: I would like to know how we are to proceed since I have subpoenaed Mr. Detore.

THE COURT: Well, what it -- they asked me not to force him to come in response to your subpoena. And I said no, I wouldn't do that. He needs to appear. And so he will appear, and if when he gets here, he wishes to assert his Fifth Amendment rights, then he'll do it just as we've been doing it all along in this case, which he'll be

sworn, and he'll take the stand, all of this out of the hearing of the jury.

And he'll be asked a series of questions, and those -- the way he responds to those questions will determine whether or not he's met the standards of the Sixth Circuit in terms of asserting his Fifth Amendment rights, and once he's done that, if he does, then we'll take it from there. But there is -- does that explain the procedure? I mean, I -- it's another person.

MR. TRAFICANT: I know the procedure.

THE COURT: All right.

MR. TRAFICANT: My question is, Mr. Detore is not a co-conspirator in all of the counts alleged in the indictment. He is only involved in certain parts of that indictment.

THE COURT: Okay.

MR. TRAFICANT: And I think there should be a limited explanation as to what he would be subject to if he did take the stand before, in fact, he would decide to either invoke or take the stand.

THE COURT: I think -- I'm sure he's represented by counsel, and if he comes, I assume he'll come with his lawyer, and then we can deal with it then. We need him to come at your part of the case, which we haven't quite gotten to yet, and so that's another

important thing.

And that is that we can't deal with him now because we haven't really finished dealing with all of the issues in the Government's case. But, once we've done that, which I hope we will soon accomplish, then whenever there is a response by him with his lawyer, we will, out of the hearing of the jury, be dealing with this inquiry.

MR. TRAFICANT: I have one last question. If you would have gone ahead and quashed the subpoena, would it not be a fact that that would have to be made a part of the record of the case in front of the jury?

THE COURT: First of all, I would -- I would not be following Sixth Circuit law if I did it just based on the lawyers' representations. So I wouldn't have done that. So it doesn't get us very far to talk about if I had.

I think the -- I think I put enough in that order so you can see where the Sixth Circuit stands on that issue of someone asserting their Fifth Amendment right. Okay.

This is a good thing to be raising that because we're at an odd time in this case right now, and it's -- it's important that we all get clear about how to go forward. Some of the issues still before us in the Government's part of the case are going to take some time, and it's getting late in the day, and I think what's probably going to

happen here for one thing is that we should do some of that work beginning tomorrow morning rather than trying to get it done tonight because who knows how long it will take, and then there is the issue following whatever happens with this special inquiry, that they've asked that we make under these two cases, the Enright, Vinson inquiry, which I want you to have time to get acquainted with the principle of before you're put in a position to show whatever they're showing, and I think you need some time on that. So that's one thing they have to do.

And finally, when we finish all that, we're in a position to have whatever motion work is going to be done. You said you have a motion to make. The Government has to respond to it. So we have work ahead of us that's going to get us beyond today.

I'm in a position to simply leave the jury until we need them again, and that's what I'm going to try to figure out how much time I need to do. But, it is 3:15 already. So I suggest that we proceed this way, and you see how you feel about this. I think it really would be useful if we had a little colloquy. I'm assuming this is a co-conspirator inquiry hearing that I have to listen to, but I'm not sure that the Congressman has experience with those principles. And I would rather have us at least give him adequate time to do that, and more than just calling it

an Enright/Vinson hearing; we need to give him the cases and cites so he can do the work he needs to do to prepare for it.

MR. TRAFICANT: I would ask that be suspended until tomorrow morning.

MR. MORFORD: That's fine.

THE COURT: I think that's a really good idea, but I'd rather tell you today, at least, the full cites to the case, which we can either tell you or they can tell you.

MR. SMITH: I can tell --

THE COURT: Okay. So you can look at those cases, and see what it is that they're going to be attempting to establish here. I'm not sure it's going to be a very long hearing. It isn't normally, but it is one of these out-of-the-hearing-of-the-jury hearings, and so we ought to do it without bringing the jurors in necessarily.

MR. TRAFICANT: Can I ask one last question?

THE COURT: Sure.

MR. TRAFICANT: Why didn't we rise and have the motion for acquittal, then take that matter up so I could determine when my witnesses would have to be here tomorrow?

THE COURT: Well, we have to finish everything in the Government's case. We've done the

evidence part of it, and before they actually rest in the case, we have to have everything completed in their -- in their case, and this is one area that isn't complete yet. So that's one of the reasons.

But this also gives you time to continue, if you want to, to prepare what you know is coming eventually, your motion.

MR. TRAFICANT: In that regard then, without interfering, when would be an appropriate time for me to schedule witnesses --

THE COURT: That's what I'm trying to work toward here. Let me listen to the Government for a motion on the citations, and you write them down.

MR. SMITH: I'll give them first. Vinson, 606 F. 2d 149.

MR. TRAFICANT: Wait a minute.

MR. SMITH: 606 F. 2d 149. Enright is 579 F. 2d 980.

MR. TRAFICANT: 9?

MR. MORFORD: 980.

MR. TRAFICANT: 547 F. 2d 980, that was U.S. versus Enright?

MR. SMITH: Yes.

MR. TRAFICANT: And what do these cases deal with? Are they equal cases?

MR. SMITH: Deal with the co-conspirator exception to the hearsay rule, and you're right, your Honor, I don't anticipate this taking up a long time.

THE COURT: It doesn't take a long time, but I think he needs some time to look at it before we get into it.

Yes?

MR. MORFORD: Your Honor, I was going to note actually both issues the Court has talked about needing to address tomorrow. The first issue, which Mr. Smith just gave the case cites for, and also the second issue, which is Congressman Traficant's motion for acquittal, will really involve pretty much the same discussion in terms of most of these are conspiracy charges and would go to the -- so we may be able to combine discussion or cite issue as to defense put first.

MR. TRAFICANT: I'd like to respond to that.

THE COURT: Okay.

MR. TRAFICANT: Mr. Detore has no knowledge of nearly all of this case, except for one part of it. And he's a co-conspirator in but one aspect.

THE COURT: Um-hum.

MR. TRAFICANT: And all these other charges are unrelated. And I think there has to be some separation, and there has to be some delineation relative

to whether or not they can make a -- an important decision, whether or not they will or will not take the stand.

Now, I have subpoenaed Richard Detore. The Government has not. In that regard, I think that there should be some limited use of immunity relative to his testimony that you have granted to others under similar circumstances.

And that should be considered by the Court, and I talked with the attorney last night. I didn't raise the matter. I talked to him about the subpoena. He told me he had a motion. I haven't talked to him since you have, in fact, denied his quashing of the motion. I plan to contact him. I want to know if his witness is going to appear.

From what I understand, he is talking with his client as to whether or not he's going to make himself available, and if he makes himself available, then I will cross-examine -- we will examine him.

THE COURT: Okay. Well, if he were to make himself available, it certainly wouldn't occur before tomorrow morning. I mean, tomorrow morning is probably going to be taken up with this other work that we have before they close their case. So it may be that he'll get on in the afternoon if you put him on as your first witness.

MR. TRAFICANT: I would not even if he were

to be my witness, I would not put him on as my first witness.

THE COURT: Okay. Well, then, I can't see us -- I can't see us getting to him very easily tomorrow.

MR. TRAFICANT: No.

THE COURT: So maybe he'll be in on Friday, and Friday afternoon maybe we can do something, I don't know, but I -- but if you're asking me to do what only the Government can actually do here, I can't do it.

MR. TRAFICANT: No. What I'm asking, your Honor, is I would like to ask that rather than me have my witnesses drive all the way up here two days and sit, that we commence with the Traficant defense after the noon break tomorrow.

THE COURT: I think we can -- I think we probably could do that. I think we'd be ready to do it. I'm not sure though -- and a little of that depends on how things go in the morning -- if you're able to get -- both sides are able to get everything done, I think it's likely that at 1:30 we can start with your case.

And maybe, you know, maybe we should just say we'll tell the jury to be here and ready to go at 1:30.

MR. MORFORD: That'll be fine.

MR. TRAFICANT: That'll be fine with me.

THE COURT: And that gives us the morning to

work.

MR. MORFORD: We have no objection to that, your Honor.

MR. TRAFICANT: Now, your Honor, does that suggest that I have to have a written answer to their motion?

THE COURT: No. This is -- this is going to be a -- one of the sessions that we hold out of the hearing of the jury in order to determine whether or not they can show what they need to show in order to take advantage of one of the Rules of Evidence. It's no different than the other things we've done. Okay.

So what I'll do is arrange for the jury to report back here in time to work at 1:30 tomorrow, and we'll work in the morning. We'll start at 9:00.

MR. TRAFICANT: Thank you.

THE COURT: Okay. Anything further?

MR. SMITH: No, your Honor.

THE COURT: Okay.

MR. TRAFICANT: I have a motion that was delivered today, and I'm sure you haven't had time for the Government to respond, but I did give it to them in a timely fashion. I filed one with the Court, and I gave one to Edward, I believe, this morning, to give to the Judge.

And it deals with the -- my response to Government

motion for a special verdict form concerning Count 10.

THE COURT: Okay.

MR. TRAFICANT: And I would like to know when and if, in fact, that would inhibit the beginning of a defense. It should not.

THE COURT: No. What we'll do is try to get the jury instructions honed down enough so that before anyone does their -- their final preparation of things, everybody here is aware of what the jury instructions are going to be. We have three sections of a four-section jury instruction I think pretty much complete, and it may be that we can hand those out pretty soon for you guys to start looking at.

But we have to hear the evidence in the case first, and I'm not -- we aren't at that point yet. We don't know exactly what else is going to come up. So for one section of it, we can't complete the jury instructions yet. Verdict forms come along with that. In other words, they're the last piece we put together before we --

MR. TRAFICANT: The Defense --

THE COURT: -- have everything ready.

MR. TRAFICANT: Before the Defense closes?

THE COURT: Well, it is at least before I give -- read the instructions to the jury, which normally it is done. You close, and then we deal with instructions

to the jury. Then you do closing arguments. They do, you do, they do, and then I do the final instructions on how they deliberate to the jury, and then they go off and deliberate.

So before I do the written instructions that I also read to the jury, I want the verdict forms to be finalized. And so we've already begun working to do that, but I haven't addressed the one you're talking about yet, that they send a special form in, and I'm glad you have this. And we will consider what your concerns are at the same time that we're working at it.

MR. TRAFICANT: I have a question of the Court.

THE COURT: Yes?

MR. TRAFICANT: Under the Prosecution's motion on Count 10, I am, in fact, facing 21 counts. If, in fact --

THE COURT: Did you write about that in your motion? I haven't had a chance --

MR. TRAFICANT: I have a motion.

THE COURT: I know.

MR. TRAFICANT: And it's --

THE COURT: Let me make a point.

MR. TRAFICANT: I want to make a point though. I want to ask this point.

THE COURT: All right.

MR. TRAFICANT: If only two of the ten counts or two of the 11 acts listed in Count 10 are unanimously agreed upon and nine are not agreed upon, it is their motion that Count 10 must be a guilty verdict.

Now, that is subjecting this Defendant to not now ten counts, but I have specifically 21 individual trials at stake. I want to put that on the record now before my motion and their response is considered.

THE COURT: Okay. That's good. Okay. And here's one other -- this is just one other possibility. Let me lay this out for you since this is the first day of spring. Okay. We've been together for many weeks. It might be a better use of our time and a better use of the jury's time if we spent tomorrow afternoon tyding up the segments of the jury instructions that are -- that we can make available to you by then and working on whatever other issues there are and just bring the jury in for their usual Friday half day instead of bringing them in for two half days in a row.

We can use tomorrow as a working day and try to get everything organized at this point in the trial. It is really up to you. I am sure that the jurors could use a break, and we probably could use a break. This may be the natural time to take it.

MR. TRAFICANT: Your Honor --

THE COURT: Yes.

MR. TRAFICANT: I'd like to suggest that not only to endorse yours but also to relieve Friday, give us all a break -- a break --

THE COURT: This is a real spring celebration.

MR. TRAFICANT: -- finish our break and start with the Defense on Monday when there's no doubt that my witnesses will be here and know they are going to be examined, and they're not going to be driving back and forth.

THE COURT: Well, we would have to work tomorrow until we get our work done so that this part of the case is closed down, and your motion work is done on their case. We would have to get that done.

And I think we should probably spend a little time on the jury instructions just so that we aren't left with that at the end of the case, but I'm not sure -- I mean, I think we can do that and justify letting the jurors have that day off. I don't know about Friday. That's a different proposal. It's a half day for someone to drive two hours each way. Maybe it's a good idea, I don't know.

MR. TRAFICANT: It turned out to be a longer prosecution section than we thought. We thought it would

be a two-month trial, and they have basically gone -- what? -- seven weeks?

THE COURT: They're in the seventh week, I think.

MR. SMITH: Well, after jury selection, we're in the sixth week, yes.

THE COURT: Okay. Well, it all counts really because they've had to be there all that time.

MR. TRAFICANT: It's a long trial.

THE COURT: Yeah. We'll give them a spring break. What do you think?

MR. MORFORD: My one concern in taking what would be basically a five-day break, four-and-a-half-day break at this point is that we need to be careful with pre-trial publicity, an issue like mid-trial publicity and issues like that over a long period of time. And part of that is incumbent upon the parties, if we're going to take this little break, to make sure we're not doing things to make it harder for them to do their job, which is to avoid publicity over what would be a four-day break.

THE COURT: Maybe we can agree on that.

MR. TRAFICANT: Your Honor, I'd like to just respond to Mr. Morford.

I have turned down 90 percent of requests. I have done only those that I had made commitments to make, and I

have tried to stay focused with the case.

Now, I think these jurors -- we may have work to do Friday ourselves. I'm not so sure we're going to finish our work tomorrow.

THE COURT: I'm not either.

MR. TRAFICANT: And I think these jurors coming in here might come in here at 9:00 and we might tie them up until 10:30 anyway, so I'm not saying we shouldn't work. We get our work done Thursday --

THE COURT: I think the suggestion is could we all -- everybody refrain from doing any of the kind of press stuff that is -- that is going to make it hard for them to get through four days without being exposed somehow to stuff that they aren't supposed to pay attention to.

MR. TRAFICANT: Your Honor, I'm scheduled to be on the *O'Reilly Factor* tonight, and I'm going to be on the *O'Reilly Factor* tonight.

THE COURT: I don't even know what that is.

MR. TRAFICANT: It's a national cable show, but I have tried to in generalities discuss and tried to avoid as much as possible the case, tried to talk about other matters, although Mr. Morford doesn't agree to that, but I really have. But, I have a commitment for the *O'Reilly Factor* show, and it is tonight, and I will do it.

MR. MORFORD: That's my concern about taking

a four-day break in the middle of the trial when the Defendant's going on national TV and talking about the trial. I think it's not a good thing.

MR. TRAFICANT: I am trying not to talk about the trial, and I have turned down *Good Morning America*, *Today*.

THE COURT: Right.

MR. TRAFICANT: But, I have this commitment. It was made, and I'm going to be asked about charges, I'm sure, and I'm going to respond. And I will try to be as generic as I possibly can. Certainly, I'm not going to help the Government make their case, that's for damn sure here.

THE COURT: Well, the Government hasn't been out --

MR. TRAFICANT: That's their job.

THE COURT: -- doing the press at all. So okay.

Well, then, we'll go back to 1:30 tomorrow. I just want you to understand that the jury has been working hard to keep themselves away from any kind of press exposure, and you can tell they've been working hard at it. It is not an easy thing to do. It's not easy for any of us to --

MR. TRAFICANT: Your Honor --

THE COURT: -- stay back from it. So keep

thinking about it.

MR. TRAFICANT: I would like the break.

THE COURT: I'm sorry, but I can't do it if they're going to have to be --

MR. TRAFICANT: No. What I'm saying --

THE COURT: Better they're in here with me explaining to me that they're able to keep their oath than having them exposed to undue publicity.

MR. TRAFICANT: Let me explain what I'm saying.

THE COURT: You have a lot of choices, Congressman, about what you do.

MR. TRAFICANT: We work Thursday and Friday, there may not be a need for the jury to work Thursday or Friday.

THE COURT: We'll be able to avoid that. You and I can work from 4:30 to 6:00 on Thursday and Friday, and we'll be able to avoid that and not use the jurors' time, but it's simply a -- you reach a point in the case where the publicity is a real problem for jurors, and I don't want to subject them to that.

MR. TRAFICANT: Well, when -- when will the jurors be in tomorrow, and when will --

THE COURT: 1:30.

MR. TRAFICANT: And Friday as well?

THE COURT: They'll be here in the morning on Friday like they always do.

MR. TRAFICANT: Okay. When can I be expected to have my witnesses on the stand?

THE COURT: I guess tomorrow at 1:30 looks like it. Okay? So we'll get through it in the morning. See you at 9:00. We'll do our work between 9:00 and 12:00.

MR. TRAFICANT: Thank you, your Honor.

MR. SMITH: Good night, your Honor.

(Proceedings adjourned.)

CROSS-EXAMINATION OF JOHN J. CAFARO CONTINUED..... 4227
DIRECT EXAMINATION OF BRUCE HESS..... 4246
VOIR DIRE EXAMINATION OF BRUCE HESS.....4263
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FURTHER REDIRECT EXAMINATION OF BRUCE HESS 4365
FURTHER RECROSS-EXAMINATION OF BRUCE HESS 4366

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON THURSDAY, MARCH 21, 2002

Jury Trial

Volume 23

- - - - -

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Thursday Session, March 21, 2002, at 9:00 A.M.

(Proceedings in the absence of the jury:)

THE COURT: Well, this is a working session for us. I wanted to capture some of the things that are still sort of open and see if we can get them resolved. Regarding the nine audio tapes, Congressman, I need transcripts. We have to have accurate transcripts of those tapes if you want to ask us to consider the tapes.

And I don't know -- I haven't been given any transcripts of your tapes. We have -- I don't know how many of the tapes you are going to propose that we consider for use -- but you have mentioned nine. And so where are we with that?

MR. TRAFICANT: I will have a transcript of those tapes I plan to use.

THE COURT: I'm sorry, I couldn't -- I couldn't hear you.

MR. TRAFICANT: I will have transcripts transcribed of those tapes I plan to use.

THE COURT: Okay. Can we have them by tomorrow so that we'll have a chance to have them --

MR. TRAFICANT: I will doubt that. I don't know how I can have it transcribed by tomorrow.

THE COURT: Okay. Well, I don't know what -- how you're planning to go forward with your proof, but at

some point, we'll need to go into a hearing to look at this whole series of issues that we've already touched upon.

MR. TRAFICANT: I may not -- I may not need to bring the transcripts. I may be able to bring the witnesses, where I can't bring the witnesses, and if I think the tapes are admissible and un --

THE COURT: Okay. We need the tapes -- the transcripts of the tapes. We need to have them as soon as you can get them available, and you need to make them available if you expect to use them in time for us not to have to delay the proceedings and delay the jury.

So you need to make your decision on which of these tapes you're going to propose we use so that we can hold a hearing on them, but we need the transcripts in advance of that hearing so that we can look at them. Okay?

MR. TRAFICANT: When I get into the evidence of those individuals that involve those tapes, I will have the transcripts to you in a timely fashion. I'll give them to you as soon as I can.

THE COURT: And to the Government.

MR. TRAFICANT: The Government already has the tapes, and I assume that they've already transcribed them with their staff. But it's not their requirement, but if they do have the transcripts, I'd ask they turn them over to the court.

THE COURT: No. I was asking you to give them a copy of the transcripts that you provide to the Court.

MR. TRAFICANT: I naturally will do that, your Honor.

THE COURT: Okay. Very well.

MR. TRAFICANT: So is it understood then that on or about the time or in as timely fashion that I can, that I make available to you those tapes that I plan to use?

THE COURT: The transcripts of those tapes. We need accurate transcripts of any tape that you're going to propose to use, and then we'll have to go through the usual things that we have to go through when someone is wanting to use an audio tape, but we can't get into that until we have an accurate transcript.

MR. TRAFICANT: Thank you.

THE COURT: You're welcome.

We had a couple other issues. One had to do with something you wanted to present, your -- the co-conspirator statements, issues, whatever they are. Will you just present them, please?

MR. SMITH: Your Honor, we make this motion out of an abundance of caution.

There was only one instance in this case where

Congressman Traficant objected to a proposed co-conspirator statement. The Court deferred that issue to a break and did not allow an immediate answer, and the Government then elected not to pursue it.

So to the Government's recollection, there was never an instance where a co-conspirator statement was admitted over the Congressman's objection. In all other instances of where arguably co-conspirator statements were elicited, the Congressman did not object, and has, therefore, waived any 801(d)(2)(E) issue, and we wish to preserve it on the record. By making the motion we're making, we're not bypassing the fact the Congressman did not object and has waived the issue that we're about to raise.

THE COURT: Okay.

MR. SMITH: In the alternative, the Government does nevertheless request this Court to find under Vinson and Enright's decision by a preponderance of the evidence that the various conspiracies alleged in the indictment existed, that the Defendant was a member of those conspiracies, and that any co-conspirator statements were made during the course of and in furtherance of those conspiracies, those findings being the ones that Vinson, in particular, asked the Court to make.

THE COURT: Well, I think you're going to have to identify the statements that you're talking about.

MR. SMITH: Yes, your Honor. The ones we're talking about are with respect to Count 1. There were certain statements that Mr. Bucci, Anthony Bucci, testified to, where Mr. O'Nesti, prior to the time that Bucci met with both the Congressman and O'Nesti, was just a meeting between Bucci and O'Nesti, that O'Nesti indicated that if the debt were forgiven, there were things the Congressman could do for you. And we believe that to be in the neighborhood of Page 1595 of the transcript.

With respect to Counts 4 and 5, there was testimony elicited from Raymond Allen Sinclair where Mr. Sinclair met with Henry DiBlasio and asked Mr. DiBlasio how do you go about doing these kickbacks, and Mr. DiBlasio explained to Mr. Sinclair how to go about doing it. You take cash and put it in an envelope, slide it under the door or leave it with the Congressman. We believe that testimony to be in the neighborhood of Page 84 of the transcript.

THE COURT: Wait. Slow down. Wait a minute. Just slow down.

MR. TRAFICANT: What page is that?

MR. SMITH: 84.

THE COURT: Which transcript, do you know? You got the volume number?

MR. KALL: We don't have them by volume.

THE COURT: Okay. All right. Give us a

chance to get the transcripts.

MR. SMITH: Yes, your Honor.

MR. TRAFICANT: You guys have your pages over there. You need some help over there?

MR. SMITH: No, sir.

THE COURT: Okay. Transcript of February 13, 2002, Volume 1, Page 84 is the one regarding Counts 4 and 5 with Sinclair/DiBlasio.

MR. TRAFICANT: Could you repeat those pages, your Honor?

THE COURT: Um-hum. Yes. February 13, 2002, it's Volume 1 of the jury trial transcript, Page 84.

MR. TRAFICANT: And that deals with?

THE COURT: Sinclair/DiBlasio. Let me just find it.

MR. TRAFICANT: And the Bucci matter?

THE COURT: Yeah, I'm looking for that: Okay. This would be the testimony on February 26, Volume 9 of the jury trial transcript at Page 1595, and that's the one with Anthony Bucci regarding O'Nesti.

MR. TRAFICANT: 1595?

THE COURT: Right. Okay. Thank you. Next?

MR. SMITH: Yes, your Honor. I should mention that is DiBlasio/Sinclair in Counts 4 and 5. Count 7 would also be pertinent to Count 7.

THE COURT: Okay.

MR. SMITH: The next two and the last two are with respect to Count 3, which is the Cafaro end of the case. March the 14th of 2002, Albert Lange testified -- and we believe it to be on Page 3535 of the transcript and perhaps a page or two thereafter following -- Lange testified to the effect that he had talked to J.J. Cafaro and Richard Detore, and that J.J. Cafaro and Richard Detore told Lange that the Congressman was doing us a favor, and we need to do a favor for him by buying the boat and then perhaps in follow-up questions related to that following that page.

THE COURT: Okay. So we'll look to that transcript. 3-14.

MR. SMITH: And I can give you the date. There's one other one.

THE COURT: 3-14, yeah.

MR. SMITH: The last is on March 18th during J.J. Cafaro's testimony. We believe it to be Pages 3958 to 3960 inclusive of the transcript. It's kind of a flip side of where J.J. Cafaro testified about what Mr. Detore said about the boat purchase issue.

There was an interview of Al Lange, and then Cafaro went on to testify about what Detore told him about the boat arrangements, and that -- those would be the four

areas we believe are -- that would clearly implicate the co-conspirator section rule.

Thank you, your Honor.

THE COURT: Okay. He's just going to get the transcripts.

MR. TRAFICANT: That's all you have?

MR. SMITH: Yes.

MR. TRAFICANT: And this is your Count 10 motion, Bernard?

MR. SMITH: I gave you a response to your -- the thing you filed yesterday, yes.

MR. TRAFICANT: This is in reference to that Count 10?

MR. SMITH: Yes. That is the response I filed -- that does not relate to the issue we're dealing with today, though, Congressman. That pleading that I gave you this morning is in response to what you filed yesterday.

MR. TRAFICANT: Yeah. What you've have just given the Judge is related to your motion relative to Count 10; is that correct?

MR. SMITH: No.

THE COURT: You gave me one regarding Count 2. That's in Volume 18, March 14th, and it starts on 3535, goes over to 3536.

MR. SMITH: I believe is it goes to Count 3, though, your Honor.

THE COURT: Didn't I say Count 3? I'm sorry.

MR. TRAFICANT: What are the pages on that?

THE COURT: I did say Count 2, didn't I? Okay. It's Count 3. It's Volume 18, it's Al Lange testifying, and it's Pages 3535 and 3536, and it may continue on. I have it -- right now I'm not reading them. I'm just trying to discover where they are so we can consider them.

And so the last one you gave me, which is March 18th, also refers to Count 3; is that right?

MR. SMITH: Yes, your Honor, it does.

THE COURT: Volume 20, Congressman, on March 18th, Page 3958 through 3960.

MR. TRAFICANT: What count is this, now, and which --

THE COURT: That's also Count 3 regarding Count 3, and this is Cafaro.

MR. TRAFICANT: And this is what volume and page?

THE COURT: Volume 20, Pages 3958 through 3960 is what they've directed my attention to.

MR. TRAFICANT: They didn't; you did. They never mentioned it.

THE COURT: 3958?

MR. TRAFICANT: No, they mentioned 3535.

MR. SMITH: No, I mentioned it.

MR. TRAFICANT: Is there any written documents submitted to the court that I don't have regarding this motion?

MR. SMITH: No.

THE COURT: I don't think so. This is a hearing that's held.

MR. TRAFICANT: Okay. Then let me inquire of the court that Cafaro supposedly had made statements, and you found the exact volume. Now, they did not, in fact, produce the volumes, did they?

MR. SMITH: I gave the Page Number.

THE COURT: He gave me the references so I can look in my trial transcript.

MR. TRAFICANT: Thank you.

THE COURT: And I'm giving you the references. So we all have the same information, I'll give everybody a five-minute break to consider this unless there's something else you have before it.

MR. TRAFICANT: Before we take that break, I'd like to know in reference to what the Prosecutor has, in fact, brought this matter now before the Judge, and what he's attempting to do.

MR. MORFORD: You already explained it.

MR. SMITH: As we explained, your Honor, we're seeking ruling under Vinson and Enright under co-conspirator exception 801(d)(2)(E), usually a motion done orally before judges in my experience --

THE COURT: Right.

MR. SMITH: -- at the end of the Government's case.

We are asking the Court in the alternative to make that ruling in the alternative to our argument the Congressman has waived an entire issue because he didn't object during the trial.

THE COURT: Right. And, Congressman, yesterday I asked him to provide you with the citations to the two cases they referred to, so you would have -- and we actually delayed this from yesterday to today so you'd have time to look at the cases. Okay? So if there's anything you'd like to say, this would be the time to say it.

MR. TRAFICANT: The fact that I did not object does not necessarily mean I waived my rights.

THE COURT: Yeah, that's -- what we're doing now.

MR. TRAFICANT: My rights are preserved under the constitution, whether I waive or not.

THE COURT: We're dealing with waiver right

now. They're doing this hearing as an alternative, and they're entitled to ask the Court to consider what they've given me in terms of co-conspirator statements, and this is what this part of this morning is about.

This is why we didn't bring the jury in, so we could listen to them and listen to you, and we can have this hearing out of the hearing of the jury, which is the way they're held.

MR. TRAFICANT: Question.

THE COURT: Yeah?

MR. TRAFICANT: Your Honor has allowed hearsay evidence from Lange about Cafaro, Cafaro about Lange, and has allowed hearsay by the Prosecution all the way through this trial. Now, the fact that I waive -- I don't have to do anything but sit here. I waive no rights, I need to raise no objections, and this is an irrelevant motion that's being brought forward here at the last minute to try and, in fact, preserve their case. I don't have to open my mouth in this case. In fact --

THE COURT: Fine.

MR. TRAFICANT: -- in fact, as a Pro Se Defendant, I don't even have to do nothing but show up here and wait for you to rule.

THE COURT: I wasn't trying to force you to speak. I was only trying to give you an opportunity to

address what it is they're addressing to me here in open court without the jury present before I rule on it. That's just the way we run a fair trial.

MR. TRAFICANT: I appreciate that, but now they've come up and talked about waivers. If I'm under no obligation to present a defense, I'm under no obligation to object to anything.

THE COURT: Okay. Thank you. You can have a recess for five minutes or so, and I will come back out, and I'll go consider these things; come back out and give you a ruling.

MR. SMITH: Thank you, your Honor.

THE COURT: You're welcome.

(Thereupon, a recess was taken.)

THE COURT: Congressman, I'll give you a ruling on this. You want to be seated?

MR. TRAFICANT: Are you going to give me a chance before to speak before you rule?

THE COURT: I did give you a chance to speak before I ruled.

MR. TRAFICANT: You gave me five minutes to look at Enright and Vinson.

THE COURT: No. I gave you since yesterday to look at Enright and Vinson, and I went back and told you I was going to go back and rule. That's what I did.

MR. TRAFICANT: You're not going to allow me to respond?

THE COURT: I gave you an opportunity to respond.

MR. TRAFICANT: No, you did not.

THE COURT: Oh, Congressman, come on.

MR. TRAFICANT: You really did not give me a chance to respond. I would have given you the evidence and material I brought with me. I put none on the record. I want it on the record.

THE COURT: Go ahead and put whatever you want to on the record, and I will consider it. It's good we set aside a whole morning for this.

MR. TRAFICANT: I knew and I have been here a long time tracking up evidence you already ruled, but I want to put this on the record.

THE COURT: Put it on the record.

MR. TRAFICANT: Number 1, the fact that Cafaro and Lange were, in fact, associated by Cafaro paying Lange's legal fees, they should be summarily dismissed, and in fact, they're -- their whole testimony should be stricken.

Second of all --

THE COURT: This isn't the time you have to make your --

MR. TRAFICANT: No. I am not making a motion. I'm talking about his case.

THE COURT: Okay.

MR. TRAFICANT: And I want to talk about Enright.

I want to cite Bourjaily versus United States 483.

THE COURT: That's a good case.

MR. TRAFICANT: 171, 176 -- your Honor --

THE COURT: Go ahead.

MR. TRAFICANT: You were speaking over me.

THE COURT: Excuse me, Congressman.

MR. TRAFICANT: And I hope you're taking my statements seriously rather than just ruling in the absence of my submitted evidence.

THE COURT: You have not begun your case yet. We're still in the Government's case.

MR. TRAFICANT: We're talking about particular matters that deal with the forthcoming evidence, and I want to continue.

THE COURT: Congressman, we are not talking about forthcoming evidence in this case.

MR. TRAFICANT: I'm talking about their motion. I'm talking about Enright; I'm talking about Vinson; I'm talking about what you've already evidently ruled on, but I want to put it on the record.

THE COURT: Okay.

MR. TRAFICANT: Cafaro, Lange, DiBlasio, and Sinclair were all plea bargained down less than a RICO. They were not conspirators, although named as conspirators.

First of all, they do not meet all the requirements of, in fact, Enright -- Enright, in fact, specifically says under the testament right, that it's not necessarily that a conspiracy -- it is not a conspiracy if it has not been established.

How can a conspiracy have been established when a conspiracy can only be established in a final verdict of a jury? The jury did not rule that there was a conspiracy between Traficant and anybody. They are now trying to, in fact, become Judge, Prosecution, and jury.

Second of all, that jury is the only body responsible to decide if there was a conspiracy that existed so their motion is premature.

Now, this is a double face problem. If they say that, in fact, DiBlasio is, in fact, a co-conspirator and DiBlasio has already taken the Fifth and did not make himself available for the Government, then DiBlasio's tapes must be admitted into evidence.

Third of all, Cafaro and Lange saying out of the same hymn book, the fact that Cafaro paid Lange's legal fees no matter how many times Lange called Cafaro a liar is

insignificant. That certainly - there was association between two witnesses that are now being asked by the Prosecution for you to consider special exceptions and to force special problems on the Defense.

Now, as the Defendant, I have no requirement at all to object, when to object. I could sit there and pass gas, quite frankly, and not even make a final argument.

For the Court to rule that they have met any standards to establish that the Judge should rule that a conspiracy has existed so that then they can bring in their Count 10 ridiculous motion to make it a 21-count indictment is unheard of. This is the most unfair thing I've ever heard of.

Now, finally, if someone can show me how, in fact, a conspiracy existed before a jury has ruled, then I say new precedent must be set. There shall be no law that I know of that establishes a person's conspiracy without a final decision made by a body of jurisdiction having authority.

Now, I'm not being tried by the Judge; I'm being tried in front a jury. Having said that, I am under no obligation to object, and if I do object, it is just my choice, and I have not waived my objection. I let Bucci run his mouth to hang himself. Cafaro and Lange, Cafaro paid for Lange's defense.

Now, if Cafaro paid for Lange's defense and Lange

says he doesn't like Cafaro but Cafaro says he does like Lange, I'm not foolish about the ploy here. In fact, they admitted that the Government was told that Lange's defense was paid for by Cafaro. Now, if, in fact, the Government has in their possession tapes that deal with Cafaro or DiBlasio that they're now asking and they, in fact, are moving to involve DiBlasio in the conspiracy and prove a conspiracy, then the Government then waives their rights to keep the DiBlasio tapes out.

Now, finally, in waiving their rights to keep DiBlasio tapes out, they waive their rights to keep all tapes out.

Furthermore, I want to read Bourjaily. The 1997 amendment to the Federal Rules of Evidence 801 codifies the holding in Bourjaily. The advisory committee note also explains -- I will slow down for the reporters. The contents of the declarant's statements do not alone suffice to establish a conspiracy in which a declarant and the Defendant participated.

The Court must consider, in addition, the circumstances surrounding the statement such as the identity of the speaker, the context in which the statement was made, or evidence corroborating the contents of the statement in making its determination as to each preliminary question. Every court of appeals that resolved

this issue required some evidence in addition to the contents of the statement.

Bourjaily is now talking about appeals. Bourjaily is now talking about corroboration. Here we have a case of, first of all, two witnesses whose testimony should be, in fact, vacated by the court's order, and I now move that they are. That Cafaro admitted paying, don't even know what the vision to the Cafaro umbrella paid for Lange's defense. Lange and Cafaro, in my opinion, were never named as conspirators. They were named as part of an ongoing enterprise not charged with conspiracy, plea bargained down to some misdemeanor, in fact, and these cases are moot.

If they do, it's a double edge sword, and now the Defendant claims if the Judge rules to allow this in, then the Judge rules the right for them to keep the tapes out because now they maintain that a conspiracy existed with DiBlasio, and if a conspiracy existed with DiBlasio and if he was unavailable on their subpoena, then my tape is admissible period, whether or not the Congressman takes the stand or not.

Second of all, Cafaro's payment of Lange's testimony in a federal court as soon as that was heard, his testimony should have been thrown out. And the Judge allowed it and allowed hearsay, and the Congressman let it on the record because he knows what's going on here in Cleveland.

You have ruled with them on every motion that was of significance. You've given me a couple of tokens, and quite frankly, I think you've already made your decision, and that's why you took a half hour that's only supposed to be a five-minute break.

Having made my piece, I am asking and moving that the Court vacate the testimony of Cafaro, vacate all counts concerning Cafaro, vacate the testimony of Lange, vacate all parts of the indictment concerning Lange, and, in fact, admit into evidence immediately, if they rule with the Prosecution, the -- the admissibility of the DiBlasio tapes and they be played to the jury period.

Now, finally, the Court reflects that if they were charged with being a co-conspirator and were plea bargained down, then they did not plea bargain down to a co-conspirator charge.

Cafaro was an information charge; Sugar was a -- subject to some misdemeanor, and I think Sabatine showed no relationship at all with the Congressman. Sabatine's relationship was with Chuck O'Nesti. And Chuck O'Nesti's statements have already been declared unavailable, and he's open for the Defense as well.

Now, you can't have it both ways. Bourjaily is to the point, and they did not meet the Number 1 specificity of the Enright case. The Enright case says that a

conspiracy must be established. A conspiracy has not been established because no judge can establish a conspiracy. You are not -- you are not the judge of facts here. The jury has yet to order.

Now, the Prosecution, if they should happen to be defeated again then could appeal on the grounds of the matter they are presenting to you. However, it is not now the timeliness for such action. And I think it's a last-minute attempt to make a ten-count indictment a 21-count indictment with a mountain so high that it cannot be climbed by any Defendant.

Now, my final comments are this: Whether I was Johnny Cochran, Mr. Spencer, or Mr. Bailey, attorneys of acclaimed esteem, if I were representing -- one of those men were representing me, they had no requirement to even stand up and make a statement.

The Defense need not open their mouth. When the Defense opens their mouth, it does not necessarily mean because they waive, they make an objection to one issue, that they waive any and all other issues.

Therefore, under the items that I have given, I think the arguments by the Government is moot, and I am going to suggest to the Court that before you rule I state that you have amended the constitution of the Sixth Amendment. You have amended the United States constitution in the First

Amendment, and you will now be making further constitutional amendments with this judgment after knowing that Cafaro paid for the testimony of Al Lange and Cafaro and Al Lange are now listed as a part of a conspiracy with Jim Traficant. There's only one conspirator that's been identified in this trial. His name is Richard Detore. He may or may not take the stand, and quite frankly, I think he may. Having said that, the Court can now rule.

THE COURT: Well, first, I'll rule on these motions to strike the testimony of Lange and Cafaro. The motions are denied. If you'll be seated.

MR. TRAFICANT: I'm trying to find --

THE COURT: I'll deal with the other issue that we have been working on --

MR. TRAFICANT: I would ask for a minute or two to get my pen out.

THE COURT: Are you ready?

MR. TRAFICANT: Yes, I am.

THE COURT: Good. I'll be referring to four sections. Transcript, Volume 1, Page 84, Volume 9, Page 1595, Volume 18, Pages 3535 to 3636, and Volume 20, Pages 3958 and 3960.

These sections contain statements relating to the conspiracies that were charged in Counts 1, 3, 5 and 7.

Rule 801(d)(2)(E) states, in part, Congressman, that

"a statement is not hearsay, and if the statement is offered against a party and it's a statement by a co-conspirator of a party during the course of and in furtherance of a conspiracy, for a statement to qualify under this rule, the Court must find by a preponderance of the evidence that, one, there was a conspiracy.

"2. The declarant, which is to say the person who made the statement was a member of the conspiracy.

"3. The Defendant against whom the statement is offered was a member of the conspiracy.

"4. The statement was made in furtherance of the conspiracy.

"5. The statement was made during the course of the conspiracy."

And then for a statement to fall under the exception, the Court has to find by a preponderance of the evidence that each of those elements has been met as stated in the Enright case, which apparently you have read. The Sixth Circuit stated that standard in a more useful form that is often stated. The standard means, quote, "that it is more likely than not the elements are met."

This Court will find by a preponderance of the evidence that for the first statement by DiBlasio all the elements are met. There was a conspiracy. DiBlasio was a member of the conspiracy. The Defendant was a member of

the conspiracy. DiBlasio's statement to Sinclair about kickbacks was made in furtherance of a conspiracy and during the course of the conspiracy.

The Government has established all of the necessary requirements for the exception to apply to the co-conspirator statement by DiBlasio.

And in addition, this statement was admitted without objection by the Defendant.

Next, the O'Nesti statement testified to by Anthony Bucci, this Court finds by a preponderance of the evidence that for the statement by O'Nesti, all the elements are met. There was a conspiracy. O'Nesti was a member of the conspiracy. Defendant Traficant was a member of the conspiracy. O'Nesti's statement to Bucci was made in furtherance of the conspiracy and during the course of the conspiracy.

The Government has established all of the necessary requirements for the exception to apply to the co-conspirator statement by O'Nesti, and on review of the transcript, the statement was admitted without objection by the Defendant.

Now, the statements of J.J. Cafaro and Richard Detore to Al Lange regarding the boat, this Court finds by a preponderance of the evidence that for these statements, all the elements are met. There was a conspiracy. Cafaro

and Detore were members of the conspiracy. Defendant Traficant was a member of the conspiracy. Statements to Lange about the boat were made in furtherance of the conspiracy and during its course.

So as to those -- the Government has established all the necessary requirements for the exception to apply to the co-conspirator statements by Cafaro to Detore. Moreover, these statements were admitted without objection by the Defendant.

Finally, the two statements by Detore to J.J. Cafaro regarding the boat repairs, this Court finds by a preponderance of the evidence that for the statements by Detore, all the elements are met. There was a conspiracy. Detore was a member of the conspiracy. Defendant Traficant was a member of the conspiracy. Detore's statements to Cafaro about boat repairs were made in furtherance of the conspiracy and during the course of the conspiracy.

The Government has established all the necessary requirements for the exception to apply to the co-conspirator statements by Detore. And these statements, moreover, were admitted without objection by the Defendant.

So having sat through the presentation of evidence regarding all of these matters and also on the view of the specific surrounding transcript areas and listening to the parties here today, the Court determines that the

Prosecution has shown by a preponderance of the evidence all the requirements for the application of Rule 801(d)(2)(E) to each of these co-conspirator statements.

Now, we have other work to do here this morning.

MR. TRAFICANT: I want to -- I have a question on the ruling.

THE COURT: Okay. But just a moment.

Among the things we have to accomplish before we have the jury before us again is a motion, which you have asked to make this morning, and the Government will need to have time to respond to that.

So --

MR. TRAFICANT: May I -- when may I make it?

THE COURT: Now.

MR. TRAFICANT: I want to respond to the ruling you just made. Did you take into consideration Cafaro's payment of Lange's legal fees?

THE COURT: I took into consideration the evidence that to date has been developed in this case. I've been sitting here through all -- I didn't use just one piece of evidence anywhere.

MR. TRAFICANT: Did you hear the testimony where Cafaro admitted paying Lange's legal fees?

THE COURT: That's testimony.

MR. TRAFICANT: Did you hear the testimony of

Lange saying Cafaro paid his legal fees?

THE COURT: I heard that.

MR. TRAFICANT: Fine.

THE COURT: Now, you have a motion that you asked for time to make, and this will give you time to make it.

MR. TRAFICANT: Yes.

I made a motion in handwriting. This motion basically states that the Government has asked for a special form as to Count 10 of the jury's --

THE COURT: Congressman, I have that motion in writing. I'm talking about the motion that you asked to make at the conclusion of the Government's --

MR. TRAFICANT: Oh, I thought you -- I guess I do have a motion to make.

THE COURT: Okay. This will be a good time.

MR. TRAFICANT: Can I make that motion now, your Honor, from the podium?

THE COURT: Yes.

MR. TRAFICANT: Thank you.

THE COURT: You're welcome.

MR. TRAFICANT: I move that the case of the Prosecution be removed and a judgment of acquittal shall be used in their place.

The Court on motion of a defendant or of its own

information, if the other side has closed the evidence, finds it is insufficient to sustain a conviction for such offense, that, in fact, the case shall be dismissed.

If, in fact, the defendant's motion for judgment of acquittal at the close of the evidence offered by the Government is not granted, naturally, I can offer evidence.

I ask that this case now be dismissed and acquitted on the following grounds:

The Judge clearly has known of violations between Cafaro and Lange to both of their testimony. Further, that the Government knew and was in consultation with both of those attorneys and knew of their legal transactions as far as payment for legal fees.

Third, they offered no corroborative evidence of any sort regarding Bucheit, regarding Sinclair, regarding Lange, regarding DiBlasio, regarding Detore, or any and all others named in the indictment. What you have is what the Judge has previously ruled to allow the Government further advantage. You have preponderance of the evidence and circumstantial evidence.

There has not been one investigator of the federal government to come in to state that Al Lange did, in fact, pay for those. All you have is paper receipts, not one FBI agent, not one IRS agent come in and said that Al Lange and deGroot did not take the money, and that Al Lange did not,

in fact, pay $20,000 to pay for the boat, that Al Lange had put some of the money in his pocket.

All we know is the Government put facts and figures on the board, and you've accepted their paperwork as evidence.

Second of all, this is the FBI, your Honor. Not one bit of physical evidence; not one person to wear a body mike; not one person to gather an admission of a defendant himself, who by the testimony of Mr. Hess, has been under criminal investigation since 1993. Where's the corroboration?

Why did they not show and have someone come in and say that Mr. DeGroot did not give Mr. Lange X amount of money, and they bill Mr. Cafaro $20,000 and, yet, did $5,000 work of boat work on Congressman Traficant's boat.

The Defendant sitting out with a boat that has been deemed nearly worthless because of its having been sunk, and there has been no evidence brought forward by the Prosecution to show that even though they have checks, and even though they have money, that there was any proof that that money was paid on that boat. Nor was there any money, other than the words of the witnesses, of the deeds of this act. There is no physical evidence. By their own words, they say they have no tapes. By their own words, they say they have no prints. By their own words, they have no

corroboration. By their own admission, they knew that Cafaro and Lange were related by Cafaro paying Lange's legal defense. This is unheard of in American jurisprudence. And as a member of Congress, I've never heard of this.

Now, if Mr. Lange was still an employee of U.S. Aerospace, this may be relevant. But the fact that Mr. Lange was no longer in the employ of Mr. Cafaro and entered a plea agreement when he was not in the employ of Mr. Cafaro and Cafaro paid for Mr. Lange's plea agreement negotiations, this is a precedent in the United States jurisprudence history.

You handle a lot of cases, a paper case to be developed, and you've allowed the Prosecution to bring in a man who was given a form, 1998, 1999 -- and I'll now move over here -- maybe he was nervous. Maybe he didn't know what was going on. But, I offer this as evidence now for the record in my motion for acquittal. Can you see the display, your Honor? Can the Prosecution see the display?

THE COURT: Yes.

MR. TRAFICANT: I asked him to look at the form of the years 1998 to 1999. There were $11,000 -- $11,700, and I asked how much a month did the Congressman deposit in his account, and I let it on the record. And he said $908, and I wrote it down. That was his testimony.

It was a Government exhibit. 24 months divided into 11,7 is $462. This guy didn't even know what the hell he was doing here.

Now, you had Charles Perkins, the investigator -- now, maybe Mr. Hess was under great pressure because he was probably told he was coming in to testify against a schmuck that isn't even an attorney. Maybe he found himself confronted by a cross-examiner with some tenacity, but you divide 24 into 11,7 and tell me it's $ 908, and I'll admit it for the record. It's evident Mr. Hess knew nothing about this case. The Government had every opportunity to corroborate the words, the words, and the checks of Lange, Cafaro, Sinclair, Sabatine, Bucheit.

They failed to call Peter Bucheit, whose daughter said kept the records. And the Government failed to bring in any investigator of this case to say that Mr. Lange did not put money in his pocket. Mr. Lange gave the money to Mr. DeGroot, and Mr. DeGroot and Mr. Lange were in concert, stealing the money from Mr. Cafaro. Mr. Cafaro clearly admitted that he, in fact, didn't know anything. He just signed the checks. They said it was for the boat.

Now, I'm looking for some evidence. The only guy they bring in was an IRS guy that has two years, '98, '99, 24 months, $11,700 -- can I please have your exhibit, gentlemen? I don't have it with me.

MR. KALL: What exhibit number would you like?

MR. TRAFICANT: I want the exhibit that shows the Traficant statement of personal accounts, '98 and '99.

THE COURT: Congressman, you need to provide those things. You have had all the exhibits for a long time in this case. You need to provide them.

MR. TRAFICANT: I forgot them. I slept all night. In fact, your Honor, I'll admit for the record I never even looked at their evidence because I knew they had no evidence. But I am saying this also for the record: If the Judge with her experience believes that the powerful FBI doesn't have a tape on Jim Traficant, then the Judge is either naive or inexperienced.

They have probably taped me 50 times. They tried every possible way I can guarantee you that. They had no evidence. They could acquire no evidence. But when they had a chance to corroborate evidence, they bring a guy from Philadelphia that can't divide 24 into $11,700.

Let's go back to the record since I do not have it here before my motion is acquitted. Did I not, in fact, identify the exhibit number? Did I, in fact, not circle and mark the years 1998 and '99? Was, in fact, $11,700 the amount of money he said accounted to, and did he not say it was $908 a month.

And the Congressman then asked him, is it exorbitant for a Congressman to, in fact, deposit $908 a month into his account? Cash.

And the Prosecution objected, and then they smiled, not knowing the Congressman, who just had a witness that don't even know what the case is about, made a very serious mistake. And if he has been a 33-year investigator, criminal as well, he don't know his assets from his larynx.

Now, having said that, this Prosecution should have been compelled to bring in somebody to prove that Al Lange and deGroot didn't conspire to steal money from Cafaro. Cafaro admitted he knew nowhere where the money was going, knew nothing about it. Where's the evidence? Why didn't Sabatine wear a mike to me? Why didn't DiBlasio wear a mike, get out of all his troubles? Why didn't Sinclair wear a mike? Why didn't Cafaro wear a mike? Was it all touchy-touchy, feely-feely?

The bottom line, in U.S. versus Traficant, a new precedence is being set. On the preponderance of the evidence, you are going to allow a criminal investigation of a targeted member of Congress since 1993 by Hess' own words and by documents supported by the Congressman, his own tax returns, you are going to make a decision on a criminal trial on the -- I am going to use your words -- preponderance of the evidence.

But I'll give you this: At best, circumstantial evidence, noncorroborated by physical examination, that the Prosecution failed to meet the requirements of.

Now, I'm an old sheriff. If I have a guy that says he bribed an official, I'd take that guy right to court and put him on the stand and have him say he bribed that public official. That's, in fact, what we have here. As a sheriff, I would first try to establish proof.

Mr. Cafaro's secretary said he took $15 or $20,000 out a week by cash. That was her own testimony.

It was also testified Mr. Cafaro struck his father by one of the Cafaro witnesses. Mr. Cafaro denied it. That's neither here nor there. But the bottom line is, I would have had before I took as a sheriff the local municipal judge, before I put the local municipal judge on trial for a $2,500 bribe, I would have had attempted to have that person recorded and memorialized by his voice on tape, or I would have had someone use a ploy to catch him in the commission of a crime.

For example, for the record, Mr. Sinclair.

Mr. Sinclair says he received a manila envelope. He called the FBI. He didn't touch it. The FBI opened it. They counted the money. They sent it to the lab. It came back.

Now, as a sheriff, let's say it's a municipal judge, and let's reverse it --

THE COURT: Well, you aren't a sheriff here; you're a congressman.

MR. TRAFICANT: I'm making my motion for acquittal, and I'm giving you an example.

THE COURT: I'd like you to make a motion for acquittal based on the sufficiency of the evidence that's before us.

MR. TRAFICANT: I am.

THE COURT: Thank you.

MR. TRAFICANT: I'm showing you the lack of evidence.

Since they had no physical evidence and they had supposedly money in plastic bags of hard surfaces, not toilet tissue, plastic bags of hard surfaces, they could have told Mr. Sinclair, look, tell Traficant you don't want the money, mark the money, tell Traficant you're concerned, things are getting out of hand, take him to some restaurant, take him to Alliance, New Castle, Pennsylvania, just make sure when you leave the restaurant he has the marked money.

Your Honor, they could have me in a fake automobile accident. They could put a mike underneath the cross brace on his back. God all mighty, there's no physical evidence to corroborate the truthfulness of this other than the words of their witnesses, and you allowed them to get away

with it and bring a man in, spend tax dollars for 37 days in Cleveland, seven trips by planes, who couldn't divide 24 into 11,7. They have no evidence. They have their responsibility to prove that deGroot and Lange did not steal money from Cafaro.

How do you know and where is the proof that went into my boat? Because they said it did? Were they not all charged with a crime? Did they not all make a plea agreement?

This case should be thrown out on Superior Avenue for one reason: There is no classification of American citizens. And whether you're a homeless person or a judge, the constitution Bill of Rights stands by your side equally, equally. If they offer this evidence against a nontarget political target that also has been clearly identified by the 1993 returns and this Court before they rule, they should ask for every tax return on the Defendant since 1983.

And I have witnesses that said when I walked out of the courtroom in 1983, that I was a target. Now, let's get off it. You've ruled I can't have a vendetta. You've ruled I can't talk about obsession. Now you've allowed them to bring a case noncorroborated by the investigators who did the investigating. All you brought in is a summary guy to tell you what the numbers are.

I submit this to you right now I am going to, in fact, subpoena a tenth grader from some high school to see if they can divide 24 into 11,7.

Now, come on. I want to know what their evidence is. They have not met the standards beyond reasonable doubt. They have met preponderance of the facts. They have brought circumstantial evidence, but they did not bring any relevant investigator to, in fact, show that what these purported crimes were actually committed.

Who proved, under any circumstances, that Lange and deGroot didn't conspire and rob Mr. Cafaro? We have a survey of -- a boat survey that says the boat was worth $32 to $38,000. It was going to cost $11,000 to do, and it ended up being $20,000 and only 60 percent done.

Now, where does that leave us to suggest? The surveyor wasn't licensed? Wasn't certified? Did the Government look at that? Did I not get from this jury discovery, the survey? Why did they not bring in the investigator from the IRS and the FBI? They're not required by law, but what you are ruling on is exactly what you ruled on the last motion as we received now from a slip from your assistant.

You have no record of proof beyond a reasonable doubt at this point to even continue this case, and you know it.

THE COURT: Thank you. My assistant just

told me how long you've been talking. Thank you.

MR. TRAFICANT: Are you interrupting me?

THE COURT: No. I was putting on the record something so that you wouldn't confuse the record.

MR. TRAFICANT: Am I limited by time?

THE COURT: You're limited not by time in terms of us, but you're limited by time in terms of all the things that we have to accomplish before the jury gets here today. So --

MR. TRAFICANT: Your Honor --

THE COURT: Sir --

MR. TRAFICANT: -- this case should be thrown out on its face. If you allow this case to go forward of this magnitude, with this lack of evidence, you have not only amended the Sixth Amendment of the constitution, the First Amendment of the constitution, you will amend the basic document of the foundation of our founders.

You will have stood in judgment up to this point. You are the jury now, and having had presented to you the fact that the Prosecution had every and all opportunity to bring in Bucheit, they didn't, to bring in Nemenz. They showed pictures of the farm and the barn and the work at the farm. They don't bring in Nemenz.

They bring in one worker under immunity who was a gentleman. I'm thinking of bringing him back now and

expose why he had immunity, which I didn't want to do. What evidence do they have? To say a check was cashed by a bank?

One other thing: What did they show us on Sinclair? They showed us a U.S. Treasury check and what he did with it. Did they show his accounts? Did they have an FBI analyst or summarist summarize his accounts? Wasn't it a fact that Mr. Sinclair had between $116,000 and $143,000 of debt between he and Mr. DiBlasio? Was Mr. Sinclair used in the taping of Attorney Alan Manevich?

Was it established Attorney Alan Manevich was seated across the desk? The Government in their case is saying they made no attempt, because of the boiler room ambience, because of touchy-touchy Traficant. There's been evidence in the case from Cafaro himself, his attorney advised him not to meet with him, with Traficant. The attorney was meeting with the U.S. Attorneys, thinking he could suggest he could meet with Traficant to talk about this so-called money. Did they do that? No.

This isn't a case of what the evidence shows. This is a case about what the evidence does not show. And you're now judging on a paper case as one of those tapes will say. If I were on the jury and I saw the paper trail, I'd find you are guilty if I wasn't one of the principals. And by what you did, I firmly believe you allowed the tapes

in. And if you do not, I believe you will be denying me the best evidence of my defense. And under the constitution, I'm allowed the best evidence of my defense.

Now, having shown a failure of the Prosecution to, at least, do everything possible to gather evidence, a failure of the Prosecution to, in fact, corroborate the statements of convicted people, the only one I don't believe was convicted of anything was Lange, or he had the use of immunity, and his chief fees were being paid for by Cafaro. Cafaro's indicted, DiBlasio's indicted, Detore's indicted. Did they call Detore? No. They didn't call Detore because they know its flimsy. They know that's a phony charge. There is no conspiracy that existed between Jim Traficant and anyone in this trial, none whatsoever.

And if it did, they had the responsibility to corroborate the evidence. Not one of those checks of Lange's was corroborated. He signed them. He cashed them. He gave the money to deGroot. Did they call deGroot? How do we know if the surveyor says it's going to cost $11,000 and it cost 20,000. Why didn't Lange stop? You mean Lange didn't talk to his boss? Come on now.

That boat was worth $32,000, a wooden boat. It didn't need $26,000 of repairs. Any seaman will tell you that by the way the surveyor made it out to captain Alan Lange. He took special courses to operate that boat. He

wanted to buy that boat, and Al Lange perjured himself when he said he didn't check with the committee to find out if it would be right.

If I was going to pull a scheme, it wouldn't have been with someone on the payroll of U.S. Aerospace. Did I do the things that were said? Did I write the letters? Did I fight for those companies? Each and every one of them admitted it, will stipulate to it, but -- and I have done that for thousands of individuals and companies, and I didn't bring them in here, and I am not bringing them in here.

And finally, let me say this: When the federal government sent a treasury agent, an IRS agent, and an FBI agent, to a fellow in Southern Ohio that I bought a horse from -- are you listening to me?

THE COURT: Yes, fellow in Southern Ohio you bought a horse from. I'm listening to you.

MR. TRAFICANT: Three agents went to see him. The transaction was over ten years ago, and what they wanted to know was did Traficant give you any cash over and above the purchase of the horse? The Government has offered no evidence of any cash transactions of this Congressman. They show supposed income but no expense. And when they do, their expert divides 24 into -- into 11,7 as 908. The reason he did that is because he was so damn

confused he counted up the numbers of deposits, 12, and divided it by the number of deposits.

And I just let him go because he made an absolute fool of himself now. And he's one of the nicest guys I met. He gives IRS a good image, in fact. I liked Hess. That's how screwed up this case is. They knew if they brought in one of these investigators, I'd leave him out a new asset.

And they're scared to death to expose me to their so-called investigators. So what is it? Did Pikunas intimidate one of my workers? Was Detore threatened? And did Detore not say on tape -- and you took it lightly, as self serving for the Defendant -- that if he didn't have two kids, he'd shoot himself in the brains, blow his head off from the pressure's getting from the Government. Did DiBlasio not send a letter and say Jim, they're after you so bad my health is failing me?

Mrs. Ferrante, they take her --

THE COURT: Congressman, we've been over this issue.

MR. TRAFICANT: No. We haven't been over this issue. I want this on the record.

THE COURT: This is a motion you're making.

MR. TRAFICANT: And I want it as part of my motion for acquittal on the record. Now, I have that

right.

THE COURT: You have the right under certain circumstances. You can't just say anything you feel like saying --

MR. TRAFICANT: I'm not saying what I feel like saying.

THE COURT: -- and take hours of our time.

MR. TRAFICANT: I'm not taking hours of time. I am making a statement for acquittal.

Now, did they take -- and they did take Mrs. Ferrante, they put a protective custody --

MR. MORFORD: Your Honor, objection. None of this is evidence in the case that has anything to do with this motion.

THE COURT: The thing I have to look at is whether or not the evidence is insufficient to sustain a conviction in this case.

MR. TRAFICANT: I want to go forward. I'm talking --

THE COURT: You need to talk about what I need to decide. Otherwise, you're taking up space.

MR. TRAFICANT: I am, I am, I am further embellishing what the Government failed to do and what their intentions were.

THE COURT: Further embellishment isn't going

to help. I won't be able to consider your further embellishment.

MR. TRAFICANT: Yes. I mean, yes, you can.

THE COURT: Congressman, come on. It's been over a half hour. Let's get going.

MR. TRAFICANT: Hear me. Are you a judge?

THE COURT: I am.

MR. TRAFICANT: If you had a charge in the paper of murder, will it affect you to run for office?

THE COURT: I'm not going to get into that kind of discussion with you. This is your opportunity at the end of the Government's case to move.

MR. TRAFICANT: Then let me make it.

THE COURT: Well, then do it.

MR. TRAFICANT: I'm doing it. And I have the right to say what I can say here on my motion for acquittal.

The Government took one of my constituents, took her to Kentucky.

MR. MORFORD: Objection, objection. This is not evidence in the case.

THE COURT: There is no evidence of that. If you put that evidence on, fine, but there is no evidence.

MR. TRAFICANT: Her husband had a stroke.

THE COURT: Congressman, there is no evidence

of that in this case. You may --

MR. TRAFICANT: Poisoned the jury, and finally, on my motion for acquittal, they did that to poison the jury since they knew that nobody that knows me would be on this jury. And you violated my rights when you said a jury, when I was indicted before the -- before this Court ruled that a defendant like me in my case, jurors could not be from their area.

I was indicted before you made that decision, was reached by this Court up here under Judge Matia.

You have, in fact, violated every damn right I've had so far. You have given them everything they've asked for. You've gone so far as suggesting contempt.

THE COURT: Sir, you are the one who has suggested that. Now, move on with your rule. You have anything further to say on your motion for acquittal, I'd like to hear it. Otherwise, we have a lot of other things to do and a jury to deal with.

MR. TRAFICANT: I move that you now, for once, sit back and think very carefully of the decisions you've already made in this case, and think about the evidence, nonevidence without corroboration, but with the words of convicted felons only, make a decision because you should throw this case out, and I am telling you this: You are setting a precedence in the United States of America.

First, it was set in '83 on the admissibility of a sixth-generation copy of a tape to help these people. Now you're letting them go forward without an acquittal on the circumstantial evidence presented in a RICO criminal trial where the Government did not even attempt to take that circumstantial evidence and make it beyond a reasonable doubt.

You are, in fact, now, in my opinion, a part of a RICO -- a continuing enterprise to, in fact, screw a targeted member of Congress, whether Congress or not, I've been targeted since 1983 because I'm the only American in the history of the United States to beat them pro se in a RICO case, and they've wanted me ever since, and you are part of the continuing enterprise.

I, in my closing comments, charge a continuing enterprise exists with the Justice Department, and you have known about it. Mr. Hess testified to it. You've seen the 1993 returns, and you have even failed to intervene.

And with that, I ask that you acquit, that the indictment be dismissed, and if there's any words that I failed to use that are proper, I want it to be construed as a motion that the trial be ceased now for lack of adequate evidence regarding the purported seriousness of offenses and that the Judge do so.

Thank you.

THE COURT: You can respond.

MR. SMITH: Your Honor, rather than a closing argument, I'll give a response to a Rule 29 motion.

THE COURT: Thank you.

MR. SMITH: Under Rule 29, your Honor, of course, there is a legal standard that applies, and that is that the evidence must be considered in the light most favorable to the Government under the Sixth Circuit's various decisions, U.S. versus O'Donnell. The Government is entitled to the benefit of all inferences, which can reasonably be drawn from that evidence, even if the evidence is circumstantial says O'Donnell.

MR. TRAFICANT: Objection.

THE COURT: Overruled. You can continue.

MR. SMITH: And further, the Rule 29 stage does not waive conflicting evidence nor does it waive considering the credibility of witnesses, also from O'Donnell.

In this case, your Honor, Rule 29 stage, at the Rule 29 stage, witness testimony in and of itself is sufficient to get the Government over the hurdle. As a matter of law, under a Rule 29 motion, there is no requirement that there be physical evidence, corroborating evidence, or anything else. There need only be sufficient evidence, and that can be supplied by the witnesses themselves.

The Congressman certainly is free in closing argument to argue matters of corroboration, matters of credibility, but those are not the proper subject under a Rule 29 motion. Those matters of credibility and quality of evidence are up to the jury. The issue here is only quantity of evidence.

The Government has established in this case as to each and every count where there's a conspiracy alleged of the Congressman conspired with one or more people. In Count 1, there's at least the Congressman, Anthony Bucci, Robert Bucci, and Charles O'Nesti.

In Count 2, there's at least the Congressman and Dave Sugar, Junior.

In Count 3, there's at least the Congressman, J.J. Cafaro, Al Lange, and Richard Detore.

In Count 4, there's at least the Congressman, Allen Sinclair, and Henry DiBlasio.

And in Count 7, you've got at least the Congressman, Sinclair, DiBlasio, O'Nesti, Rovnak, Traficanti and Buccella in all the conspiracy counts. The evidence has shown an agreement among all those people to violate the law.

The Congressman did not argue specific points about particular counts, and therefore, I won't either. But there is one other thing that should be said, and it's been

implied throughout the case, and that is that there is no corroborating evidence in this case, although a Rule 29 stage we're not required to do that.

Nonetheless, it should be mentioned that with respect to Counts 4, 5, and 6, there are reams. There is $24,000 in cash. There is Sinclair's deposit slips and some account statements that were put into evidence. There are the handwritten notes of Congressman Traficant that he wrote to Mr. Sinclair to get him to perjure himself before the jury.

There are Mr. DiBlasio's checks which bank records custodians came in and said were cashed for cash.

In connection with the Bucci/Tyson count, which is Count 1, in addition to corroborating testimony of Bucci and Tyson workers, in addition to the corroborating testimony of agents, who represented they were told about being pressured and contacted by the Congressman, there is Exhibit 2-11, the handwritten note.

There are letters to the warden and to Mr. Billak where it is requested Anthony Bucci get out of jail sooner than he's supposed to. There are Mr. Dreger's contemporaneous notes of ODOT. There is a letter to Bank One concerning the Tyson loan and other evidence.

With respect to Count 2, Sugar, there are photos of equipment, numerous false invoices, a check which is

Exhibit 5.8, which was not paid until the Congressman knew that he was under investigation. There's a letter of the Community Improvement Corporation asking to save the terra-cotta facade at a time when doing so would have been favorable to Mr. Sugar's bid.

There are letters to Judge Spahr on behalf of Sugar's son.

MR. TRAFICANT: Objection.

MR. SMITH: Relates to the CIC on behalf of Sugar's son.

MR. TRAFICANT: This is speculation.

THE COURT: The objection is overruled.

MR. SMITH: With respect to the Cafaro count, even though we're not required to produce corroborating evidence under a Rule 29 motion, there are the various letters to Jane Garvey. There are all the checks to Lange, to cash for the boat expenses. There are all the Lange receipts in -- for which those cash and checks were paid for. There are the welder and generator receipts.

With respect to Bucheit, a picture is worth a thousand words. Exhibit 7-34 which is the picture, physical evidence, of the addition over $26,000 in value that Mr. Manevich put on the back of the Congressman's house, paid for as Manevich testified, by Bucheit, not by the Congressman.

There is the checks that went to Mr. Manevich from Bucheit. There are the checks that went to Aey Electric, over $3,000 in value for the electrical work that Aey Electric did, paid for not by the Congressman but by Mr. Bucheit and his companies.

There's a boat load of documentation in the Bucheit case showing the Congressman going to bat for the Bucheits in Saudi Arabia disputes. Witnesses Bliton and Iannandrea put all that in. So there is much corroborating evidence in this case.

With respect to Henry Nemenz, the only person who's raised Henry Nemenz in this trial is the Congressman. It wasn't mentioned in the Government's opening statement. And, in fact, a close reading of the indictment would reveal that the Nemenz allegation is not pleading in the indictment. The Government proposed at one time to put in the Nemenz transactions as further patterned evidence with respect to the RICO count, but before that, there is no Nemenz predicate before you or Nemenz count before you, your Honor, and therefore, no ruling is necessary by you --

MR. TRAFICANT: After they heard the tape.

MR. SMITH: That has to do with Nemenz.

MR. TRAFICANT: After they heard the tape for the record.

MR. SMITH: Finally, even though it's

incredibly irrelevant to a Rule 29 motion, let's deal with 1-27.1, $11,700 divided. We'll look at the transcript, but I believe the transcript will show the Congressman asked the witness to divide by 12 and not by 24.

Your Honor, that's the sum and substance of my reply. Unless you have further questions of me, we ask you to deny Rule 29 motion.

Thank you.

THE COURT: Thank you.

MR. TRAFICANT: I'd like to respond.

THE COURT: We've had lots and lots of discussion from you today, and it is not necessary.

MR. TRAFICANT: Just in the form of an objection.

THE COURT: You can make an objection.

MR. TRAFICANT: The words that I read at the beginning of my acquittal were, in fact, from Rule 29 itself.

THE COURT: Thank you.

Viewing the evidence as I must, in the light most favorable to the Government, the evidence is clearly sufficient, and the Congressman's Rule 29 motion is denied.

We need to go forward now.

MR. TRAFICANT: I object.

THE COURT: Yes.

MR. TRAFICANT: I object on constitutional grounds.

THE COURT: Okay.

We need to go forward now with our arrangements. It's almost noon. We should take a break probably if there's nothing else to do before the jury comes back. They're to be here ready to come down at 1:30.

And so we can take the usual lunch break unless there's something, and I have not been made aware of that has to be done.

MR. MORFORD: Just if we can find out who the next couple of witnesses are to save delay.

THE COURT: Okay. At 1:30.

MR. TRAFICANT: I don't know who's here.

THE COURT: It's up to you.

MR. TRAFICANT: It's up to me. I'll decide when they get here.

THE COURT: Well, anyway, we need to know at least who your first witness is.

MR. TRAFICANT: I don't know who that's going to be.

THE COURT: Well, tell us who you plan it to be among the people who are supposed --

MR. TRAFICANT: I plan it to be a man named Bill Coleman, who was a plaintiff, who was a Bailiff for

the Seventh District Court of Appeals of Ohio.

THE COURT: Okay. His name is Bill Coleman?

MR. TRAFICANT: Yeah. I don't have the exact spelling of it, and I don't know who's here. I haven't been out there.

THE COURT: Well --

MR. TRAFICANT: I told them not to be here. They won't be testifying until 1:30.

MR. MORFORD: There's Mr. Beef Terlecky, and I don't know about this Mr. Coleman, but I know that Beef Terlecky has nothing to do with this case whatsoever than his own beef with his treatment by the FBI when he was convicted --

MR. TRAFICANT: Hear me.

MR. MORFORD: -- as a deputy sheriff of a RICO bribery in claims after he pled guilty that he's not guilty. What that has to do with this trial, I don't know.

THE COURT: I don't know either, but he can get his witnesses organized and bring them in. The jury's going to be here at 1:30.

Now, one other question before you talk. Usually you would rest your case if you're going to rest it before -- just as we began. That's the first thing that happens. It takes a second.

MR. TRAFICANT: In front of the jury?

THE COURT: Yeah. And then -- and you'll be able to rest your case if you put one on in front of the jury. That happens. Okay?

That's the first thing we do. There's nothing else we do until we go to your witness. I am telling you this so you'll have whoever your witness is going to be ready.

MR. TRAFICANT: I'll have them ready.

THE COURT: But it will be one of these two people, I take it, because they've got -- they have to have some idea how you're going to call them.

MR. TRAFICANT: I plan to call Bill Coleman. His sister's real sick. He's been here two days, stayed here two days. But if it's not Bill Coleman, it will be one other witness I've deemed to be best as my first witness.

THE COURT: Okay.

MR. TRAFICANT: Now, let me say this: He made a comment about one of my witnesses. I want to object to it on the record. He has no knowledge, if he has knowledge in this case at all, and he's already attempting to utilize his remarks to demean my witnesses.

THE COURT: Okay.

MR. TRAFICANT: And he should be sat down, and he should let my witnesses alone as I've let his alone.

THE COURT: Okay. We don't need to get into

this discussion right now.

MR. TRAFICANT: And I need some time.

THE COURT: I'm giving you the full hour and a half that we have left, whatever of that is remaining. We'll be back here at 1:30, but we have to go forward in an orderly way, and if we get into any areas that require us to have a break and discuss whether or not testimony is relevant, we will then take a break and discuss that. Okay?

MR. MORFORD: The only point I want to raise, your Honor, we had moved prior to trial that the Congressman would not be permitted without making a prior showing to the court to ask those kinds of questions and what I want to make sure --

THE COURT: Right. Well, he knows that. I think the Congressman knows. You remember the order in limine?

MR. TRAFICANT: Listen. No, no.

THE COURT: Remember the order in limine because if you remember, you're not --

MR. TRAFICANT: Let me respond for myself. I don't want the Judge or Prosecutor to tell me what I know. If you have a motion and an order, then that's your motion and order. You enforce it. I'm representing myself.

THE COURT: I understand. I think we're all

fine. Why don't we have lunch, huh?

MR. SMITH: Your Honor, before you do, under Rule 26.2, the Government asks for any Jencks material and any witnesses he's going to call today. Thank you.

THE COURT: Okay. If there is any Jencks material.

MR. MORFORD: Affidavits, statements anything like that.

MR. TRAFICANT: Jencks, this.

THE COURT: It's reciprocal.

MR. TRAFICANT: I know it is.

THE COURT: Okay.

MR. TRAFICANT: Your Honor, before you leave, I want to ask if the witness room --

THE COURT: We have to go on the record.

MR. TRAFICANT: On the record. The witness room that was previously used by the Government now being used by me has any video or audio devices?

THE COURT: We have no video or audio devices in our witness room.

MR. TRAFICANT: Thank you.

(Thereupon, a luncheon recess was had.)

Thursday Session, March 21, 2002, at 1:30 P.M.

(Proceedings resumed in the presence of the jury:)

THE COURT: Yes.

MR. KALL: Your Honor, the Government rests.

THE COURT: Thank you sir.

MR. TRAFICANT: Your Honor, I object to the Government resting on the fact they have not corroborated with physical forensic evidence, anything they have proven.

THE COURT: Congressman, that's an improper objection. The Government can rest. They're indicating to all of us they have now concluded the evidence in their case. You can proceed, Congressman.

MR. TRAFICANT: I call Mr. William Coleman.

(Pause.)

THE COURT: Congressman, your witness?

MR. TRAFICANT: Do I have to go get the witness?

THE COURT: Yes, sir.

MR. TRAFICANT: I didn't know that.

THE COURT: Somebody has to go get the witness.

MR. TRAFICANT: I didn't see the Prosecutor do it.

THE COURT: You can have anyone get the witness.

MR. TRAFICANT: You want me to get the Marshal to go get him?

THE COURT: No, not the Marshal. Someone with you can get the witness.

THE COURT: Raise your right hand, sir.

WILLIAM COLEMAN

of lawful age, a witness called by the DEFENSE, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF WILLIAM COLEMAN

BY MR. TRAFICANT:

Q. Would you please state your full name for the record, and spell your last name.

A. William Coleman.

Q. Would you spell your last name.

A. C-O-L-E-M-A-N.

Q. Are you currently employed?

A. No, I'm retired.

Q. And what was your last job?

A. I was a Bailiff with the Seventh District Court of Appeals in Mahoning County.

Q. Did that Seventh District Court of Appeals cover a number of counties?

A. Covered eight counties south of Mahoning County.

Q. And as you worked as a Bailiff in those counties, did

you meet with a -- come to know a Mr. Dennis Johnson?
A. Yes.
Q. And how did you come to know Mr. Johnson?
A. Well, I knew him really before I worked -- I used to work in Lisbon, and he used to be a barber. But I met him in politics, Columbiana County Democrat Party Chairman, which that's his title now.
Q. Is he still a Democrat Party Chairman?
A. Yes.
Q. You know if he's employed?
A. He's employed, yes. He's on Traficant staff.
Q. Well, who's Traficant?
A. Congressman Traficant, which is you.
Q. Have you and Mr. Johnson been friends a long time?
A. 30 years or more.
Q. Did you have on occasion to be with Mr. Johnson when a Mr. Charles O'Nesti visited him?
A. Yes, I was with him. We were out having dinner at a restaurant on Still Street, Youngstown.
Q. You remember the name of the restaurant?
A. O.H. Grill they call it on Still Street.
Q. Did Mr. Johnson seek out Mr. O'Nesti, or did Mr. O'Nesti seek out Mr. Johnson?
A. We were in there when Mr. O'Nesti come in and come up to where we were sitting, and he asked if he could talk to

Mr. Johnson. So I'm sure O'Nesti sought out, wanted to talk to Mr. Johnson.

Q. And did you -- did they talk right there?

A. No. They left the area where we were at, and I didn't see him for awhile then.

Q. Did you know where they went?

A. Another part of the room or the restaurant, another area of the bar.

Q. Could you see them from where you were seated?

A. No.

Q. Do you know a man by the name of John J., nickname J.J. Cafaro?

A. Yes.

Q. And how do you know Mr. Cafaro?

A. Well, I used to work for him before I was a Bailiff. I run one of his shopping centers.

Q. How long were you a Bailiff?

A. I was with the shopping center about 15 years.

Q. No, Bailiff.

A. Oh, Bailiff. I was about six or seven years.

Q. And how long have you worked for Mr. Cafaro, the Cafaro Company?

A. 15 years or so.

Q. Did you have occasion to see Mr. Cafaro?

A. I seen Mr. Cafaro at lunch time on occasions. His

office is right near where I have lunch, and he has lunch. So I see him on a few occasions.

Q. Did you happen to see him on occasion on a day you were having lunch with Mr. Johnson?

A. Yes, I did.

Q. You recall that specific time approximately?

A. I don't know the date. It was at a lunch time. We'd go up there. He'd come in and ask to speak to Johnson.

Q. Did you have lunch with Mr. Johnson often?

A. Yes.

Q. Did Mr. Cafaro come to Mr. Johnson, or did Mr. Johnson go to Mr. Cafaro?

A. We were sitting there. Mr. Cafaro come over and said hi to us and asked if he could talk to Mr. Johnson privately.

Q. Did you -- did they talk privately there?

A. No. They left that part of the room.

Q. Where, in fact, did they go?

A. Some other area of the restaurant. I don't know whether it was the outside or in the back room.

Q. Could you see them?

A. No.

Q. What restaurant was it?

A. This was Crystal's Restaurant on Belmont Avenue in Youngstown.

Q. Do you have immunity for your testimony?
A. No. I have no immunity.
Q. Do you know what immunity means?
A. I should, but I guess it's -- you have immunity, you don't have to worry about what you have to say or --
Q. Did you have any conversations with Mr. Johnson after he had met with Mr. O'Nesti?
A. Not really, just casual talking.
Q. Did you have any conversations with Mr. Johnson after you met with Mr. Cafaro?
A. No.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

CROSS-EXAMINATION OF WILLIAM COLEMAN

BY MR. MORFORD:

Q. You were asked about this man Chuck O'Nesti. Was Chuck O'Nesti someone you knew fairly well?
A. I know him not fairly well. I met him a few times.
Q. Well, you said you were involved in politics to some extent, is that true?
A. Some extent, yes.
Q. In fact, the job that you got at the Seventh Circuit Court of Appeals was a political appointment; is that correct?
A. Basically, I would say so, yeah.

Q. In order to get that political appointment, you've been fairly involved in Mahoning County politics; isn't that true?
A. On occasions. I knew most of the politicians, yes.
Q. And isn't it true, sir, that Mr. O'Nesti was very active in Mahoning County politics?
A. I seen him around in a lot of places, yeah.
Q. What did you know of his reputation?
A. Just what I read in the paper. I didn't know him that well.
Q. Did you know he had a reputation for being the mob's bag man in Youngstown? You heard that?
A. That's what I read in the paper. I know nothing else about it.
Q. At the time that this conversation or this -- not part of the conversation -- this meeting took place, you -- I don't believe you put a year on it. Can you tell us when that was approximately?
A. When Johnson and O'Nesti met?
Q. Yes.
A. I'd say it's a couple years. I don't know the exact date.
Q. Can you tell me this: Was it before or after Chuck O'Nesti had been indicted on RICO charges?
A. This was when he was ill. He didn't look well. So

I --
Q. That's not my question.
A. I don't know. I don't know when he was indicted.
Q. Well, do you ever read the papers down in Youngstown?
A. Yes. I read it everyday.
Q. Wasn't it widely covered in Youngstown when Chuck O'Nesti was indicted on RICO charges?
A. You asked me what date. I don't know what date he had --
Q. No. I'm asking what --
MR. TRAFICANT: Objection. It's been asked and answered.
THE COURT: You can answer.
BY MR. MORFORD:
Q. Did you read and learn that Chuck O'Nesti had been charged with RICO charges?
A. Yes.
Q. And had you read that prior to the time that this incident occurred where you saw Mr. O'Nesti come over and tell Mr. Johnson that he would like to talk with him privately outside of your ear shot?
A. I'd have to say he was indicted at the time he come in. I really don't know.
Q. Do you know if he pled guilty to those charges at that time when he said he needed to talk to Mr. Johnson?

A. I really don't know, only what I read. I think he did. I really don't know, only what --

Q. You remember reading that he pled guilty to RICO bribery charges?

A. I read that he was indicted. I don't know if he pled guilty or not. I don't remember that.

Q. Do you know if he was still working for Congressman Traficant that day when he came up to you at the table --

A. He wasn't working for Traficant at that time, no.

Q. Okay. So the best of your recollection as you sit here today is that he had already been indicted for RICO bribery, but he was not still working for Congressman Traficant, is that your testimony?

A. I'd have to say that. I don't know if he was indicted. I know he wasn't working for Traficant. So I --

Q. And that day, as you're sitting there, were you aware at that time that Mr. Johnson was working for Congressman Traficant?

A. Yes, I was aware he was.

Q. And isn't it true that Mr. Johnson had more or less taken the place of Chuck O'Nesti in Congressman Traficant's office by that time?

A. He was on the staff. What his duties were, I don't know what either one of their duties were.

Q. And so basically, all you can say is that on some day

a couple years ago Chuck O'Nesti walked up to the table where you were sitting with Mr. Johnson at a time when Mr. O'Nesti was under indictment for RICO bribery and said he wanted to talk to Mr. Johnson. That's all you know?
A. That's all I know.

MR. MORFORD: Nothing further.

MR. TRAFICANT: Nothing further.

THE COURT: Thank you, sir. You may step down. Careful of the steps.

THE WITNESS: All right.

THE COURT: Who is your next witness, Congressman?

MR. TRAFICANT: I've notified Mr. Coleman to notify the staff to send the next witness in.

THE COURT: Which witness will it be?

MR. TRAFICANT: Dennis Johnson.

THE COURT: Thank you.

MR. TRAFICANT: I previously informed the Prosecution of that.

DENNIS JOHNSON,

of lawful age, a witness called by the DEFENSE, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DENNIS JOHNSON

BY MR. TRAFICANT:

Q. Would you please state your name, and spell your last name for the jury.

A. Dennis Carl Johnson, J-O-H-N-S-O-N.

Q. And where are you currently employed?

A. Congressman Traficant's office.

Q. And what was your previous employment?

A. General Motors, supervisor at General Motors, Lordstown.

Q. For how many years?

A. Twenty years.

Q. You still have an official relationship at General Motors?

A. Yes, I do. I'm on split political leave of absence.

Q. How long have you worked for me?

A. Approximately this will be the third year, 25th of this month.

Q. And what is your position?

A. I am a regional rep for 17th District, liaison rep.

Q. 17th District changed?

A. Yes, it has.
Q. Is your residence going to be in the new 17th District?
A. No, it isn't.
Q. Do you hold any political offices?
A. Yes. I'm the Democratic Chairman of Columbiana County.
Q. Do you know a man by the name of Chuck O'Nesti?
A. Yes, I do.
Q. Have you known him for many years?
A. Approximately nine to ten years.
Q. And what relationship did you know Chuck O'Nesti?
A. When I was Democratic Chairman Columbiana County, I used to have to call him on occasions for help for constituents.
Q. Did your constituents get help?
A. Yes, I did.
Q. Did you like Chuck O'Nesti?
A. Yes, I did.
Q. Consider him your friend?
A. Yes, I did.
Q. You consider him your friend today?
A. Yes, I do.
Q. Did you have occasions to meet with Mr. O'Nesti shortly before he died?

A. Yes, I did.
Q. Where did you see Mr. O'Nesti?
A. At the Open Hearths on Still Street, Youngstown.
Q. What time of day was it?
A. Approximately around between 5:00 and 6:00 in the evening.
Q. Did you arrange for this meeting?
A. No, I did not.
Q. Did you approach Mr. O'Nesti?
A. No, I did not.
Q. Did Mr. O'Nesti approach you?
A. Yes, he did.
Q. Was it an accidental meeting?
A. He told me he found out where I was at. I didn't know who told him, but he came to see me.
Q. And who were you with?
A. I was with Billy Coleman.
Q. And what, if anything, did you and Mr. O'Nesti say to each other?
MR. MORFORD: Objection, hearsay.
THE COURT: That's right.
MR. TRAFICANT: Your Honor, you've allowed hearsay evidence --
MR. MORFORD: Objection to the speech in front of the jury.

THE COURT: There's no speech in front of the jury. We can handle this at the break. We're going to have a break in afternoon. We'll do it at the break.

MR. TRAFICANT: I want a side bar.

THE COURT: Well, we'll do it at the break. You have other questions of this witness, I assume. Go forward.

BY MR. TRAFICANT:

Q. Did you have occasion to have a private meeting with Mr. O'Nesti?

A. Yes, I did.

Q. As a result of that meeting, did you acquire any knowledge relative to Mr. O'Nesti?

A. Yes, I did.

Q. And what was that?

MR. MORFORD: Objection. This is just a round about way to get in hearsay.

THE COURT: Right. Maybe you can move to another topic or rephrase the question so it's not --

MR. TRAFICANT: You've allowed Grace Kavulic --

MR. MORFORD: Objection.

THE COURT: Congressman, don't do this. This is your opportunity to present evidence.

MR. TRAFICANT: This is illegal.

MR. MORFORD: And so is that.

THE COURT: Congressman, Congressman, this is your chance to present evidence in the case. We'll talk about your concerns about hearsay evidence at the next break.

BY MR. TRAFICANT:

Q. Did Mr. O'Nesti tell you he never --

MR. MORFORD: Objection.

THE COURT: Whoa, whoa. I am going to recess the jury now for a break, and I'll ask you, sir, to stand down and go back to the witness room, and we will discuss this further.

(Proceedings in the absence of the jury:)

THE COURT: We're not going to take a full 30-minute break right now. We're going discuss this issue.

MR. TRAFICANT: Your Honor, I want to address the bench. You've allowed Prosecution witnesses, Grace Kavulic and Jackie Bobby to discuss conversations with both DiBlasio and, in fact, Charles O'Nesti, which were perjured to be quite honest, and you have now disallowed me to discuss the same dead person's conversation with another fellow employee.

Can you give me any rational reason why you have allowed them the permission to get testimony and not me?

THE COURT: The Rules of Evidence will give

you an immediate answer. The second thing is this answer about perjured testimony doesn't have anything to do with what we're talking about here if that's the concern you have. We'll address that separately.

I'll let the Government respond and state their objection.

MR. MORFORD: Yes, your Honor.

As the Court is well aware, as is the Congressman, prior to putting any of that evidence in front of the jury, we brought the issue to the court's attention. We briefed it. We gave the Congressman a chance to read our brief and respond. Under Rule 801, the Court ruled that that -- or 804 -- I'm sorry -- the Court ruled that that evidence was admissible.

In this particular instance, the Court ruled that Congressman Traficant's request for hearsay information was inadmissible. He has yet to cite a rule or theory under which it would be admissible, and after the Court three times told him it was inadmissible, he went ahead and asked the questions so the jury will hear his voice saying what he wants to get in front of this jury. It's improper, and it should not be tolerated.

MR. TRAFICANT: I cite the same rules that they cite. Mr. O'Nesti is dead. I am not, in fact, an expert in that, and I cannot communicate with Mr. O'Nesti.

You have allowed because of the unavailability of Mr. O'Nesti to make his statements available to the Prosecution, but under unavailability, you've disallowed it to the Defendant.

Now, if I were represented by Johnny Cochran, F. Lee Bailey or Mr. Spencer and the Defendant was sitting there, you would have to treat that attorney the same under the same Rules of Evidence, and it is not a requirement of the attorney to know the Rules of Evidence.

The Court decides on the Rules of Evidence, and I must make sure that they are distributed equally. You know the Rules of Evidence. You've clearly allowed testimony on a dead man, and you've allowed the Prosecution to take advantage of it.

Now, to impeach their testimony and their witnesses, you've now disallowed my witnesses.

THE COURT: Congressman, we've been over this so many times.

MR. TRAFICANT: For the record, we'll go over it again.

THE COURT: The unavailability of a witness is one thing. It does not then make all hearsay admissible in the case.

MR. TRAFICANT: How did it make theirs admissible, your Honor?

THE COURT: Because they went through all the other steps that you have to go through that I have had numerous -- given you numerous opportunities to do and will again today at 3:30 when this jury is ready to go home. We will once more give you an opportunity to see if you can lay a foundation for the evidence that you want to come in here.

The Rules of Evidence apply to you. They've been explained to you. They're available to you, and we will follow them in this court. They're the same for you as they are for the Government.

The fact that you continuously misrepresent what the situation is does not further it at all for you.

MR. TRAFICANT: That is your opinion, misrepresentation. You're saying I'm lying on the record.

THE COURT: I'm not accusing you of lying. I didn't --

MR. TRAFICANT: The misrepresentation means a lie. Don't call me a liar again.

THE COURT: You're the one who's using that word, Congressman.

MR. TRAFICANT: You used the word.

THE COURT: I did not.

MR. TRAFICANT: Misrepresent means lie.

THE COURT: You're misrepresenting the

situation that you presented.

MR. TRAFICANT: Well, I am citing the same rules I have taken the same steps that these prosecutors have taken.

THE COURT: No, you have not.

MR. TRAFICANT: Yes, I have. Where have I not?

THE COURT: You have not in regard to this witness.

MR. TRAFICANT: How did I not?

THE COURT: Because you simply assume since O'Nesti is no longer alive that you can submit any hearsay you want to, and that is not the rule we've applied. It's not the rule we will apply.

MR. TRAFICANT: I cite the same rule that they cite for getting his testimony in.

MR. MORFORD: He should explain under 804(b) -- no, under 804(b) which of the exceptions he believes this hearsay falls under because he has yet to do it.

THE COURT: You can do that at 3:30 today so we can go forward with the evidence in the case. The jury is here, and they're ready to hear evidence. You can move on to other areas with this witness.

MR. TRAFICANT: And I have no more witnesses

today because they all have evidence about Mr. O'Nesti or Mr. Sugar and tapes. We might as well call it off today. I have four witnesses, and three of them have information about Mr. O'Nesti, and one has information about Mr. Sugar and Mr. O'Nesti.

THE COURT: Well, you're the one presenting your case. We've been over and over the tapes, and you have yet to even present the transcripts of the tapes.

MR. TRAFICANT: That is not true. I've given them transcripts of two tapes, I believe.

THE COURT: Well, I don't have transcripts of any. As recently as this morning, you told us you didn't know which tapes, if any, you were going to try to use in the case.

Bring on this witness with different kinds of questions if you have any more or bring on some of your other witnesses. You've got a jury here, sir, and they are here to hear your evidence.

MR. TRAFICANT: You are denying me the right not only to cross-examination when the Prosecution was on, you limited it. Now you apply a different standard under hearsay on the O'Nesti matter. I don't care what law is cited, I maintain for the record, even if an attorney is incompetent or has a bad day or his memory skips him, it is the Court who is the determinative of the law, and you know

what the law is.

THE COURT: I do.

MR. TRAFICANT: And that should be fairly applied to both sides, and you're not doing that.

THE COURT: Well, you have an obligation to do what everyone else has to do.

MR. TRAFICANT: I cite 804(b)(3). This man is dead. He's unavailable. The statements he made is, in fact, relevant.

MR. MORFORD: Are they against his penal or pecuniary interest? And, your Honor, I would note because we keep hearing this day in and day out --

MR. TRAFICANT: They were.

MR. MORFORD: -- this is why we have courts of appeals.

MR. TRAFICANT: You've interrupted me.

MR. MORFORD: And if the Congressman --

MR. TRAFICANT: You've interrupted me. I'd like to finish.

MR. MORFORD: He can appeal.

THE COURT: You know this is not a sandbox.

MR. TRAFICANT: I am not going to take it on appeal. I plan to win here.

THE COURT: Well, you've got --

MR. TRAFICANT: I want to finish my

statement.

THE COURT: Put evidence on if you have it.

MR. TRAFICANT: Under 804(b)(3), you're trying to keep my evidence out.

THE COURT: I'm telling you I'm giving you an opportunity to --

MR. TRAFICANT: I'm going to explain it.

THE COURT: Wait a minute, wait a minute. You have an opportunity again today to show what you need to show under the rule you're citing --

MR. TRAFICANT: Are you going to let me subpoena Pikunas, Agent Pikunas?

THE COURT: -- that will allow you to go forward with this witness.

MR. TRAFICANT: How can I do that if I don't subpoena Agent Pikunas to show this was in fact --

THE COURT: Was in fact what?

MR. TRAFICANT: -- a truthful statement that would come from my witness?

THE COURT: Well, that -- you need to reread the rule. Reread the rule.

MR. TRAFICANT: I've read the rules.

THE COURT: Okay.

MR. TRAFICANT: You're treating us differently.

THE COURT: No. You have to follow the --

MR. TRAFICANT: I want you to cite the difference between my 804(b)(3) argument and theirs.

THE COURT: They laid a foundation of --

MR. TRAFICANT: What was that foundation?

THE COURT: -- for us to make the findings that we made.

MR. TRAFICANT: When did they make them?

THE COURT: Quite a long time ago, long time ago in this case. Okay. Now --

MR. TRAFICANT: Is it not a fact that the same foundation they laid would apply to the Defendant as well?

THE COURT: Yes, if you would ever take advantage of the many opportunities you've had in order to do that. But you haven't done it.

MR. TRAFICANT: I now offer a motion of all the motions they made relative to 804.

THE COURT: Well --

MR. MORFORD: Make a factual showing to meet the rule.

THE COURT: That's all you have to do, and you can do it today at 3:30, and we'll continue on with this jury. But --

MR. TRAFICANT: I thought we were going to

4:30.

THE COURT: 4:30, you're right, you're right. Would you, Congressman -- would you please use this witness for any other questions you have of this witness, and then go to your next --

MR. TRAFICANT: I have no other questions for this witness.

THE COURT: Okay. Well, then --

MR. TRAFICANT: He has knowledge of what happened truthfully with Cafaro and O'Nesti.

THE COURT: Okay. Call your next witness. Congressman.

MR. TRAFICANT: They will be the same.

THE COURT: Well, we don't know until you call them and bring them in and ask them questions. You mean you have no other --

MR. TRAFICANT: I have four witnesses here, and they all started with O'Nesti and Cafaro.

THE COURT: Okay. Well, is there anything else you're going to use those witnesses for because if they're here, this is your chance to present them. You can put them on the stand, and we'll go forward. The jury needs to be able to come back here and work.

MR. TRAFICANT: Look, I object to this carnival, and I say this: You are, in fact, denying me my

rights of cross-examination on many occasions, and now you're holding me to a different standard.

THE COURT: This is your --

MR. TRAFICANT: You have let my staff testify against me, and now you will not let people who are not even on my staff, even though this one is, testify to untruthfulness of the testimony prior.

THE COURT: Do you have another witness, Congressman?

MR. TRAFICANT: You're not going to have any witnesses for me? You're want the defense with me. You keep talking about record of appeal, and I am not convicted yet, and don't be surprised if I'm not.

THE COURT: Do you have another witness, Congressman?

MR. TRAFICANT: Yeah, and I will bring one in.

THE COURT: Thank you.

MR. TRAFICANT: I might call Janet Reno.

THE COURT: You can bring in the jury

(Proceedings resumed in the presence of the jury:)

MR. TRAFICANT: I might ask for the record if Cafaro is paying --

MR. MORFORD: Objection, sir. There's a jury coming in. Just be quiet.

THE COURT: There's a jury, sir.

HARRY R. MANGANARO,

of lawful age, a witness called by the Defendant, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF HARRY R. MANGANARO

BY MR. TRAFICANT:

Q. Harry, would you give us your full name, and spell your last name for the jury.

A. Harry R. Manganaro, M-A-N-G-A-N-A-R-O.

Q. And, Harry, where are you employed?

A. I do a little bit of work every now and then for Mr. Sugar.

Q. How long have you known Dave Sugar?

A. Oh, 20 plus some years.

Q. What kind of work did you do with Dave Sugar?

A. I do a little bit of consulting. I bid on demolition jobs, and I do a lot of miscellaneous stuff, go to auctions and bring stuff back and buy different things.

Q. Do you do anything more than demolition work?

A. One time I did. I don't do it anymore. I used to do sewer work and general contracting.

Q. Did you have an occasion to meet with me in the early '90s?

A. Yeah. He was -- I'm not sure when it was, but I did,

I met with you --
Q. Late '80s, early '90s, best you recall?
A. Have to be around early '90s I have to say.
Q. You know when the meeting took place?
A. Yes, I do.
Q. Where?
A. It was off of 165 out there at a farmhouse.
Q. Harry, do you have immunity for your testimony?
A. No, I don't.
Q. You know what immunity means?
A. Yes, I do.
Q. What does it immunity mean?
A. Basically, you say something, they can't hold you to it.
Q. How can they hold you to it?
A. I don't know.
Q. What was the purpose of our meeting in the early '90s?
A. I got a call from somebody down in my office that I had to go out there and look at a building, and I went out to the farm out there, and I ended up looking at an old beat up barn. That's when I went with you.
Q. Was there anything peculiar about that old beat up barn?
A. Yeah, there was. When we went to the barn, we went

down to the cellar, and the sandstone, old sandstone was along the walls and had fallen out, probably oh, I'd say 35, maybe to 50 foot of it, was loose, and a couple corners were falling out.

Q. What -- what was that, was that the wall where you drove in or was it the other end?

A. There was a wall like on old farm barn. They have a dirt ramp, and tractors would go up the dirt ramp and go in. It was that side of the barn, but it was like underneath. It was the basement area of the barn.

Q. Did the corner of the barn also lose its foundation, lose sandstone?

A. If you were looking at the straight wall, the front portion of it was buckled out where it had come -- it was like buckled out. The sand buckled out. The furthest corner which would have been -- I don't know, maybe the south corner, I am not exactly sure of the corner. I can draw it for you, but I can't know the directions out there. That corner was completely gone. That would be the furthest corner where the ramp would come up. It would be the south direction.

Q. Was it extensive damage or just a small little problem?

A. No, the corner was down. The whole corner was down, and if you're looking at the barn, when -- I talked to you,

and I took the liberty of walking around there.

The building was an old, old barn that -- in those days, they used trees for the supports on the bottom to hold the barn up, and up in that particular corner where the sandstone had gone, the trees themselves, two of them were cracked and the furthest extremity of the building, and it was sagging to some degree, not -- maybe four or five inches. It was hanging down, and by it hanging down, if you would look to the right corner, opposite the one that was down, the top was lifting up just a little bit.

The other corner was lifting up, maybe two or three inches off the foundation.

Q. Did the corner crack?

A. The --

Q. That far off corner that was not damaged, did it have a crack in it?

A. The sandstone was loose. If you want to call it a crack, I would call it loose.

Q. Now, in the far section with the concrete, was there a crack in the concrete?

A. No. All I saw was the sandstone walls on it. I didn't see a crack in any concrete.

Q. Was the barn in danger of falling?

A. Oh, yeah. If you -- there was nothing holding the one corner up. In the event that it would have rained or

something, in my opinion, I don't believe it would have held up because it was already down four to five inches in that one particular corner, and the other part was buckled down. So a heavy rain with the one corner possibly falling, it would have fallen suit on the next wall.

Q. Would the barn have collapsed?

A. It -- yes, it would have. It would have fallen in the corner.

Q. Now, what, if anything, did you discuss with me?

MR. MORFORD: Objection, hearsay.

Q. What, if anything, did you recommend?

A. Well, when I was out there and I looked at it, what I suggested was that we put some type of a wall in place of the sandstone that's there, jack the building up, jack the barn up, rather, and put a block wall around it in the area where it was falling.

Q. Do you know if we took any actions that day?

A. Yes, we did. The corner, as I said, the timbers were cracked, and I was afraid it was going to fall, and I suggested that we put a board or something underneath, like, you know, tie or a four-by-six or something that we can support it, just temporary brace there until you got the permit.

Q. How did you travel to the farm?

A. I drove my car.

Q. Did you have any equipment in your car?
A. No, I didn't.
Q. What, if anything, did you do to try and secure some support for the barn?
A. Well, I had my -- only thing I had in the car was my stepfather, and with his help and your assistance, we found an old -- I think it was a four by six if I'm not mistaken, and you had some old jack posts, a little bit stronger than what they use in houses, the older fashioned ones, which are real heavy.

At that particular corner, we sat the four by six at an angle, and like the two jack posts, they screw, and we put them underneath there and jacked it up. We didn't raise the barn; we just gave it a little bit of support.
Q. Now, how big were those jacks? How tall were they?
A. I don't believe they're as tall as me if I remember correctly. I think they may be five foot because we had to put sandstone -- sandbox underneath it, regular concrete block.
Q. Was it a one-piece jack, or did it come in pieces?
A. It was just like the type that you have from the hardware store. We had to put a middle plate on the bottom. There was an old plate that went on the top, except the only thing with this, it was much heavier, thicker and the crank itself was a little bit different.

You had a four-unit crank you can turn on top, and you turn it with a bigger pipe than normal.

Q. So it had no fix top on it; is that correct?

A. No. It just had an added piece of steel that we put in place under the crank. It would be a pipe, a part of a crank, and steal plate on top of it. He put the plate up here, the crank in the middle, and you have the pipe and crank the top.

Q. Did the barn fall down?

A. No, it didn't.

Q. Did we have -- were you asked to fix the barn?

A. Yes, I was.

Q. What, if anything, did you say to me?

A. Well, as I say before, I believe we suggested that a retaining wall or a new foundation would be better than a sandstone. At that given time, I gave you a price on doing the labor work only, with my father, my stepfather because he's a block layer, and at that time, I gave you a price and pretty much left it at that time.

Q. What was the price you gave me?

A. I believe it was like $1,500 to $2,000 just for the wall itself. But I wasn't buying any material.

Q. Now, if you had to buy all the material and do the job, what would it cost you?

A. We figured ten-inch block on that because eight-inch

wouldn't be good enough and 12 is too heavy to lay. We figured roughly with all the mortar and the block, a little bit of retainage and durable on it, I figured anywhere between $9,500 to $10,000.

Q. Did you do the work at that farm?

A. No, I didn't.

Q. Did you have -- receive any calls from me relative to that work?

A. I gave you a price verbally on it, and you said you'd get back with me in two or three days. I finally got a call, and I got a call from somebody down in my shop, and at that time there, the -- I'm not sure if my partner or my ex-partner gave you a call back.

But at that time, we got busy. We finally got our job through to tear down the building, and I couldn't do the work.

Q. Did I ask you if I had to check with anybody first?

A. Yes, you did.

Q. Who did I ask --

MR. MORFORD: Objection, hearsay.

Q. Did you have any knowledge of who had to make the final decision?

MR. MORFORD: Objection, hearsay.

THE COURT: Yes.

BY MR. TRAFICANT:

Q. Did my father ever call you?
A. I don't know your father.
Q. My father walk through the door, would you know him?
A. No, sir.
Q. Was my father's name ever mentioned to you?
MR. MORFORD: Objection. Would be hearsay if it was.
THE COURT: Yes.
MR. TRAFICANT: Any mention to him is hearsay?
THE COURT: If it was mentioned to you.
MR. TRAFICANT: Pardon?
THE COURT: If it was mentioned to him, it would be hearsay.
Q. Was my father's name ever mentioned to you?
A. No.
Q. Did I call you?
A. I assume somebody called me because it was down in my office.
Q. Were there any conditions when we talked at the farm relative to your working on the farm?
A. Yes. You had to ask permission about --
MR. MORFORD: Objection.
THE COURT: You can answer it.
THE WITNESS: About the price that I had

given you and get the okay to go ahead and do the work.
Q. From whom who would I have to get permission from?
A. That would be your father.
Q. When was the last time you saw Chuck O'Nesti?
A. Well, I saw Chuck probably January of 2000. Maybe it was right after Christmas.
Q. Was it shortly before he was bedridden?
A. That it was.
Q. How was his looks, and how did he talk?
A. Well, Chuck didn't look so good. I mean, he had lost a lot of weight, and in order to listen to him or talk to him, you had to get almost on top of him because you couldn't really hear him.
Q. How well have you known Chuck?
A. He started me in business in '82.
Q. How did he start you in business?
A. The City of Youngstown, you had to have a track record for any kind of demolition. At that time, we were clearing down private houses, and we didn't have a track record with the City.

And my understanding is if you had to get a track record, you can do emergency demolition or fire emergencies to get yourself a little bit of track record. I went down and approached the fire chief, at that time was Chuck O'Nesti. And maybe it was just by luck or whatever, but he

says come on, follow me. We did. My partner and I went out and went on Rigby Street.

And he said look at this house, this house, and this house for a total of seven houses. He said give him a price, and tear it down, and that's what we did that gave us the track record and started us in business.

Q. Was Chuck O'Nesti a friend of yours?

A. I would consider him a friend, yes.

Q. If he were alive today, would you still consider him a friend?

A. Yes, I would.

Q. Even with his reputation?

A. It had no bearing on our friendship.

Q. Did he ever confide in you?

A. Well, we talked about a lot of different things, but I don't know if he confided or not.

Q. You ever make a statement relative to me?

A. I talked to you the other day, the 19th, when we were talking about this ordeal right here.

MR. MORFORD: Objection to any hearsay, your Honor.

THE COURT: Yes. Go ahead.

BY MR. TRAFICANT:

Q. Did Mr. O'Nesti deny kickbacks? Yes or no.

MR. MORFORD: Objection.

THE COURT: Sustained.

BY MR. TRAFICANT:

Q. Do you know Mr. Dave Sugar?

A. Yes, I do.

Q. How long have you known Dave Sugar?

A. Oh, more than 20 years.

Q. When was the last time you saw him?

A. I saw him yesterday morning.

Q. Did you ask to meet with him or he ask to meet with you?

A. He called me, and I met with him.

Q. What was the purpose of your meeting?

A. He asked me since I was going up to Cleveland to bring up some papers.

Q. What did you bring up?

A. A box and a big envelope or folder with stuff in it.

Q. Did he tell who to give them to?

A. He said to give them to you.

Q. You, meaning?

A. Jim Traficant.

Q. Were you friends?

A. Yes, we are.

Q. Did you bring up the boxes?

A. Yes, I did.

Q. Did you give them to me?

A. Yes, I did.
Q. Did you ask him why he wanted you to give them to me?
A. No, I didn't.
MR. MORFORD: Your Honor, I object, among other things under discovery. This is just all new. I have no idea what's in the boxes.
THE COURT: Right. Well, that's all right. He can ask him about the boxes.
BY MR. TRAFICANT:
Q. Are you subpoenaed to be here?
A. Please?
Q. Were you subpoenaed to be here?
A. I have no formal paper.
Q. Did you have discussions with the FBI -- did you have discussions with Mr. Sugar relative to the charges about Jim Traficant?
A. We talked prior to Dave getting indicted.
Q. So when you talked to Dave, he was not indicted?
A. No.
MR. MORFORD: Your Honor, I just want to have a standing objection to any questions that would be about things said to him, just so it doesn't come blurting out.
THE COURT: Right. I know, I know. It's okay. Congressman, go ahead.
MR. TRAFICANT: He was not indicted, your

Honor.

THE COURT: No, but you know -- you know the rules. Ask questions of the witness. Okay?

Q. Did you gain any knowledge from that conversation?

A. Dave was all worried about --

MR. MORFORD: Objection as to anything Dave would have told him.

THE COURT: Right.

BY MR. TRAFICANT:

Q. Was his son and wife threatened to be involved in the case?

MR. MORFORD: Objection, unless he has firsthand knowledge.

THE COURT: Yeah. If you were present, you have firsthand knowledge, you can testify. It's subject to cross-examination. But other people who you talk about who are not subject to oath, not subject to cross-examination, they can come in and say those things, but you can't say it for them.

THE WITNESS: Even if an individual would have said in talking to you and you say something right now, I can't say --

THE COURT: If we're both -- well, there are all kinds of rules.

MR. TRAFICANT: Wait a minute. He asked a

question of the court.

THE COURT: Yes, he did, and he's a witness, and so --

MR. TRAFICANT: What was that question? I want to hear it. I didn't quite hear it.

THE WITNESS: I wanted to know if I can -- if she's talking to me and I can say something.

THE COURT: Okay. He answered that question. Now, you examine the witness and ask him whatever questions you have for him, sir. But don't get into hearsay because we've been through that a couple times this morning, and we'll give you an opportunity at 3:30 to get into that if you want to.

MR. TRAFICANT: At 3:30. My witness won't be here, and it's 4:30 I thought.

THE COURT: Right, it is 4:30. I keep saying that wrong. It's the break. Go ahead.

BY MR. TRAFICANT:

Q. After you met with Mr. Sugar before he was indicted and after having been interviewed twice by the FBI, did you have any knowledge of Mr. Sugar's problems?

MR. MORFORD: Objection unless he had firsthand knowledge as opposed to something Mr. Sugar may have or may not have told him.

THE WITNESS: I was in the office when the

FBI came there. I was also there when Mr. Sugar decided to tell the girl, hey, change the date on a paper. I was there in his office with Dave.

Q. So you do have firsthand knowledge of what Dave Sugar did to the contract?

A. Yes, I do.

Q. Did Dave Sugar at that time admit to you --

MR. MORFORD: Objection. It would go to hearsay, to something Sugar said.

THE COURT: That's right.

Q. Did Sugar lie to protect his wife and son in this trial? Yes or no, Harry.

THE COURT: No. Don't answer that question, and you know what else? You know how to do this. Just rephrase questions. Okay? You've done it very successfully. You just can't phrase them as hearsay.

Q. How much more can you say, but have you gained personal knowledge from Mr. Sugar after having met with him?

MR. TRAFICANT: How much more specific can any attorney in America be, your Honor?

THE COURT: Well, it still can't come in unless you can show some reason it can come in, and we'll let you do that this afternoon, later, but not now. You can't put hearsay evidence in front of the jury unless you

can show why it comes in.

BY MR. TRAFICANT:

Q. Was Mr. Sugar very nervous?

A. Yes, he was.

Q. Was he scared and frightened?

A. Yes, he was.

Q. Was he threatened?

A. I -- I was told by Mr. Sugar --

MR. MORFORD: Objection to what he was told. We keep going over this.

THE COURT: Right.

Q. Did he share his fear with you?

MR. MORFORD: Objection. This is all just gateways to get to hearsay, your Honor.

Q. When you looked at Mr. Sugar, was he in a normal condition?

A. Normally, he's grumpy, and this time he was extremely nervous. And he confided in me because I'm his friend.

Q. Was he worried about something?

A. Yes, he was.

Q. Was he worried about his family?

A. Yes, he was.

MR. MORFORD: Objection as to how he knows unless it's hearsay.

THE COURT: When he was standing there. He

said he was nervous. The Congressman's getting some information here.

Q. Did he mention his family as being the cause of his frightening worried look?

THE COURT: That doesn't --

THE WITNESS: No, he didn't.

BY MR. TRAFICANT:

Q. When he was frightened, did he mention his family?

A. Yes, he did.

MR. MORFORD: Objection. We're getting into hearsay again, your Honor, as to what he said.

THE COURT: No, no. You can answer.

Q. Go ahead. When he was frightened, did he mention his family to you?

A. Yes, he did.

Q. Are you worried for Dave Sugar?

A. Yes, he's my friend. He's a friend of mine that supports over 30 people, and I'm definitely afraid for him.

Q. What was the last job assignment he gave you?

A. I go to auctions like I stated before, and I had gone to an auction in Glassport, PA, probably one of the last auctions I went to.

Q. And what was the auction of?

A. It was a bankruptcy auction.

Q. Of what company?

A. Mainline Contracting.
Q. Could you explain who Mainline Contracting was?
A. Mainline Contracting is a company that has three companies: One in Buffalo, Cincinnati, and one in Glassport; considered a big demolition company.
Q. Did they get a contract in the City of Youngstown?
A. Yes, they did.
Q. For what building?
A. The Higbee building.
Q. Who was second?
A. Dave Sugar was second.
Q. Do you know if I tried to help Dave Sugar in that process?
A. You talked about how, that was the extent of it.
Q. Do you know the difference between the bids?
A. Yes, I did.
Q. How much were they?
A. Are you talking the first time it was bidded out or the second time?
Q. Well, the first bid, who was the high bidder?
A. On the first time, it was Terreri because he had $100,000 on the removal of tile.
Q. And on the second time?
A. On the second time, Mainline was the low bidder. We came in second at a $14,000 difference.

Q. Do you know if Mainline pays property taxes in Youngstown or Mahoning County?
A. I don't believe they do.
Q. Do they have offices in Mahoning County?
A. No, they don't.
Q. Did they employ workers from the Mahoning Valley?
A. The only people I seen working down there were the some truck drivers and a blacktop company.
Q. Did I ever intervene about an employment problem that was presented to me?
A. Yes, you did.
Q. What was it in reference to?
A. Out of town people.
Q. Was it on another one dealing with complying with federal law on certain other matters?
A. Well, you had to -- you talked about hiring minorities for the jobs down there or anybody that comes out of town that's supposed to be hiring minorities and local people.
Q. Were they?
A. No. The only local people down there were truck drivers and blacktop people.
Q. Did Sugar ever lie to you?
A. If he did, I can't say, you know. As far as I know he's always told me the truth. If he lied, you'd have to

ask him.
Q. When he was frightened, and you had that conversation, do you believe he lied to you?
A. No. I'd have to say I thought he told me the truth.
Q. Do you fear me?
A. No.
Q. You know anybody who fears me?
A. I don't know. Put your pants on like I do. I'm not afraid of you.
Q. You know anybody back in the Valley that fears me?
A. Not that I know of.
Q. Am I a big threatening type of guy to people?
A. No, not that I know of.
Q. Am I well liked?
A. There's pros and cons.
Q. Politics is pros and cons, is that your statement?
A. I would say so.
Q. In your conversations with Dave Sugar, did you ask for the information he gave you, or did he offer it?
A. He offered it. As I said, I'm his friend and he invited me quite a bit, and as I say, he was extremely nervous and very upset about this, and he already knew he basically was in trouble and didn't know which way to turn.
Q. Did he look like a man under extreme pressure?
A. I would say so.

Q. He didn't fear me?
A. No, he didn't fear you because you were friends with him.
Q. What was your impression of whom he feared?
A. Well, the people that came in the office. He was afraid for them. He -- first time people came in really made him upset. I think he was afraid with them.
Q. Was I pressuring Dave Sugar?
A. What was that, please?
Q. Was I pressuring Dave Sugar?
A. Not that I know of.
Q. Did I ever pressure Dave Sugar?
A. Not that I know of.
Q. Who pressured Dave Sugar?
A. I imagine it was the second time that the gentleman who came in the office.
Q. Who was that man that come in the office?
A. It was the FBI people.
Q. And is that when he confided in you?
A. He confided in me the first time they were there.
Q. And he mentioned the son and daughter the first time?
A. Please?
Q. When did he mention the son and daughter?
MR. MORFORD: Objection. That's hearsay. We're right back to --

THE COURT: We're back where we were a little while ago.

Q. Harry, do you believe you're being offered an honest opportunity to tell the whole truth here today?

MR. MORFORD: Objection.

THE COURT: Well, you can answer. Do you believe?

THE WITNESS: I'm not a lawyer. I don't know what the law is. You keep saying no, I can't say anything. I don't know. I don't think it's fair to me or you.

MR. TRAFICANT: No further questions.

THE COURT: Thank you. Mr. Morford.

CROSS-EXAMINATION OF HARRY R. MANGANARO

BY MR. MORFORD:

Q. Sir, now that you've offered that last opinion about fairness, do you understand that the witness who actually talked with you can come in here and be asked those questions under oath?

A. What's that, sir?

Q. Do you understand that the witness who allegedly had this conversation with you can come in under oath and be questioned about that conversation?

MR. TRAFICANT: Objection. He was not allowed to testify.

MR. MORFORD: He asked opinion about the

fairness of this. I want to know if he knows the rules.

THE COURT: Congressman, your objection's overruled. We'll go forward with the questioning now with them. Thank you.

BY MR. MORFORD:

Q. Have you ever testified in court before, sir?

A. Yes, but nothing on this caliber. Thank you.

Q. Well, are you real familiar with the Rules of Evidence?

A. No, sir.

Q. Do you know if they apply to every --

MR. TRAFICANT: Objection.

Q. -- single Defendant in every single case?

MR. TRAFICANT: Asked and answered, he has no knowledge.

THE COURT: That objection is well taken. This isn't the time to teach the witness about the rules. It's time to go forward and try and cross-examine and get some evidence in front of this jury.

BY MR. MORFORD:

Q. Sir, you have known Congressman Traficant for how many years now?

A. I've probably known Mr. Traficant for well over 20 years or so.

Q. And would it be fair to say that you're very fond of

Congressman Traficant?
A. He's my friend.
Q. I understand that, but you're also very fond of him; is that correct?
A. He's my friend. I have to leave it at that. Fondness isn't much different than what your role and mine is. I do things for him. I do things for anybody that's my friend.
Q. What are some of the things you've done for him? You said one thing about a wall. Have you ever done anything for him besides the wall?
A. When he was running for sheriff, helped, used my building, and they made signs up.
Q. What else?
A. That's probably about it.
Q. Have you ever gone out to the farm other than that one occasion in the early 1990s?
A. No, I've driven by.
Q. When was that that you were out there exactly as close as you can tell us?
A. Either a Saturday or Sunday that I was out there.
Q. How about a year?
A. Oh, '90, '91. I can't really recall because I was doing some jobs right after that, and I can't remember the -- I was on one job for almost a your so I'm not sure. It

was '90 or '91.
Q. What job was that?
A. It was off a bridge.
Q. Where was that bridge?
A. City of Youngstown.
Q. And what year was that?
A. '91.
Q. When did you start it, and when did you end it?
A. It was actually like broken up through the whole year because the City didn't have a lease on certain property. It would come and go.
Q. All during the year 1991?
A. Yeah, I think -- might have extended to '92, but I can't be certain.
Q. So the work you did at the farm would necessarily have been sometime in either 1991 or 1992, correct, during the time you were doing bridge work?
A. I didn't do any work at the farm.
Q. How about shoring up the one wall like you told us?
A. Oh, that was just -- that was just a helping hand there.
Q. That was during the bridge project you just said, right?
A. I said either '90 or '91 I was out at his farm.
Q. I thought you said it was during the time you were

working on the bridge?
A. I said I wasn't that sure. I said it could have been.
Q. Now, you talked about the condition of the barn a little bit, and -- I wrote down words here. You said old beat up barn; is that right?
A. Yeah. It's an old barn, an old barn. I mean, it's not like today's barns with the beautiful metal on it and so forth. It was an old barn that had old wood on it, weather beaten wood. The condition of the barn was like most farmers out there. I mean, it's still sturdy, viable barn but an old barn.
Q. What's the wall made out of?
A. Which wall, sir?
Q. The wall that you said was starting to bow and have the problems?
A. Fill stone and sandstone.
Q. Basically just fill stones stacked on top of each other sort of?
A. That's the way they used to stack it, on top of it. It was uniform.
Q. I don't know anything about barns. I'm asking you the --
A. It was a uniform barn. It was sandstone such as maybe an old house. They're sandstone in the cellars.

It's stacked uniform right on up. But in a farm barn house, a barn, a lot of times they would use sandstone and fill stone to build up the walls. This was a combination of both, but it was uniform. It was a uniform wall going straight up.

Q. Isn't it also a common issue for barns that are constructed in that old manner and barns that are that age and barns that are in the condition as you described it, old beat up barn, that you will from time to time start to have some of those old walls give out? That's not unusual, is it, sir?

A. No, but I've seen barns stand for over 200 years old, and they haven't collapsed. The walls haven't collapsed in yet.

Q. But you've also seen barns that have, correct?

A. Yes, I have, for different reasons.

Q. And that happens with old barns, correct?

A. I would say, yes.

Q. Now, when you have an old barn that's in that kind of -- as you put it, old beat up condition, isn't there some danger if you start doing some construction work inside the barn, that maybe some of the -- that will cause some of those things to start to give out?

A. If it's related to that particular area, yes.

Q. How about smacking up a concrete floor inside the

barn? Would that be something that could cause some of those problems?
A. It would be good if you had a concrete floor, but most of it is dirt.
Q. Let me ask you this: If you were a -- you're in the demolition business, correct?
A. Yes, I am.
Q. Having seen the state of that barn, if Congressman Traficant had asked you to come up and come out, start digging up that barn to lay a cement floor and start digging up around that foundation, as a man in the construction business, would you have given him any warnings that that might be a dangerous thing to do given the shape of the barn?
A. First of all, I wasn't out there to give him a price on digging up the floor.
Q. No, I know that. I'm asking you, somebody was actually out there and saw the condition of the barn, if you were going to start digging up that floor, would that be a concern to you structurally?
A. I would have to look. If I looked at the building, I would have to look on the outside to see how much dirt is against the outside walls, the structure of the wood, and going across the timbers and so forth like that, then make that decision. If I were to make that decision, I would

jack the building up first, put a wall, and then dig up the floor.

Q. Would you, at least, warn him that's a danger with an old barn?

A. If I wasn't capable of doing that, I probably would have been able to. Unless the wood was rotted, then I would have told him it's unfeasible and going to be more to it than just that.

Q. Now, you said that you talked a little bit about Mr. Sugar. Were you working for Mr. Sugar in 1999 and 2000?

A. I was doing miscellaneous work, miscellaneous. I do some demolition estimating for him because I've got the experience on doing that, and I pretty much knew the -- the consulting, if you want to call it or the estimating of it, plus I go to auctions for him and move stuff around.

Q. Isn't it true, sir, there came a time you couldn't get demolition jobs unless you were with someone like Dave Sugar because of the reputation you had in the Youngstown community?

A. No, I had riding jobs.

Q. Didn't there come a time you couldn't get jobs in Youngstown because people were complaining about the work that you were doing?

A. The only person that complained was the city.

Q. The City of Youngstown, correct?
A. There's a difference between the city and private, sir.
Q. Well, let's talk about the City of Youngstown. There come a time you couldn't get Youngstown jobs because of their complaints regarding the way you conducted your business?
A. At one time, yes, but there was a reason behind it, sir.
Q. Let me ask you this: When you first started getting jobs in Youngstown, you started getting those jobs through the City of Youngstown, correct?
A. Yes, I did, sir.
Q. And you said you got those through Chuck O'Nesti, correct?
A. Yes, I did.
Q. And I believe you testified they used -- he was a very dear friend of yours?
A. He was a good friend, yes.
Q. Someone who often confided in you?
A. I don't know if he often confided in me, but we talked.
Q. Were you aware of his reputation in the Youngstown community?
A. Yes, I was.

Q. What was his reputation?
A. He was fire chief.
Q. What was his reputation?
A. His reputation I never knew about until at the time that it was in the paper.
Q. You mean to say that up until the time that Chuck O'Nesti was indicted on RICO bribery charges, you never heard of his reputation being the mob's bag man, sir?
A. No, I didn't sir.
MR. TRAFICANT: Objection. Asked and answered two or three times now.
MR. MORFORD: Not of this witness, your Honor.
THE WITNESS: What's that, sir?
THE COURT: You can proceed.
BY MR. MORFORD:
Q. You're saying you never -- as close as you were to Chuck O'Nesti, you never, ever, heard that was his reputation?
A. No, I haven't. Sir, I told you he was my friend. I never asked him anything like that.
Q. Now, Congressman Traficant asked you when you last saw Mr. O'Nesti. When did you say you last saw him?
A. It was January of 2000, probably end of January. I went to a sale up in Home Depot in Boardman.

Q. During the time that you were at least affiliated with Mr. Sugar, not necessarily working for Mr. Sugar, were you aware that there were times when Congressman Traficant was going to bat to help Dave Sugar with his company?
A. The only time that I knew that Dave approached Mr. Sugar was on two different occasions.
Q. You said Dave. You mean Congressman Traficant?
A. Dave Sugar approached Mr. Traficant.
Q. Okay. And what were --
A. I don't know if he, you know --
Q. What were the two occasions you were personally aware of?
A. The one time was the -- with his son, Junior, and he wanted to get him transferred from one jailhouse to a local establishment in our town so he could come back to work.
Q. Okay. And what was the second occasion?
A. The second occasion was for the Higbee's building that we had bidded on for the demolition of it.
Q. And you were actually a part of that bid, correct?
A. Yes, I was.
Q. And as I understand it, when the original bids came out, Terreri was the low bidder, correct?
A. The -- the bids where there was three of us in the lowest intention, there was Terreri, there was Boccia, and Honey Creek.

Q. And was it your position that Terreri would be a problem, but Boccia wasn't because of their reputation?
A. Boccia had dropped the building off its foundation and basically collapsed the building in the City of Youngstown, and we didn't think that he would be capable or accepted for a bid.
Q. And as you understood it then, once the bid came out and Terreri was low bidder, Boccia was second, and Honey Creek was third, what did you think would have to happen in order for Honey Creek still to get that demolition bid?
A. Well, there really wasn't anything in it. If you would read the spec book, the spec book said that he was going to have tile removal. They were going take the tile out.
Q. That was one of the specs, correct?
A. Right.
Q. But they didn't award that spec, correct, initially?
A. They didn't award that because of the fact if they would have let the tile come out, if the tile would have come off the building, Terreri wouldn't have been low.
Q. Who did you feel would get it?
A. Either Boccia or Honey Creek.
Q. And who did you believe would get it if they let the tile come out?
A. That part, I can't answer. That was just like

throwing coins in the air.
Q. If they -- if they did not take the tile out, did Honey Creek have any chance whatsoever of getting that contract?
A. If they didn't take it out?
Q. Yes, if they did not.
A. I'm trying to figure the subtraction on it. Dave would have been in second place. Boccia would have been first.
Q. Right. And from what you testified about Boccia's problem in Youngstown, isn't it true that you and Dave felt that if you could get the city to save the tile, that Honey Creek would get that contract?
A. No.
Q. You never felt that way?
A. No. Can I explain why?
Q. Why don't you.
A. Because the spec said that the tile was going to be given to Dave Asphalt Municipalities. They asked the Government, they asked all the potential areas if they can -- if anybody wanted the tile.
And when Dave called Mr. Traficant to find out if he was asked about the tile because the Historical Society from Poland was hoping to save the building if they couldn't save the building, because the building was a

historical building, George McKelvey's parents, which is the mayor of Youngstown, it was his parents' building. The Historical Society from Poland, like I said, was involved with trying to save the complete building --

Q. That's not my question, sir.

A. I'm explaining to you why.

Q. I want you to get to the point.

A. The point is if they would have saved the tile, as I say, the price would have been Honey Creek would have it.

Q. Right. If they didn't save the tile?

A. Boccia would have had it.

Q. Or Terreri, correct, if they did not save the tile?

A. No.

Q. I thought Terreri was the low bidder?

A. Terreri was the low bidder.

Q. Without saving the tile, correct?

A. I am trying to remember. I don't have my papers, sir.

Q. I tell you what I'll do. Let me show you what's marked Government's Exhibit 5-10. See if that refreshes your recollection.

A. All right.

Q. Sir, I want to ask you a question, a simple question.

Isn't it true it was your belief and understanding if the tile was saved, Honey Creek could still get that

contract, but if the tile was not saved, Terreri would get the contract?
A. Well, it says right here, Boccia's lower; you threw the paper at me, and Boccia is still lower.
Q. And you just testified, sir, Boccia collapsed a building in Youngstown, and you felt they couldn't get the contract, correct?
A. That's what I felt, but I'm not the judge who says okay with this here.
Q. I'm asking you your opinion, sir.
A. My opinion is I thought maybe we had a chance to --
MR. TRAFICANT: Objection. It's been asked and answered now.
THE COURT: This is cross-examination. You can answer.
Q. I'm asking for a very simple --
A. I'm giving it to you, sir.
Q. Let me ask it again.
A. All right.
Q. Isn't it true that for your understanding, as the person who was bidding on this demolition bid, that it was your understanding that if the tile was saved, Honey Creek, which is you and Dave Sugar, would have a good chance of getting this contract, but if the tile was not saved, it would go to Terreri, your understanding?

A. Terreri would have been lower. It says right here on your paper.
Q. So the answer to that question is yes?
A. The next Base Bid is without the tile. The Base Bid is, Number 1, without the tile. Is that what you're saying to me?
Q. Sir, you're in the business, are you not?
A. Yeah, but I can't remember this. This is a couple years ago.
Q. Well, this was a contract you bid on, correct?
A. I'm sorry about that. Once it wasn't awarded to us, why should I remember it? But it says Base Bidder require $850,000, Boccia, $787,000, Honey Creek, $698,000.
Q. Sir, let me try to make this maybe simpler.
When I asked you the question, were there any times that Congressman Traficant went to bat to help your company, Honey Creek that you were affiliated with at that time, you said yes, two things. One, Dave Sugar's son, and two, the tiles. How did you see it that it was helpful to your company that Congressman Traficant was trying to get the tiles saved?
A. That's what I was answering you before, before you said, hey, look at this.
Q. Go ahead. Explain it then.
A. I was telling you about it. All Dave wanted to do,

you know, was Jim Traficant's office was going to save the tile.
Q. How was that going?
A. That's all I'm aware of.
Q. How would that help the company?
A. In the contract book, it said the tile was going to be -- the tile was going to be saved. And as soon as Jim Traficant was aware of the tile being saved, that's when he called down there and talked to him, which I am not aware of what he said.
Q. Sir, if the tile --
A. Then the book was thrown out and rebidded because Jim Traficant intervened and asked about the tile.
Q. If the tile --
A. That's all I know.
Q. If the tile was going to be saved anyway, why did you need Jim Traficant's help in the first place?
A. The tile was the issue in the book. They were going to throw the job out prior to Jim Traficant even talking.
Q. Did you -- you just said a minute ago --
A. Then they got a hold of Jim Traficant and asked about saving the tile. If he would have saved the tile, then it was a chance for Honey Creek to get the job if they didn't use Boccia.
Q. That's all I wanted to know.

A. That's what I'm trying to explain to you, but you wouldn't give me an opportunity.
Q. Your understanding is that you guys were asking Congressman Traficant to help you save the tiles, that you'd have a chance to get this million dollar demolition contract, correct?
A. No. We were asking him if he was aware that the tile was going to be used for something or if he was going to use it for something. He wasn't even aware of the Government -- or I should say his area wasn't even contacted if he wanted to use the tile or not.
Q. Prior to the time you guys contacted him, he wasn't even trying to save the tile or aware of it. Is that what you're saying?
A. Right. The first time it was bidded out, no.
Q. Okay.
A. And he brought it in at the end before they rebidded it because he made waves, and they just threw it out, and an architect is always right. They say oh, there was an error in the book. They threw the book out and rebidded it.
Q. So it's your testimony that the first Congressman Traficant ever became aware or involved in the tile was after you guys called him?
A. I would assume so, yes.

Q. Okay.

Now --

MR. MORFORD: Just a moment. I have nothing further, your Honor.

THE WITNESS: All right, sir. Thank you. Here's your paper back.

MR. MORFORD: He may want to ask you about that.

THE WITNESS: Okay.

REDIRECT EXAMINATION OF HARRY R. MANGANARO

BY MR. TRAFICANT:

Q. You think these people tried to intimidate you, Harry?

A. Pardon me?

Q. You think these people tried to intimidate you?

A. Depends on how you look at it. He's got a job to do, too.

Q. Was David a good bookkeeper?

A. No. He was a lousy bookkeeper.

Q. Did you have knowledge of him backdating other forms?

A. He's done it a couple different times. A lot of times what he'll do is, especially on small jobs, yeah, Dave's --

MR. MORFORD: Your Honor, I object unless there's a foundation to show his basic knowledge. Maybe he

can explain how he knows these things.

THE COURT: Why don't you explain?

MR. TRAFICANT: Let him explain himself, will you.

THE WITNESS: He did a small job in New Middletown. It was a small job. I can't remember exactly what the amount was. It wasn't my doing with the amount, but it was a small job. He had the job sit on his desk for, oh, maybe one or two months.

And New Middletown called and asked when are you going to submit a bill for it. He said, I have it on a desk somewhere. He had it on there but didn't have the date so he changed the date on that, and he put a date on it for when the job was done, and he sent it in.

BY MR. TRAFICANT:

Q. Now, they asked you a number of questions about friends and fondness. How often did we see ourselves, Harry?

A. We run into each other maybe three or four times a year, different occasions. Like you'd be downtown, I would say hi, different things like that.

Q. Now, when you met with your concerns about Dave Sugar, did you contact me, or did I contact you?

A. No. I came to your house because I was worried about Dave, because he's my friend.

Q. Was there an arrangement for a meeting?
A. Well, when I came to your house and everything, I talked to you a little bit, and you said that you'd like to talk to me the next day, and it was between 8:30. You said meet me on 224 and Raccoon Road.
Q. What was on 224 and Raccoon Road?
A. Your office in the back.
Q. Did we agree to do something that day?
A. Yes, we did.
Q. What was it?
A. We were talking about Dave Sugar.
MR. MORFORD: Objection.
THE COURT: Overruled. You can lay a foundation.
Q. Did you consent to having a tape made?
A. Yes. I came in your office, sat down, and you says are you aware that I'm going to be taping you, and I said, yes, that's okay.
Q. And did I give you a copy of that tape?
A. I've got a copy of the paper. It's not the tape itself, but it's all typed out, what was said.
Q. Does it contain all of the things that were said on the tape?
A. I believe it does.
Q. Were you truthful on that tape?

A. Yes, I was.
Q. Were you forced to make that tape?
A. No.
Q. Did you do it to hurt Dave Sugar?
A. No. I thought if anything it might help him because Dave has 30 people, like I said, he supplies 30 people jobs.
Q. Now, back to the barn work, that was a long time ago, wasn't it?
A. Yes, it was.
Q. It was really hard to remember the exact dates, wouldn't you say?
A. I can't remember that far back. It's -- it's got to be early, like I said early '90s. I can't remember exactly.
Q. Was there a piece of machinery that you've seen in that barn?
A. There was a piece of machinery on the outside of the barn. It was a hubcap.
Q. Did it have a name of who owned it?
A. No. Just -- I think it was a specialist on it. That's all.
Q. Now, the Prosecutor asked you about digging close to the area where the barn came in. Isn't that what caused the barn to fall?

A. There was apparent digging there. There was digging on the floor and closer to the foundation. That was contributed to the fall of the barn. I wasn't there to see it, but it's a very good possibility because of the gentleman who was there before helping me made it clear if you did the floor, it could fall.
Q. Was it just a simple little thing or a major problem?
A. I thought it was a major problem if he didn't take care of it. The barn was going to fall.
Q. Now, when the -- they asked you about the tile. Isn't it a fact that the historical society of our Valley was trying to save the building itself?
A. They were trying to save that building for probably five years prior to demolition.
Q. And when the City of Youngstown decided to tear it down, did they not then say save that special tile?
A. The tile was put in the book, but I don't believe it was advertised in the legal news because in the legal news is where we saw the advertisement for the bid, for the Higbee building, but there was nothing in there stating about the tile being saved.
Q. Harry, was that a unique tile that was very rare?
A. Well, in those days, different buildings, the tile was basically square tile, 12 by 12 or something even bigger than that. That's not as unique as the saving of

the fanciness on the top, the top and the sides coming down. That's what makes tile worth money and takes it for the savings. It's the carvings on the top and along the windows.

Q. Did it have those types of features?

A. Yes, had it on the top and the windows.

Q. I want you to take a look at this beautiful courtroom. Would you call this a unique, historical type of room?

A. Yeah, probably call it plastered, too.

Q. Was the Higbee building's tile very unique and historical?

A. Yes, it was unique. It may have been historical because of that era in which it was built. I'm a demolition contractor. I don't see that kind of stuff. I don't like it.

Q. You tear things down, right?

A. Yeah, I tear it down.

Q. But, now, there's historical society wants it. Then when they found out the building couldn't be saved, they wanted to save the tile, at least, didn't they?

A. Yes, they did. They protested quite a bit about it.

Q. Wasn't it a fact that many of the Government entities were approached about the tile?

A. That was our understanding at the prebid meeting.

They said everybody that was in -- everybody that was in need of the tile was contacted.

Q. Well, did you make the -- do final decisions on the final bid numbers for Dave Sugar?

A. I would probably say yes. We worked out actually together and everything and came up with one figure and cut it down, and then we go back up and cut it down. Then we both just a shot in the dark any time you bid on any kind of job.

Q. Do you have any knowledge that if anybody else called me besides Dave Sugar to save the tile?

A. No, I don't.

Q. Were there other groups trying to save the tile?

A. I don't know. The only thing I know is that the historical society and the arms museum in Youngstown, Ohio, which is also a historical type museum, but I don't know if they were -- as a matter of fact, Mayor McKelvey wanted the stipulation he would save the sign that was his father's sign on the, I believe it is, it's Phelps Street, Phelps Street, and the year -- the years that it was put up. That was the original Higbee's, was on the side street.

Q. You know if that sign was saved?

A. Yes, it was.

Q. Who was the mayor of the City of Youngstown?

A. Right now?

Q. No, when the Higbee building project was going on.
A. That was the one we have now, McKelvey.
Q. Now, after Mainline got the job, was there a problem that followed some of their work?
A. Well, they were supposed to start supposedly, say -- and I don't want to -- I don't want to say dates because I'm not aware of it, but I'm just giving you an example. They were supposed to start like, say, in October. They couldn't start in October because they had problems coming out of Pittsburgh. They just finished a job in Pittsburgh.
Q. Now, while they were doing the job, did any other damage occur from their actions?
A. Yes. First of all, they were shut down. They were shut down on three different occasions because they had done the job, like I said in Pennsylvania, and the union came up and shut them down in Youngstown because they never paid their fringes down in PA and never paid some other bodies down there that had worked for them. That was one problem. The next problem they had, they weren't complying with the EEO, which is the minority portion of the contract work.
Q. Who enforced that?
A. Actually, Bill Carter, which is in charge of the EEO, he got wind of it and had a meeting with the people from Mainline, and they said they would comply with it. They

started to comply with it. They hired a minority company and kept them two days and got rid of them and brought their own trucks in from New York.

Q. Is that when I got involved?

A. Yes, it was, sir.

Q. Was there a fire as a result of their actions there?

A. Well, further on down the line, right before they did a job cleaning the building all the way around, took up out the smaller portions and left maybe six stories on one side of the building, and they left the walls, and what they did is they were going to drop the building.

They went inside of it and cut the beams out of it and decided to drop the building. In the process while they were cutting the beams inside, they cut the inside of the building on fire. And instead of putting the building out, they cut the building and let it drop, thinking the percussion of the building coming down would blow the fire out.

It didn't. It kept going, and it wasn't actually flames. It was underneath all debris. It was probably some flames but such a bad smoke in the town that they had to shut like three different buildings down.

Q. Did any other buildings get damaged?

A. No. Just had a -- well, depends upon the smoke. The smoke was so thick that it probably had to be cleaned, the

next buildings and the normal breakage of windows in the building next door broke from the demolition. That might have been fragments flying.

Q. Do you object to having that tape turned over to the court that we made together?

A. No, I didn't.

Q. Were you truthful on that tape?

A. Yes, I was.

MR. TRAFICANT: Your Honor, I ask that the tape made of consent between Harry Manganaro and myself be considered now.

THE COURT: Well, we have to recess the jury. It's a good time for a break so we can do that. 20-minute break.

(Proceedings in the absence of the jury:)

THE COURT: Congressman, I went back to see whether this was a tape we have a transcript of, we don't have a --

MR. TRAFICANT: No, I haven't had it transcribed yet.

THE COURT: We can't deal with this unless we have a transcript. You know that.

MR. TRAFICANT: I'd like to finish with this witness and revisit this issue.

THE COURT: Okay.

MR. TRAFICANT: So I can get on with my defense.

THE COURT: All right. That's a good idea. We should give the jury their full break, though.

MR. TRAFICANT: Yes.

THE COURT: And I -- at 4:30, which I'm sorry I keep saying 3:30, but at 4:30, we can take up the hearsay issues regarding these two witnesses if you have decided how you want to go forward in laying --

MR. TRAFICANT: Your Honor, not to interrupt, I do not want to do it today. I want to do some research.

THE COURT: Okay. Well --

MR. TRAFICANT: And I won't take much time.

THE COURT: It is a second opportunity, but I don't want to use the break right now to do this either because I -- I don't think you're ready necessarily. When I -- when I went back and thought about where we were with this continuing discussion of hearsay, I think -- I think that the part of this about finding and supporting a hearsay exception or that something isn't hearsay is what you need to pay attention to, and if you want to do some research on that, then that's fine.

But we do need to have that done out of the hearing of the jury and before we put hearsay in front of the jury. So we've got to get it organized for your witnesses.

MR. TRAFICANT: Your Honor, let me ask you this. Evidently, the Prosecution has met the requirements and qualifications to have people testify relative to the comments of one Charles O'Nesti passed; is that correct?

THE COURT: That is a fact, but that in itself doesn't mean that that is an exception to the hearsay rule. There's more to do, and it's the doing the second part that I want you to focus on so we can really go forward with your witnesses. And it's all there in the rule.

If you just keep reading through the rule, it's not simply having a -- an established -- on a witness that's not available. It's more to do -- it is the second part. If you want to do more research, I think we should take the time.

MR. TRAFICANT: If it's a statement against interest and that's why I would have to subpoena the -- FBI agent that threatened him with the military hospital.

THE COURT: Well, in any event, if you want to do some more work on that before we give you a chance to establish it, we are putting your case on, got your witnesses here today, and I would suggest that you use the rest of the break, and that we approach that again at 4:30 when the witnesses are gone.

MR. TRAFICANT: I may not be prepared to

address that at 4:30 with the -- I don't even have the Federal Rules of Evidence with me, and I think I deserve at least a night to look into it. I don't need to take up the jury's time. I can bring the witness back and finish up things other than the tape; have the tape transcribed and call him back.

THE COURT: We have this apparently with nine separate tapes, no transcript, and you're not clear about --

MR. TRAFICANT: No, there's two.

THE COURT: -about how you want to try and establish them so we really need to get this resolved. Mr. Morford.

MR. MORFORD: Your Honor, I think it was as early as last Friday I brought this issue up we were going to have this tape problem because I could see this coming up. A couple things.

THE COURT: We're in it.

MR. MORFORD: Number one, the Congressman is saying this isn't fair because the Government got their hearsay in. If the Court will recall, we had a tape recording of Chuck O'Nesti admitting that he kicked back to the Congressman, and we acknowledged that that was hearsay and did not fit any of the exceptions of 804(b) and did not offer it.

What we did offer were contemporaneous statements of Chuck O'Nesti made prior to the time he ever had any charges against him or anything else, so these are apples and oranges. But aside from all that, my only point is this: That the Congressman has known about this for days. We put him on notice because we were concerned about having 15 jurors who have put their lives on hold and have jobs and families to tend to, sit around and do nothing, and the point is here we are now in the middle of his case-in-chief.

He has not made the transcripts. He has not filed anything in writing, and from what he just said, he hasn't looked at the hearsay rule.

And my other objection is -- and I'm going to ask the Court to do something about this somehow -- is that Congressman Traficant, after the Court had said that these tapes could not be mentioned in front of the jury until he addressed these things, the Court has told him repeatedly to address, purposefully and intentionally said in front of this jury I have a tape, and I'd like to put it in, and I believe that that can create real problems.

We can tell the jury to disregard that, but the fear I have is that what he's doing is a pattern of suggesting to the jury that there's some evidence out there that he knows is not admissible. They'll never see it, but

somehow, he's not getting a fair shake in front of the jury, and so I just ask the Court to somehow address that.

MR. TRAFICANT: I'd like to respond to that.

Number one, Mr. O'Nesti was asked to sign an affidavit after the fruit basket ploy if he gave kickbacks to Traficant, sign the affidavit, and he did not sign an affidavit because he didn't kick back money.

Now, look, if you guys had something, you'd have it in the courtroom, quit trying to play to the press on this.

Mr. O'Nesti was brought in. Clearly, he's a man who was at risk. He was told by Mr. Pikunas who admitted in his 302 that he mentioned he didn't want the U.S. Attorneys to find out because they may sentence him to an Army hospital.

THE COURT: This is --

MR. TRAFICANT: He didn't want to leave his home. Mr. -- this tape could not be admitted because it was a lie, anything that would have been on the damned thing. He didn't want to die away from his home and kids. Now they're trying to make it look like something else.

THE COURT: Congressman, Congressman.

MR. TRAFICANT: Let me ask the Court, I'm going make a transcript, but Manganaro admitted -- I didn't hear objection on the intent -- his consent, total tape, not one objection.

THE COURT: Right. But did you -- did you listen to what he just said about what he -- what he --

MR. TRAFICANT: I listen to what the Court says.

THE COURT: Let me reiterate that when we rule against you and give you an opportunity to establish whether or not you have something which either is not hearsay or an exception to the hearsay rule and we have given you lot of those opportunities, and you have failed to use them or prepare, and then you try and talk in front of the jury about something that you know the Court not only has not yet admitted but we have told you what you have to do in order to make it clear whether or not it can be admitted, you're trying to do something with this jury that we don't permit lawyers or pro se parties to do in front of jurors.

MR. TRAFICANT: Your Honor, you've allowed them to sneak things in, and I let them do it with Bucci, a lot of hearsay in. I let them ramble, but in my first trial in sixth generation copies --

THE COURT: Congressman, this is not --

MR. TRAFICANT: Look, I don't care.

THE COURT: It's not --

MR. TRAFICANT: You have witnesses who have statements made by a man who is now deceased, that you've

allowed them to use. Now you're not allowing me to use it, and whatever rule they use, certainly the same rule can be used by me or another one.

THE COURT: It does. You can use the same rule or another one, any one you can find, but you have to take the time and effort to establish that what you want to do is permitted in a court of law. We've given you that time, I'll give it to you again, and I'll tell you one other thing I'm going to do because we have -- we have out there you with nine tapes. We have no transcripts. You are in your case now. This is your opportunity.

I'm going to ask that you get yourself organized at this break so that at 4:30 we can address whatever it is you've discovered in that rule that will allow your particular situation to be brought in front of the court.

MR. TRAFICANT: I'm not ready at 4:30. If you want to meet tomorrow at 8:00, I'll meet at 8:00.

THE COURT: You should be ready.

MR. TRAFICANT: I'm not ready at 4:30. I don't have a battery of 5,000 people in Philadelphia, attorneys to help me out, and I'm not ready at 4:30, and when I'm ready, I'll bring it.

THE COURT: We're in our seventh week of trial.

MR. TRAFICANT: They've had seven weeks.

I've only had two hours, and you've denied me the opportunity to directly examine witnesses --

THE COURT: Okay. Tell you what I'm going to do. Tell you what I'm going to do. We're going to go at 4:00 this afternoon with your witnesses because you've got them here, right, you have two more?

MR. TRAFICANT: I'm going to bring the witness back because he has to make two bids tomorrow.

THE COURT: You can --

MR. TRAFICANT: I'd like to bring the other one in, too.

THE COURT: You can bring your witnesses in, and we'll do this after the jury has had their break, try to get these witnesses on today. If we do that, then if there is time tomorrow because we've gotten this testimony on, then we'll try and make arrangements to see whether or not you can do this at 8:00 tomorrow morning. I'll come in, Congressman.

MR. TRAFICANT: I've relieved one of the fellows.

THE COURT: That's your choice.

MR. TRAFICANT: Because the other fellow has a sister at home sick. Dennis Johnson had to take Mr. Coleman and Dennis Johnson are gone.

THE COURT: Okay.

MR. TRAFICANT: I only have Manganaro here and another witness, and I'd like to get them both done. I want to bring them back. I'm not finished with my redirect. I think we can handle the tape issue tomorrow morning.

THE COURT: We can handle the tape issue whenever you get us the tapes.

MR. TRAFICANT: I'd like to handle the tape issue, quite frankly, next week when I can have transcripts.

THE COURT: No. You can't do this when you've got a jury. They are ready and willing to work. This is your time in this court. You've known for a long time that you were going to put on whatever.

MR. TRAFICANT: I can put on other witnesses that don't deal with the tapes. I need time to have them transcribed.

THE COURT: Okay.

MR. TRAFICANT: And I don't have the budget the United States Justice Department has.

MR. MORFORD: Well, then, I request he not mention the tapes again until he's provided the Court with proper materials, number one. Number two, I request if there's any further redirect of Mr. Manganaro, we don't get into more hearsay because he knows that rule, too. And

number three, I ask any further redirect be restricted to the scope of the cross.

MR. TRAFICANT: Now, wait a minute. Is this my witness or yours?

MR. MORFORD: You rested. You finished your direct.

MR. TRAFICANT: No. I didn't finish my direct. I asked for a side bar. You took it on this issue of tapes. Mr. Manganaro is coming back out under redirect by me.

MR. MORFORD: That was Mr. Johnson.

MR. TRAFICANT: Well, Mr. Johnson was not relieved. He can be recalled. Mr. Manganaro is going to be my next witness, your Honor. And I -- I urge that you move the jury out now so we can get these two out of the way. And I'd like to say something for the record --

THE COURT: Just a minute.

MR. TRAFICANT: I'd like to say something for the record.

THE COURT: Excuse me. Is the jury still back here or out smoking?

THE CLERK: They're back.

THE COURT: Okay, okay.

MR. TRAFICANT: Just for the record.

THE COURT: Okay.

MR. TRAFICANT: I don't want the Prosecution to ever speak for me again.

MR. SMITH: We haven't tried.

THE COURT: Yeah. Congressman, you do well speaking for yourself.

MR. TRAFICANT: And I don't want them to address me, nor demean me, or try to intimidate me in any way.

MR. MORFORD: What are you doing right now? Why don't you turn and address the Court?

MR. TRAFICANT: What have you been doing to me?

THE COURT: Congressman.

MR. TRAFICANT: He has intimidated everyone in this investigation.

THE COURT: Oh, stop it.

MR. TRAFICANT: Oh, you know he has. You've seen the damn reports.

THE COURT: Stop it.

MR. TRAFICANT: Now, you're not letting anything in.

THE COURT: Congressman.

MR. TRAFICANT: Look, I'm either going to go to jail, or I'm telling you this: He's going to go to jail. That's where this trial is because I'm not an

attorney, and they're not going to scare me to death, and they have gotten their attorneys to suborn perjury, they have twisted their attorneys.

THE COURT: If you continue -- if you continue to yell in front of the jury, we won't be able to proceeded.

MR. TRAFICANT: Well, I advise the Prosecution to constrain themselves.

THE COURT: Okay. Here's what I suggest we do. Congressman --

MR. TRAFICANT: Yes.

THE COURT: -- you go forward until 4:30 with your witnesses.

MR. TRAFICANT: Yes.

THE COURT: We let the jury go home at 4:30 and let them stay home tomorrow. You come in here, we'll start at 9:00 in the morning, and we'll give you every opportunity to get whatever it is you're going to do with the witnesses you intend to call clear, and then we'll go forward on Monday.

MR. TRAFICANT: I'll make every attempt to comply with that. I'm saying this to you --

THE COURT: I'm giving you more time than is common, and I want you to understand it and take advantage of it because you frequently come in, as you did today,

when we gave you overnight to read two cases that we gave you the citations on. You came in today and all of a sudden acted as if you never had an opportunity to read it. We'll give you the opportunity you're asking for. It's very unusual to do that to a jury, to simply say to them stay home a day, but they probably won't mind.

MR. TRAFICANT: Your Honor, I recommend that we do that, and that we address these problems.

THE COURT: All right.

MR. TRAFICANT: Today without a jury and Friday, and you said no.

THE COURT: Not today. We have a jury here.

MR. TRAFICANT: I know, but I did recommend that to you, I think on Wednesday, and you said we'll have a jury in here.

THE COURT: We did. They're here.

MR. TRAFICANT: So that was your decision. I tried to do it.

THE COURT: Well, are you interested in having tomorrow morning rather than presenting evidence -- having an opportunity to try and clear up this --

MR. TRAFICANT: I would prefer that, yes, but I don't know if I'm going to have all my final -- I'll have the best stuff I can here.

MR. SMITH: But --

THE COURT: This is a lawsuit, and this is a trial. We don't just wait while you get ready. You've had plenty of time to get ready.

MR. TRAFICANT: Look, I have different witnesses in different matters, but what I'm telling you is this: When they make statements like he just made about a tape that they know is inadmissible over the fruit basket ploy, when they ask Mr. O'Nesti to sign an affidavit if he gave kickbacks and he wouldn't sign it -- let's tell it like it was because he knew it wasn't true -- and I have a witness that knows, he told, and confided how they pressured him and put him in an Army hospital --

THE COURT: Why don't you stop yelling, stop yelling. Stop it. There's a jury in the room right there. Stop.

MR. TRAFICANT: I have no problem with you, but you're not going to scare me.

THE COURT: Okay. We'll take a break.

MR. TRAFICANT: I say for the record he has intimidated my constituents. This is the Congressman speaking now, not a defendant.

THE COURT: Well, then, do that in Congress. Don't do it here.

MR. TRAFICANT: Thank you.

THE COURT: Okay. We are taking a short

break. We'll all benefit from it. What is it, ten, five. How long have they been out, Ed?

THE CLERK: Half an hour.

THE COURT: Okay.

MR. TRAFICANT: How much time do we get?

THE COURT: We get five minutes.

MR. TRAFICANT: Thank you.

By the way, your Honor, if you want to help me with my motion?

THE COURT: Come on. Take your break.

MR. TRAFICANT: The Court is to administer justice.

(Thereupon, a recess was taken.)

(Proceedings in the absence of the jury:)

THE COURT: Two things regarding the hearsay work that you do tonight when you study these things, I want you to also understand the way we begin going forward tomorrow morning is at 9:00, you would have Mr. Johnson, and if you want Mr. Manganaro, whichever -- the two where we had issues so far, and maybe there'll be another witness you call today, and if so, you can bring that witness in, we go into session without the jury present, and you can then put them each, one at a time, on the stand here and ask the question that raised the objection before or questions that raised objections before so that I then have

the statement to consider.

And I'll then make the ruling so that I can rule on whether a hearsay exception applies or whether it's not hearsay at all. We'll try the case in some of these where there were objections, but that's the way -- the practical way that we would go forward. It's called voir dire. But, when you read the rule, you'll see what it is that set up their objection, and then you can address that, Congressman.

MR. TRAFICANT: To Mr. Johnson, and Mr. Manganaro cannot be here tomorrow. Mr. Manganaro has two bids for his --

THE COURT: Well, then, we'll go forward with the jury tomorrow with your other witnesses, but remember --

MR. TRAFICANT: I thought you said we weren't going to do the jury tomorrow.

THE COURT: I won't do them if you have something to do here that we're supposed to be doing. We don't just stop --

MR. TRAFICANT: I thought we were going to do the criminal -- we were going to do the hearsay, and we were going to do the --

THE COURT: Yeah. When you do hearsay, you have to -- you have to do something that will show what the

statements that they would have made are so that the Court has something to evaluate. I don't have anything to evaluate until you do it. And one good way to do it is with putting the person on the stand, asking the question the Government objected to, or the questions they objected to. We'll let them answer without the jury present, and then I know what it is that the answer would have been, and I can rule for you. So that then we know whether it can come in or can't. If you don't want to do that, we don't have to do it.

We've been over so many of these processes with you, but I'm not going to let the jury stay home. We're going to go forward with your case if there's nothing for us to do.

MR. TRAFICANT: Is the jury coming in tomorrow or not? I thought you said --

THE COURT: It depends on if you want your hearing. You weren't ready to do it today, and I said we'll do it tomorrow --

MR. TRAFICANT: I am not ready. I'd like to do it, but I don't know if I'll have witnesses to do it with. Two of them can't be here.

THE COURT: -- you can't just talk all the time --

MR. TRAFICANT: I can have one here.

THE COURT: Good. We'll do it for one. But, they've got to come in here at 9:00 so we can work.

MR. TRAFICANT: All right. Well, then, make sure I tell somebody before they leave.

THE COURT: I am not making sure of anything, Congressman.

MR. TRAFICANT: Well, I'm going to let the last witness know before they leave so --

THE COURT: You go talk to them.

MR. TRAFICANT: Yes, I'm ready to go forward.

THE COURT: Okay. I have another thing when you come back. You go tell them.

MR. TRAFICANT: You want me to tell them now?

THE COURT: Sure.

(Pause.)

MR. TRAFICANT: I have one witness that I can have tomorrow.

THE COURT: Okay.

MR. TRAFICANT: And I'm ready to go forward with Mr. Manganaro.

THE COURT: Okay. I'll bring him in in a minute. I want to go over one other topic, which is important, and that has to do with this discussion of tapes in front of a jury.

You know the procedure on tapes. We've been over

this and over this, but you haven't done the first step. There are at least three steps that have to be taken before you can mention anything about any tapes in this courtroom.

That has to be, first of all, you provide the Court with a -- an accurate transcript of the tape. We don't have any for any of the nine.

Secondly, we have to have a hearing out of the hearing of the jury. And during that hearing, we have to figure out whether or not these tapes can be admitted in this case. You have to wait until we've had that hearing, and you have to wait until, if it happens, I find that these tapes are admissible.

Since I don't have any transcript or I don't have any capacity to go forward, I want -- I want you to really pay attention to getting those transcripts. But, if you choose not to do that, we don't have the hearing outside the jury, and those tapes can't be evaluated as to whether or not they can be admitted.

Therefore, do not mention any tapes in this courtroom until we've gotten through the third step. That's very important not to do that. You prejudice the jury, and it's not -- it's a simple proposition. If this jury has to -- has to work with evidence, and as soon as a tape, if it ever is admitted, they'll be able to work with it but not beforehand.

MR. TRAFICANT: Your Honor, you have two transcripts of tapes. They were produced to you. You probably didn't look at them as prosecutorial misconduct.

THE COURT: I don't know which tapes you're using.

MR. TRAFICANT: Richard Detore and Robin Best.

THE COURT: Are you going to try to --

MR. TRAFICANT: I don't know yet.

THE COURT: I'm not going to spend my time going over those things again if you're not using it.

MR. TRAFICANT: When I decide what I'm going to use.

THE COURT: But when you get ready to do that.

MR. TRAFICANT: I'll get ready for the hearings. What's the third step you said?

THE COURT: Congressman, you have to give us enough notice so that we don't delay this jury.

MR. TRAFICANT: What is the third step?

THE COURT: That they're admitted into -- that they're admissible, and you need a ruling that they're admissible.

MR. TRAFICANT: Well, since you haven't ruled with me on anything why are we going to waste time? Why

don't we go forward? Let's bring the witness in, and I'll have your hearing tomorrow.

THE COURT: Well, the hearing tomorrow has to do with hearsay.

MR. TRAFICANT: Yes, it does.

THE COURT: What I just talked about now may have to do with hearsay, too. I don't know, but it has to do with the tapes. Don't talk about those tapes in front of this jury again.

MR. TRAFICANT: I'll try not to but --

THE COURT: No. You will not talk about it.

MR. TRAFICANT: I will not bring up tapes.

THE COURT: Thank you. Next witness.

MR. TRAFICANT: If I do, I'll only do it to prejudice the jury, to win it, like they had a murder charge to prejudice the jury selection.

THE COURT: You know what, do you want a witness today? Do you want to put another witness on today?

MR. TRAFICANT: Yes. I want to do it right now.

THE COURT: Let's do it. You can bring in the jury.

(Proceedings resumed in the presence of the jury:)

THE COURT: Come right up. Sir, you're still

under oath. He has some more questions.

THE WITNESS: Thank you very much.

THE COURT: Um-hum.

BY MR. TRAFICANT:

Q. Harry, who made the last determination to give up on the Higbee building bid?

A. Dave did.

Q. Did you make final decisions on anything that dealt with bids?

A. No.

Q. Do you have knowledge of a concrete floor in Poland barn?

A. In Poland barn, Poland where your house is at?

Q. Yes.

A. Yes, I do.

Q. What knowledge do you have?

A. Dave Sugar and I were walking on the floor, and he said that's the floor that he pulled because we were inside the barn, and he poured the floor, and we were inside the barn, and you were picking up items in the barn.

Q. What items did you pick up in the barn?

A. An old bid and a -- he called it a humidor or something like that. That came out of the attic.

Q. The upstairs?

A. Yes.

Q. Do you -- are you familiar with antiques?
A. No. Just they're old when you look at them. Sometimes you can tell, you know, they look expensive.
Q. Did you help get the piano?
A. Yeah. That was -- that was the original reason that I got to see the barn. First of all, we went to your house and got a piano out of there, the right-hand side of your house, the wing area I guess what you want to call it.
Q. How big was the piano?
A. It was a -- it was actually -- it was -- I've never seen a piano like that. It was probably maybe six-foot long, four-foot wide, maybe about two-foot high, and then it had legs on it, real fancy legs.
Q. How many guys had to carry the legs out?
A. Well, we had four guys there, and each person took a leg. First we had to get the piano off the legs and lay it on the rug and put stuff to protect your rug and also the piano. We got it laid over on its side, which took almost all four of us -- I think the three of us to turn it over -- and then we unbolted the legs and took the legs out first.
Q. And did you then take the legs outside?
A. Yes, we did. We took the legs out and put them in the truck.
Q. How many guys did it take to put the legs outside?

A. Four guys, each person grabbed a leg.
Q. Were they pretty heavy?
A. They were heavy. One person was able to carry it. It was still a heavy leg.
Q. Were they fancy ornate legs?
A. Yeah, they were like square, but they were rounded on the top, and I don't know what you want to say, but they had carvings on it, and the bottom had crow's legs on the bottom.
Q. Was it a very old piano?
A. That it was. It was -- I am not too familiar with pianos, but I looked at the piano and had different kind of keys on it. Instead of piano with keys, all the way across it's built in, and when we saw the name is a Steinway, I figured it was old.
Q. Now, the Government, when they talked to you, they said that you were banned from the City of Youngstown, is that a fact?
A. I was banned for a period of time.
Q. Why were you banned?
A. We had done a job in '91 where a bridge had fallen, and it wasn't -- wasn't with the bridge the rockers on the bridge fell, and we never paid the people that were involved with the bridge with us because the City wouldn't give us our final payment. They were holding money on it,

the $111,000. And at that time, there was the railroad. We weren't on the job to take the wall down. The City wanted a wall taken down, and we followed to go ahead and see about taking the wall down. The wall that we were told to take down, the City decided to build another bridge over there.

And what they did is the price escalated from our original price of taking the wall down to an astronomical price now, which is like ten years later. So they said they would give us the difference of providing that -- it would be comparable to what our original price was.

Unfortunately, sort of amazing, the one contractor in Youngstown came in about a thousand dollars under our original -- what I had left in the City's funds. So I had -- I didn't get anything. So two weeks ago, I lost $111,000.

Q. Did you ever have another incident with the City that caused you to be banned?

A. Yes, I did. At the time the bridge, we were still out of work for the City for quite a long time. We had a contract with the City. We had two contracts tearing houses down. And the time limit on each house or the total contract was 60 days, and we had a portion of our contract done. We went into an area, which is a rather bad area in Youngstown, and there was a shooting up in Youngstown,

which involved four bullet holes in our machine.

And the employees I had jumped me on the ground and protected themselves and refused to come back on that area or any area on that side of town without protection. And due to the fact that it took six months to come back so we got some protection, they said it took too long, and they threw me out from bidding. About three months after that, I changed my name, and I was allowed to bid back in the City of Youngstown.

Q. Did the City give you protection on the job when you asked for it?

A. No, they didn't.

Q. Did they send the police out to protect the site?

A. When we called in about the shooting along with other neighbors called it in, it took probably more than a half hour to get there.

Q. Were the neighbors' in that area lives at stake at that time?

A. Well, there was quite a bit of shooting going on. I would imagine if the bullets went straight, it could have hurt somebody.

Q. Did the police respond at all?

A. Yes, within about a half hour.

Q. Did they send out protection for you to finish your job?

A. No, they did not.
Q. Did your workers quit and stay away?
A. We went to private jobs. We said when we get protection, we'll go back to the City.
Q. So then you were banned?
A. Yes, I was.
Q. Now, did you ever get reinstated with the City?
A. Yes, I did. When I changed my name, I changed it from Youngstown Construction to YCE, and I was allowed to bid in again. As a matter of fact, we had bidded a job, which was right across the street from Higbee's, and we did the job.
Q. Did they know you were the principal of YCE?
A. I imagine they did.
Q. Were your names on the bid?
A. Yes, they were.
Q. So the City let you do work after that then, didn't they?
A. Yes, they did. I got emergency work.
Q. Who gave you the emergency work?
A. From the City of Youngstown.
Q. Did they have a controlling board that determines that?
A. No. Only bid job, bid items.
Q. So they even gave you jobs that weren't even bid

items?
A. Well, they're considered emergencies, plus I worked in the city on private ones like YSU and CCA and different others.
Q. Is that after the City banned you?
A. Yes. I always worked for the City, not just the City itself. I work for private people all through Youngstown.
Q. No fault of your own you got banned then?
A. That depends how you want to look at it. I felt that the shooting was crucial to the endangerment of my employees, and I refused to come back. So consequently, I didn't meet the deadline. I dragged it on, and they threw me out.
Q. In the surrounding neighborhood, were there some homes?
A. Yes.
Q. Did the police come and try to help the people who lived in those homes on a regular basis?
A. Well, they probably controlled it. I don't know.
Q. But they didn't send out anybody to protect your site in that neighborhood where the shooting occurred; is that right?
A. No. There wasn't any shooting. It was about a half hour before they came out there. We asked the police to send people out while we were doing work, and they didn't

send them out to us.
Q. Did you ever default on a city contract?
A. No.
Q. When was the last job you did for the City?
A. Last job I did was Roble three years ago. That's when I got rid of my company.
Q. What do you do now?
A. I do a little bit of estimating, and I do running around as I said before with Dave. I go to auctions and pick up different things for him.
Q. And most of your work is with Dave Sugar?
A. Yes.
Q. You know if those items that you brought up yesterday were under subpoena to be brought up?
A. No, I don't.
Q. Who handed them to you?
A. Please?
Q. Who handed them to you?
A. Dave Sugar.
Q. In the years that you knew Chuck O'Nesti, did he ever ask you for anything?
A. No. Chuck gave me some bid jobs.
Q. Did the fire chief have responsibility for trying to eliminate homes and restore neighborhoods?
A. Yeah. The original way that was set up was the fire

department had jurisdiction. If a house was open, other than -- well, let's put it this way: When it was broken out, it was open. He had the right if it was considered a nuisance, if somebody called and said there's kids running through it, he had the right to tear it down.

Q. Did you ever kick him back any money?

A. No. The only thing I did after I was involved with the City for, oh, probably the first or second year, I took bottles of whiskey down to him and took bottles to some other people, and at that time, the mayor said you're not allowed to do that so I took my whiskey back.

Q. Did you ever send any whiskey to me?

A. No, I didn't. I didn't know you drank.

Q. You know if I drink whiskey?

A. I have no idea.

Q. Did you ever give me anything?

A. No.

Q. When you came out and we discussed that job, did we discuss a price?

A. Yes, we did. It was a rough price between $1,500 and $2,000.

Q. And that was for what only?

A. That was just for labor for my father, stepfather.

Q. And did you give me a price with materials as well?

A. No, I didn't. I told you I wouldn't do that. You

were going to supply the materials, but I gave you a ball park what it would run.

Q. Did you get a call back from me to do the job?

A. As I said before, you probably called down to the office, and I wasn't available. We had other work to do.

MR. MORFORD: Objection. This is all asked and answered in the direct, and it really --

MR. TRAFICANT: No further questions.

THE COURT: Okay.

MR. TRAFICANT: One last question.

Q. Do you have bids to make in the City of Youngstown tomorrow or in the area tomorrow?

A. We've got to finalize them with the bond and the bidding. The actual bid won't be until I believe it's Monday morning.

MR. TRAFICANT: No further questions.

MR. MORFORD: Nothing.

THE COURT: Thank you, sir.

MR. TRAFICANT: My other witness -- well, I will ask that we adjourn. It's up to you.

THE COURT: It's a good time. I think it's a good time to let the jury go.

The rest of us up here have work to do tomorrow so you're going to have a spring break, and we'll see you on Monday morning at 9:00. Remember your admonitions. Okay?

(Proceedings in the absence of the jury:)

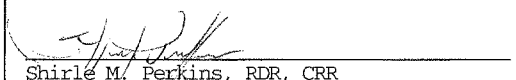
THE COURT: Thank you. See you 9:00 tomorrow morning.

(Proceedings adjourned.)

DIRECT EXAMINATION OF WILLIAM COLEMAN..... 4456
CROSS-EXAMINATION OF WILLIAM COLEMAN..... 4460
DIRECT EXAMINATION OF DENNIS JOHNSON..... 4465
DIRECT EXAMINATION OF HARRY R. MANGANARO..... 4480
CROSS-EXAMINATION OF HARRY R. MANGANARO..... 4502
REDIRECT EXAMINATION OF HARRY R. MANGANARO..... 4520

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON FRIDAY, MARCH 22, 2002

Jury Trial

Volume 24

- - - - -

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U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Friday Session, March 22, 2002, at 9:00 A.M.

(Proceedings in the absence of the jury:)

THE COURT: Good morning, ladies and gentlemen.

MR. MORFORD: Good morning, your Honor.

MR. TRAFICANT: Good morning.

THE COURT: We are here primarily to do work regarding your concerns, Mr. Traficant, regarding rulings of the Court yesterday when Mr. Johnson and Mr. Manganaro were testifying, and we're giving you this opportunity, without the jury present, to try to do whatever it is you propose to do under the Rules of Evidence to establish that they need a hearing to meet a hearsay exception under the Rules of Evidence, and we told you how the procedure would work, which is that they would be called to the stand, and then we elicit from them the answers that they were not permitted to give to the testimony yesterday. And that gives me an opportunity to follow whatever your theory is with witnesses out of the hearing of the jury. And then we can rule on whether or not there's some exception or that this is not hearsay.

So we're ready for you to call your first --

MR. TRAFICANT: I informed the Court yesterday Mr. Johnson and Mr. Manganaro could not be here today, and they are not here today.

THE COURT: No, sir. You didn't inform us of that.

MR. TRAFICANT: Well, let's look at the record.

THE COURT: We have it. Do you have it?

MR. TRAFICANT: No, I don't. I haven't been buying the record. Mr. Manganaro testified on the stand --

THE COURT: What did you think we had allowed the jury to stay home today for? What was your impression?

MR. TRAFICANT: Are you cross-examining me?

THE COURT: I'm asking you what in the world you thought --

MR. TRAFICANT: To go over this matter here.

THE COURT: Well, you have to go over it. I gave you the procedure. I'll read you -- shall I read again out loud exactly what I said yesterday?

MR. TRAFICANT: No, you don't have to. I know what you said.

THE COURT: Well, then, bring in a witness.

MR. TRAFICANT: You have two of the tapes. I don't have either Mr. Johnson, who could not be here, nor Mr. Manganaro, who could not be here, and I have another fellow that is here who can testify, who will testify --

THE COURT: Well, we don't have a jury, sir. We said we'd let the jury go home. Surely you were

listening when we sent the jury home and told them to come back on Monday.

MR. TRAFICANT: Yes. You said we would voir dire those people, who, in fact, had knowledge --

THE COURT: No. I specifically said Mr. Johnson and Mr. Manganaro. They're the ones who were testifying.

MR. TRAFICANT: Well, I don't have them here.

THE COURT: Well, then, I'll listen to the Government on that issue.

MR. MORFORD: Your Honor, this is not the first time this has happened. The Court has made it very clear what the Defendant needed to do, and as with any other party in a proceeding, if he's not prepared to go forward, it's his evidence. He's been told numerous times what he has to do to lay a proper foundation. He's refused to do it. Therefore, this evidence should not be admitted. It's not admissible anywhere.

MR. TRAFICANT: I'd like to respond. I have filed a motion, and that motion speaks to the salient points of law that, in fact, do reflect the admissibility. I have submitted four tapes to them. Two of them you already have relative to prosecutorial misconduct. The other deals with a witness who may not be called since the Prosecution did not call that witness, and the other one

deals with a person that took the Fifth Amendment. So --

THE COURT: Is this the motion you filed a few moments ago when you came to court?

MR. TRAFICANT: Yes, I did.

THE COURT: Okay. Let me just -- let me just remind you that when you file a motion, my first question to you always is: Did you serve it on the other side?

MR. TRAFICANT: I served it immediately.

THE COURT: They have a copy? You have this?

MR. MORFORD: Yes, your Honor. We have this. I had a chance to go through it, and I don't have a problem taking it one point at a time right now to save the Court time.

THE COURT: Okay. Well, what we'll do is let them respond. I want you to respond in writing -- you apparently have a lot of time this morning to do that -- respond in writing as we do in every motion that's filed.

I don't know how you got through it. I haven't gotten through it. It's over an inch thick, and it was filed here at 9:37 this morning.

So as soon as we consider, like we always consider motions, and I will let the Government respond and ask them to do it in writing as soon as they possibly can.

MR. MORFORD: We will, your Honor.

And the only point I would note, to finish up what I

was saying before, the record will reflect that the Court specifically instructed Congressman Traficant to have those witnesses here today. He said that Mr. Manganaro had two bids, but Mr. Johnson would be here. And I think the record will --

MR. TRAFICANT: I do not recall having said that.

THE COURT: The record is here, Congressman. That's why we have court reporters.

MR. TRAFICANT: The record -- I wasn't able -- I was told there would be no jury, and that Mr. Johnson wasn't needed. And I was under the impression --

THE COURT: I don't know whoever told you he wasn't needed. Let me go to another topic since we have you here.

MR. TRAFICANT: Let's do that.

THE COURT: Okay. This is a topic you seem to be confused about, and it would help if you would read the Court rulings.

Now, if you'd go back and read the Court ruling of January 29th, which is Docket Number 153 on this issue of Government vendetta --

MR. TRAFICANT: That's January 29th?

THE COURT: Right. Docket 153.

There was a ruling by this Court regarding any references to what you allege is a Government vendetta against you.

I want you to read it so that you understand what it is you can and can't do. I did not exclude all records as to any vendetta. Instead, I ruled that, like anybody else, you must demonstrate to me out of the hearing of the jury how any such references are relevant to the issues in this case, your guilt or innocence on the charges against you or to the credibility of a witness. You have to do that before you can refer to any Government vendetta as you call it in front of this jury.

MR. TRAFICANT: When have I referred to a vendetta? Could you refresh me --

THE COURT: If you plan to ask questions about a Government vendetta or present evidence about a Government vendetta or anything that relates to what you seem to characterize as a Government vendetta, you need to let us know beforehand, before you attempt to do that in front of this jury, so that we can allow time, as we did today -- although I am not sure I will ever again release a jury for a full day for you --

MR. TRAFICANT: This was --

THE COURT: -- allow time for you to satisfy the Court outside of the hearing of this jury that the

references are somehow relevant to this case. Like all other evidence, any evidence regarding what you characterize as a Government vendetta has to be relevant to the lawsuit. This is not just out there on the streets where you can say whatever you want. This is a court of law. We follow the rules.

So, at least, maybe we can get that settled for today, and I'm not going to have you discuss it until you read the Court's prior orders.

MR. TRAFICANT: Your Honor, I have to ask a question. Am I allowed?

THE COURT: You're allowed to read the order, and then you can respond, and we'll -- I'll listen to you on Monday when we get back.

MR. TRAFICANT: No. I want to ask a question now. I don't have the order with me.

THE COURT: You never bring any of these things with you, but it's very easy for you to get them.

MR. TRAFICANT: For the record, have I mentioned a vendetta? You are now asking me to alert you if I might even refer to a vendetta.

THE COURT: In front of this jury, yes.

MR. TRAFICANT: Yes. Did I refer to vendetta when I proved that in 1993, my IRS form was flagged for criminal investigation?

THE COURT: You weren't listening to the witness, apparently, when he testified when you asked those questions.

MR. TRAFICANT: I listened to him very well.

THE COURT: Mr. Morford?

MR. MORFORD: Your Honor, he may not have used the word vendetta, but he has certainly put this vendetta notion in, included it in his opening statement when he got up and said, "I've been targeted by the Government since 1983 when I was acquitted. I've been targeted. Friends in Congress said, Jim, you have a target on your back. Watch what you say. I did the Taxpayers Bill of Rights."

That was all evidence of a vendetta and entirely irrelevant. So to sit here and say there was no attempt by him to circumvent the Court's ruling on vendetta is just not true.

THE COURT: In any event, Congressman, you have failed to bring anyone here we can use to deal with the issues of hearsay. I understand that there are a lot of people here who have asked through the Court staff whether or not when we adjourn, which we're about to do, we can talk a little about the east courtroom.

MR. TRAFICANT: I want to respond to Mr. Morford's statement. Did Mr. Morford object to any

statements I made in my opening remarks? No. Therefore, he waived any right to object to any statement I make about targeting or vendetta.

THE COURT: Thank you, Congressman.

MR. TRAFICANT: What's good for the goose is good for the gander. That's what he said yesterday.

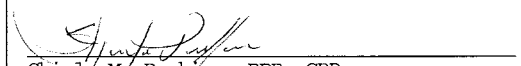
THE COURT: Thank you. We're adjourned. See everybody at 9:00 on Monday morning, and I appreciate your all being here, including my staff, who came in especially for this hearing today.

We will now adjourn the hearing, but since there are a bunch of people here who have asked that we talk about the east courtroom, that's what I'll do next, and you're welcome to wait until after we conclude this hearing.

(Proceedings adjourned.)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Judge Wells
	)	Cleveland, Ohio
vs.	)	
	)	Criminal Action
JAMES A. TRAFICANT, JR.,	)	Number 4:01CR207
	)	
Defendant.	)	

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE

THE HONORABLE LESLEY WELLS

JUDGE OF SAID COURT,

ON MONDAY, MARCH 25, 2002

Jury Trial

Volume 25

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Cleveland, Ohio 44114-1201
(216) 241-5622

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

Monday Session, March 25, 2002, at 9:00 A.M.

(Proceedings in the absence of the jury:)

MR. TRAFICANT: Your Honor, I have a brief motion to request to the Court.

THE COURT: Very well.

MR. TRAFICANT: I would ask that my -- I am expecting a machine to be delivered to the court. And I would ask that the witness that I have on the stand be temporarily excused, the witness then be called that could, in fact, testify to this machine, and if you want this machine brought up here, it's very heavy, or it could be seen downstairs for the jury to see, and I want a defense exhibit put on it. It is a welder.

THE COURT: Okay.

MR. TRAFICANT: Second of all, I'd like to know when we're going discuss the matter relative to the 804(b)(5), 804(b)(3) statement I've made in regards to hearsay testimony, that being the last sentence; is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

THE COURT: Um-hum.

MR. TRAFICANT: And my first witness will be Dennis Johnson, and I was told to have him here at 8:00, and I had him here 8:00 this morning.

THE COURT: I don't know where you got 8:00,

but this is the person we thought you were going to bring on Friday, and we have to do that outside the hearing of the jury. So we can do that at the first break when the --

MR. TRAFICANT: You don't want me to bring him as a witness first then?

THE COURT: Well, the whole point of giving you an opportunity to question him is so that you can establish whether or not -- what it is you want to do with this witness is permissible, so we do that outside the hearing of the jury, and since we have also this issue of the welder, which I need more information on since you describe it as a large piece of equipment, we can -- we can probably take Johnson and ask him questions that you asked him before that were objected to, but we have to do it out of the hearing of the jury, and we can do it at the first break.

MR. TRAFICANT: I can ask it in front of the jury in a different way, can I not?

THE COURT: We are asking to recall --

MR. TRAFICANT: I was going to recall Johnson as my first witness.

THE COURT: Okay. Well, that may be all right. Let's deal with the machine first because it --

MR. TRAFICANT: I can't deal with the machine until it gets here.

THE COURT: No. We need to deal with the machine before it gets here.

MR. TRAFICANT: Okay. Fine.

THE COURT: There are a couple practical things I have to find out from you about the machine.

Assuming that this equipment is something which can be shown to the jury, tell me how much it weighs.

MR. TRAFICANT: It weighs, I don't know, 600 pounds.

THE COURT: Okay. That's enough. I don't really --

MR. TRAFICANT: All I know, the last I heard the wheels were smoking on the turnpike, but it's on its way.

THE COURT: Well, it sounds like it's a piece of equipment that has to be put, if it's going to come in the courthouse, down on the lowest level, and there is --

MR. TRAFICANT: They do have --

THE COURT: -- there is a large elevator, freight elevator that goes down. There are a couple issues surrounding that, though, that we have to resolve. The lowest level of this courthouse has holding cells located there. It has secured areas on it of various kinds, including the places where we move prisoners in and out all day, are all down there.

So if we're going to bring this equipment into the courthouse, we have to put it probably -- and I would work this out with GSA -- but I assume we have to take it down the elevator and put it in the hallway so it can be closed off from the areas where we have prisoner traffic and so forth.

MR. TRAFICANT: That will be fine.

THE COURT: Okay. But I don't get to make that decision alone. I have to talk with GSA, and I have to talk with the Marshals because they secure a lot of the areas down there. So if somebody's bringing this up here, I'll have trouble with them dropping it off near where the elevator is, but I don't know yet whether this is going to be something the jury can view.

So we will now put into motion a conversation with GSA and the Marshals about, can we secure that area down there so that it can be viewed?

MR. TRAFICANT: Your Honor, we are prepared to bring it up with a dolly and bring it --

THE COURT: Not on these marble floors in this courthouse.

MR. TRAFICANT: That's fine. What I'm saying, what I want to do is whatever witness I have, intervene and stop and then bring a witness in to identify the machine so the machine then can be viewed because I

want the machine to go back today because of the cost that I'm bearing on having that machine being brought up here.

THE COURT: Okay. Before we get into talking about interfering with whatever's going on up here, let's find out what this machine is and give the Government an opportunity also to ask questions about this particular equipment. I know it's a welder, but that may not be enough to make it something that the jury can view.

But we will certainly find a way, if it is something the jury can view, to try and make that happen.

MR. TRAFICANT: If I have a witness that, in fact, validates it and shows that it's never been used and why he had the machine, that's what I want to do, is bring a witness on to, in fact, make the machine so they can see that it's never been used.

THE COURT: Okay. But we also -- we'll have to find a way to make it available for the jury's view.

MR. TRAFICANT: I would like to do that today because I don't want to spend more money tomorrow.

THE COURT: Congressman, we just found out about all this. We have people to contact. Okay? We'll --

MR. TRAFICANT: My defense just started.

MR. MORFORD: Well, your Honor, what the Court just said is the biggest problem I have with this.

We just found out about this. Congressman Traficant has chose to present his defense in such a way that we have no idea what's going on, and to some degree, he has a right to do that.

In the beginning of this trial, he came to me and said would you be kind enough to tell me your witnesses in advance, tell me what order you're going call them, and if you do, I will do the same.

I didn't fully expect that he would, but I went ahead and did that, and everyday we told him at least a day or two ahead who we would be calling and the order we would be calling. He would ask us in the afternoon. He would ask us again at night. He would ask again in the morning, and we had repeat the answer several times. He doesn't have a duty to tell us who the witnesses are. The only duty he has is to obey his good word, which he is not going to do, and I don't ask the Court to intervene.

MR. TRAFICANT: I object to that. I object to that.

THE COURT: Whoa, whoa.

MR. MORFORD: I'm talking right now.

THE COURT: If you're not going to ask the court to intervene, let's move on.

MR. TRAFICANT: Let's move on.

MR. MORFORD: What I'm going to raise under

Rule 16, the Defendant had a duty, a legally bound duty to disclose his evidence to us in advance. We've raised this several times with the court before trial. We put him on notice by photocopying and giving him every bit of evidence that we've had far in advance of trial; that he was under a legal duty to do the same.

He has not done that, and this morning is the first we've heard anything about this machine, and at a minimum, we're going to want to have it inspected by somebody from the Prosecution or one of the agents and determine whether it's even the same machine.

This is the first we've heard anything about this machine, and that's not his obligation to bring things in at the last minute without us having looked at or prepared to address the evidence.

MR. TRAFICANT: Your Honor, I'd like to respond. Number 1, I take offense to any remarks that are made that tend to reflect what my mindset or opinion might be.

Now, if they chose to tell me who their witnesses were -- a couple of times they told me and then changed the order on me and screwed me up a little bit, quite frankly. I'm under no duty or obligation to even provide a defense.

Now, this welder is brand now. It'll be identified by a serial number. I have a witness that will testify to

it, and I have decided to bring this thing up and take a number of photographs and present the photographs to the court as evidence. But I wanted this machine to be seen, to show that it has not been used, and I have a witness to corroborate that.

Second of all --

THE COURT: Let me just ask you a question.

MR. TRAFICANT: I want to give you the witnesses that I have today.

I have Susan Bucci, Dennis Johnson, Sandra Ferrante, and I don't know if I will get through all those. But Susan Bucci and Sandra Ferrante are -- Sandra Ferrante's husband had a stroke. She had to hire a nurse. I'd like to get her on today. Susan Bucci is the wife of Dan Bucci and Dennis Johnson, which I'll bring out first, since he is been here since 8:00, but I'm asking for that intervention.

But if you want to keep it here, I am saying for them to inspect it and investigate it, which they did not do, they just took the words of everybody, then it is the responsibility and the cost of the Government to do so.

THE COURT: Let me ask one question, Congressman, so I'm clear. You've talked about serial number, and you talked about this being a brand new welder. I just need to know, is this the same welder that was discussed in prior testimony?

MR. TRAFICANT: This is the welder.

THE COURT: Okay. Good. All right. Then you're correct, they do have a right to have somebody come in and inspect it, and I don't know whether or not GSA will be able to accommodate having it in the basement for them to do that, but we'll try and work that out, too.

MR. TRAFICANT: If we can't, could we put on our coats and walk outside and look at it, your Honor.

THE COURT: We might be able to do it that way. In fact, outside might be all right. But they still need an opportunity to inspect it before the jury sees it.

MR. TRAFICANT: They do that, but I want to be there with them so that machine is not tampered with, and I want the witness -- here's what I'm asking that if that machine comes at 11:45 or 11:00 --

THE COURT: Yeah.

MR. TRAFICANT: -- that I be allowed to move to adjourn with the witness that I have and call Mr. Kidwell for the purposes of getting this done expeditiously. They can run all the tests they want.

THE COURT: Well, before Mr. Kidwell testifies before the jury, we have to go through all these other steps. So I don't know where Mr. Kidwell is. Is he bringing --

MR. TRAFICANT: He's here. It's being

delivered. He's already in the witness room.

THE COURT: So he's in the witness room. He's going to testify about the equipment?

MR. TRAFICANT: That's being brought up.

THE COURT: Okay. So we can do something out of the presence of the jury and get his testimony taken care of. But then, you may have to bring him back later in front of the jury if, in fact, this equipment ever becomes a subject --

MR. TRAFICANT: Wait. Let me ask a question here. Why do I have to have my witnesses testify twice, once without the jury, and then with the jury? I object to that. I object to being held to that standard. I'm calling Mr. Kidwell as a witness period, and I don't want a private voir dire without a jury around. That's it.

THE COURT: Okay. All right. Fine. Well then --

MR. TRAFICANT: I'm not going to have my people coming in here twice to be subjected to double jeopardy when they've given immunity to felons.

THE COURT: Okay. The Government needs to arrange with you a time when they can have whoever they need to have examine that equipment. We haven't even gotten yet to a point where I know when that equipment is unloaded beside the courthouse, what's going to happen to

it. If you'll give us a few minutes, we'll try to get that straightened out.

MR. TRAFICANT: Last I heard he was on a turnpike, and the tire was smoking on the turnpike.

THE COURT: Okay. All right.

MR. TRAFICANT: I'm ready to go forward.

THE COURT: Somehow I have to get all of this information in front of somebody who can do something about it. So I guess I have to take a few minute recess so I can go talk to my staff, find GSA, and talk to the Marshals about how we might accommodate getting this machine inside. Leaving it outside in Cleveland in this weather is probably not a great plan, but maybe that's what will have to happen, I don't know.

MR. TRAFICANT: Your Honor, I talked with the CSOs downstairs. It could be brought in, and they have service elevators, left on the service elevator or in the basement on the service elevator, witnessed right then and there.

THE COURT: You know what? The CSOs are not in charge of that decision.

MR. TRAFICANT: I know, but I asked them how we might be able -- let them know we have one coming at least.

THE COURT: We're going to be talking to the

people who actually can decide what to do with this, so we'll take a five-minute break and do that.

MR. TRAFICANT: Thank you.

(Thereupon, a recess was taken.)

MR. TRAFICANT: Your Honor, I want to remind the Court I did show Mr. Lange that it was related as Defendant's Exhibit C-7 for his identification, and he could not positively identify that machine. And that was given to the Government on discovery.

THE COURT: Okay. Let's see if I can explain what we've been able to accomplish here:

First of all, we don't know exactly the dimensions, but judging from that picture and the weight that you're talking about, we will be able to have that equipment dropped off on the east side of the courthouse where the freight elevator is in the sidewalk.

It's pretty apparent before anything comes in the courthouse, it has to go through the Marshals, and so the Marshals are ready to do what they have to do in order to inspect that equipment. And it'll come down, assuming it gets through all of that part, and come into the basement, which is a guarded corridor that has one of the elevator sets in it, and they're able to control who goes down to the basement while it's there.

There's some other rooms, but it's mostly a hall, a

big open hallway. That's where the equipment can rest, and that won't harm the building and GSA, and the Marshals can deal with that, and it can stay there as long as is necessary for us to have the Government, whoever their person is, which I would ask them to go ahead and set up, since apparently the equipment's on its way, come and do what they need to do to take a look at it.

And then, as soon as that's done, we'll be able to take the jury down to actually see it. Now, as to your witness, who's going to apparently identify this equipment and talk about it, I don't see any reason why you couldn't put him on right now, if you -- you know, that's -- you can put the witness on and take the testimony.

MR. TRAFICANT: Your Honor, he is an extensive witness that is not just about this.

THE COURT: Right, no, but I mean --

MR. TRAFICANT: You, if you want me to put him on strictly about this welder and take him off first, fine, but he has much more to testify to, and I would prefer to do this: That I would like to get the women, whose one husband had a stroke, who has a nurse with him, and the other who's ill, to get Mr. Johnson on, get those two on, and if we have to do him tomorrow, do him tomorrow or do him at the end and bring him back tomorrow. They can go see it when it comes. They can have their mechanics

however you want to handle it. I want to get these witnesses back home.

THE COURT: Okay. And as I said you have Susan Bucci, Dennis Johnson and Susan Ferrante and --

MR. TRAFICANT: Brian Kidwell.

THE COURT: He is the person connected with the equipment, and he can come on whenever you want to call him on. He doesn't have to come on at the moment the equipment arrives at the courthouse. He can come on --

MR. TRAFICANT: I would like to bring these other people first and move them on.

MR. MORFORD: Under the Court's order, we can't have Johnson until the Court rules outside the hearing of the jury.

THE COURT: That's true, but he knows that. Dennis Johnson has to come in at a break. He understands that.

MR. MORFORD: I'm not sure he did.

THE COURT: Understand that Johnson has to come in as --

MR. TRAFICANT: I mean, Johnson's going to have to testify without a jury present.

THE COURT: Johnson did testify in front of the jury. He was here, he testified.

MR. TRAFICANT: Yes. And I have an

opportunity to reword my questions, and I am now bringing up the issue of 804 --

THE COURT: Right. And we do that -- we do that outside the hearing of the jury. He can come in at the break. I don't care whether it's noon or it's the morning break, so you can go on with Bucci, Ferrante, and Kidwell. You can go on with those three witnesses, whatever order you want to put them on. It's up to you, but Johnson, we have to hear out of the hearing of the jury who's been sitting back there waiting for us while we dealt with this other issue.

MR. TRAFICANT: Listen, I object to having my witnesses subjected to having to testify twice, once without a jury and once in front of a jury.

THE COURT: If you had --

MR. TRAFICANT: I've never heard of this.

THE COURT: If you had brought Johnson in, as you said you were going to do on Friday, we were prepared with --

MR. TRAFICANT: I wasn't aware I had to bring Johnson in, or I would have. It was an honest mistake, and you know it. I had Mr. Terlecky hear who would testify to the same thing. Mr. Johnson, I told you --

THE COURT: Mr. Terlecky had never been called in the case. So he can come on when the jury's

here.

MR. MORFORD: Your Honor, this is not a new procedure. This is exactly what the court had us to do for Bobby and Kavulic so --

MR. TRAFICANT: You've allowed hearsay in on their side, and you are not allowing truthful testimony to be brought out for defense.

THE COURT: Would you -- are you ready to call a witness, Congressman, because the jury's waiting? We're going to bring them in if you're ready to call a witness.

MR. TRAFICANT: Bring in Susan Bucci.

THE COURT: Thank you.

MR. TRAFICANT: Your Honor, I call Susan Bucci.

THE COURT: Fine.

(The following proceedings were held in the presence of the jury:)

SUSAN BUCCI

of lawful age, a witness called by the Defendant, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF SUSAN BUCCI

BY MR. TRAFICANT:

Q. Good morning, Susan.

A. Good morning.
Q. Is your health okay?
A. Fair. Not great.
Q. Would you give us your full name, and spell your last name?
A. Susan Bucci, B-U-C-C-I.
Q. And what is your address?
A. 3801 West Middletown Road, Columbiana, Ohio 44408.
Q. Are you nervous being here?
A. Yes, I am.
Q. Are you afraid of being here?
A. -- yes, a bit I am.
Q. What are you afraid of?
A. Retaliation on my children more than anything.
Q. Are you married?
A. Widow.
Q. Who was your husband?
A. Dan Bucci, Dan Thomas Bucci, Junior.
Q. Did Dan Bucci have any brothers?
A. Yes, Anthony and Robert.
Q. Did they own companies?
A. Yes.
Q. You know what companies they owned?
A. Sure. Prime Contractors, Asphalt Specialist, Black Rock, numerous. I -- a whole bunch.

THE COURT: You have a softer voice. If you'd pick that up mike.

THE WITNESS: I'm sorry.

THE COURT: That's all right. Just pick up the microphone, take it out of the stand. There you go, and talk into it. Let's try that. Okay?

THE WITNESS: Okay.

THE COURT: That's good.

THE WITNESS: Is that better?

MR. TRAFICANT: There's water there for you if you want some water.

THE WITNESS: Thank you.

BY MR. TRAFICANT:

Q. How long have you known me?

A. About seven years, seven or eight years. Since we moved to Greenford.

Q. And where is Greenford?

A. Green Township, Ohio.

Q. And where -- what kind of property did you own?

A. Oh, okay. You -- we had farms adjacent -- across from each other. You had a horse farm, had a horse farm, and I had a beef cattle farm.

Q. Did you have occasion to see me on your farm?

A. Quite often.

Q. What would I be doing on your farm?

A. Helping Dan with a -- mostly doing it because Dan didn't have time, doing the hay, brush hogging.
Q. Could you explain brush hogging and what that is?
A. Well, we have some back property where the trees had fallen and the grass had grown up and Dan wanted cleared out, and you came up with your brush hog, and -- it's like a big mower that mows little trees and big grass.
Q. And who ran the tractor?
A. You did.
Q. How often did you see me do that?
A. You were over at least once a week.
Q. Doing --
A. Actually, that particular brush hogging was done like that one summer.
Q. Did I do it every summer after that?
A. Yes.
Q. Did I also do other work at your farm?
A. Yes.
Q. What, in fact, did I do at your farm?
A. Mow, at the timed raked hay, baled it.
Q. Whose wagon did it go into?
A. Mine.
Q. Relative to these wagons, did you -- did you have discussions with your husband relative to these wagons before he died?

A. Yes. He wanted me to give --
Q. As a result -- as a result of those discussions, what, if anything, did you do?
A. I called you after he died, and we were moving out of the farm to see if you wanted the wagons, and you purchased them from me because I was having some financial difficulty at that time.
Q. Well, why did I purchase them from you after -- after you had these conversations with your husband, what, if anything, were you to do?
A. I was to give them to you.
Q. And why were you to give to me?
A. You did all -- we didn't use them. You used them most of the time and did the repair work and made sure they were always in good condition.
Q. Did I pay you for those wagons?
A. Yes, you did.
Q. Did I have to pay you for the wagons?
A. No.

MR. TRAFICANT: Defendant's Exhibit.

MR. MORFORD: May I?

MR. SMITH: May I see that?

MR. TRAFICANT: TB-4, Defendant's Exhibit TB-4.

THE COURT: Fine. Thank you.

MR. TRAFICANT: Can I show it to the witness?

THE COURT: Yes.

Q. Is this the check?

A. Sure looks like it.

Q. Did you endorse it on the back?

A. I absolutely did.

MR. TRAFICANT: Can I put this on the board, your Honor?

THE COURT: Yes.

MR. TRAFICANT: You fellows, please, that high tech stuff's beyond me.

MR. KALL: Hit the first button.

MR. TRAFICANT: Thank you, Matthew.

MR. TRAFICANT: Can I get this thing any brighter or --

MR. KALL: It'll warm up.

Q. Looking -- can you see the check, Susan?

A. Yes.

Q. Who is the check made out to?

A. Myself, Susan Bucci.

Q. Can you see the date?

A. Yes.

Q. What's the date?

A. 7-7-98.

Q. Where did you get that check?

A. At my house, at 3801 West Middletown Road.
Q. Is that when you told me to come pick up the wagons?
A. Um-hum, yes, it was.
Q. Can you read -- you have the check. My handwriting's tough, but what does it say on the bottom?
A. I can't read under the Bank One, but it's 600 -- I can't read it. I'm sorry.
Q. Now, I'm going to take this off and hand this to you. And I want you to read, if you can read my handwriting, is this the check I handed you?
A. I believe it is.
Q. Now, can you read my handwriting? What does it say there?
A. $400 for two wagons -- yeah, two wagons, and $600 for something owed, I don't know.
Q. Okay. Fine.
A. And then my initials.
Q. You initialed that?
A. Yes.
Q. Did you have knowledge of barn damage at the Traficant farm?
A. Yes.
Q. Do you have knowledge of discussions of lawsuits relative to that barn?
A. Yes, I did with my husband.

Q. Now, there were three brothers. How would you describe the relationship between me and the three brothers?
A. You were Dan's friend. You used to go riding bikes at night together.
Q. What kind of bikes?
A. Motor cycles. You have a Trike, and Dan had a Harley Southtown.
Q. What's a Trike?
A. A three-wheeler motorcycle.
Q. And how often would we do that?
A. Quite often in the summer, a couple nights a week, on the weekends.
Q. How long is your driveway?
A. At the farm you mean?
Q. Yes.
A. It's almost a mile, about seven tenths of a mile.
Q. Does that include all the wide parking areas that you have there?
A. No, just the length of it.
Q. That's your guesstimate?
A. Well, I know it's seven tenths of a mile because I used to take the kids down to the bus every morning.
Q. Was there a deep dropoff on one side?
A. Oh, yes.

Q. Was it very dangerous?
A. Yes.
Q. Now, were you familiar -- you said I was good friends with your brother?
A. My husband.
Q. What, if any, knowledge do you have of me and Anthony and Robert?
A. I don't think you liked them very well.
Q. Did you have occasion to call on me once about an incident regarding a horse?
A. You mean a long time ago? Like before I even lived at the farm?
Q. Yes.
A. Yes.
Q. What, if anything, did you ask of me? What, if anything --
A. Well --
Q. Let me word it this way: Did you have a horse at Anthony Bucci's farm?
A. Yes.
Q. Where was your horse kept at night?
A. In the old barn.
Q. Did you have a conversation with Anthony Bucci that day?
A. Yes.

Q. As a result of that conversation, what, if anything, did you do with your horse that night?
A. Kept him out that night. Anthony asked if I would mind if he would be able to leave him out in the pasture that night.
Q. Was your horse normally kept in the barn at night?
A. Yes.
Q. What else was kept in that barn with your horse?
A. Dan's cattle and some farm equipment.
Q. Okay. The night -- was your horse turned out that night?
A. Oh, yes.
Q. What happened the following morning?
A. The barn was burned down.
Q. Do you know if there was an insurance claim?
A. No, I don't.
Q. Did Dan ever come over and give me a hand?
A. Often, whenever he could.
Q. Did he bale hay one day?
A. Yes.
Q. Was it a lot of hay?
A. No. It was just a small amount that needed finishing.
Q. Do you have knowledge of why he had to come over?
MR. SMITH: Objection. If it's not based on

personal knowledge.

THE COURT: You can answer if you know.

Q. Do you have knowledge -- do you have knowledge that my machinery had broken down?

A. Oh, yeah. And Dan came to finish it for you with our equipment.

Q. Did it take very long?

A. No.

Q. Now, you said I baled hay. How many years did I bale hay over at your farm?

A. Maybe about six or seven years.

Q. Who drove the tractor?

A. You did.

Q. Are you familiar with a tetter?

A. Yes.

Q. Who drove the tetter?

A. You did.

Q. Who did the baling?

A. You did.

Q. How many fields were there?

A. There were two hay fields. They were probably about 20, 25 acres total.

Q. You know what kind of fields they were?

A. Yes.

Q. What kind were they?

A. Alfalfa fields.
Q. What's the difference between, if you know, alfalfa and regular grass?
A. Alfalfa is a much richer, higher in whatever the -- the cows needed. It was more cattle grass.
Q. Did Dan ever come over to my farm to get straw?
A. Oh, yes.
Q. Did Dan ever come over to my farm to get hay?
A. Yes.
Q. Did Dan ever come to my farm to get sawdust?
A. Yes.
Q. Now, on or about the time that your husband was gravely ill, did you have occasion to call me with a concern?
A. Yes.
Q. What was that concern?
A. That Anthony and Robert wanted to take them to Costa Rica for a liver transplant.
Q. Was there also some other concerns you had?
A. Yes, that they weren't going to take proper care of him, and that they just wanted him to take the money out of the bank so they could have it.
Q. So you called me about the money, didn't you?
A. Yes, I did.
Q. What, if anything, did I say to you?

A. You told me to contact --

MR. SMITH: Objection. Objection as to what he said.

Q. What, if anything, did you hear me say?

MR. SMITH: Objection.

THE COURT: That's the same thing, same thing.

Q. What knowledge did you gain from having me give you instructions?

MR. SMITH: Objection, same objection.

THE COURT: It's all the same objection. You can rephrase it, Congressman.

Q. As a result of your conversation with me, what did you do?

A. Went to the bank to check the safety deposit box.

Q. And what did you find in the safety deposit box?

A. Nothing.

Q. To your knowledge, was Anthony and Robert my friends?

A. Not to my knowledge, no.

Q. Who would contact me?

A. Dan.

Q. Now, was there a time when Anthony was in prison?

A. Yes.

Q. To your knowledge, who called and asked me to assist him?

A. My husband, Dan.
Q. Do you know if Tony got helped?
A. Yes.
Q. Do people fear me back home?
A. It's hard -- I don't know. I don't. I consider you a friend.
Q. Do you have immunity?
A. Immunity from -- no.
Q. You know what immunity means?
A. No, I guess I don't. I don't think I have it.
Q. When you had a problem in your family, would you call me?
A. I would.
Q. And as a result of those conversations, would you be helped?
A. I think most of the time, yes.
Q. Now, when you said you had concerns about being up here, exactly what concerns do you have?
A. Well, it's -- I mean, it's not a fear. It's kind of an apprehension. You know, I have children that are married with families, and I don't want them -- their uncles and their father's doings to -- fall back on them and have to worry about looking over their shoulder all the time because it's hard enough for them right now.
Q. Now, when I gave you that check for a thousand

dollars, did I have to give you any money for those wagons?
A. No, no. Dan wanted to give them to you.
Q. What was your financial condition at the time?
A. I didn't have one. I had nothing. Well, I was working. I shouldn't say I had nothing. I was working part-time in a gas station for minimum wage. My -- about ten hours a week.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF SUSAN BUCCI

BY MR. SMITH:

Q. Mrs. Bucci, good morning.
A. Good morning.
Q. We've never met, right?
A. No.
Q. You've never met Mr. Morford sitting down there; is that correct?
A. No.
Q. You never met Mr. Kall either; is that correct?
A. I don't think so.
Q. When specifically did you move to the farm located across the street from the Congressman's farm, what year was that?
A. 1988.

Q. And the payment that the Congressman showed you did not occur until 1998; is that correct?
A. Correct.
Q. And that was for some wagons your husband had, right?
A. Right.
Q. That was not in payment for any work that had been done over the Congressman's farm, was it; it was for specific items listed on that check, correct?
A. Well, it -- it was -- he said, oh, he just put it down so that I would have the money, and it would be money that if he ever owed me any money, anything --
Q. $400 of that was for the wagon, correct?
A. Correct.
Q. So $600 was for anything else, correct?
A. Correct.
Q. And you are not able to identify, as you sit here today, what that anything else would be, right?
A. No. It was more of a farmer type relationship where they -- we just do things for neighbors.
Q. You said the Congressman cut some hay at your farm; is that right?
A. Um-hum.
Q. On your property, correct?
A. Correct.
Q. Did he ever get any of that hay or alfalfa to take

back to his place?
A. No. Most of the time it was later in the year, and we used it for bedding, or Dan would feed it out in the field to the cattle. It was just mostly to clean up the field so it would -- winter over.
Q. Did you go across the street to the Congressman's farm very often?
A. Not very often. Myself, no.
Q. Do you see -- did you personally observe any improvement work being done over on the farm?
A. Sure, always improving.
Q. And did you ever see any employees of Anthony Bucci and Robert Bucci over at the farm doing work over there?
A. I never did, no.
Q. So you don't know what work may have been done by Anthony Bucci or Robert Bucci's employee over at the farm; is that right, at the Congressman's farm?
A. Not what I've seen, just what my husband would tell me they were doing.
Q. And you have no personal knowledge of any arrangements that Anthony Bucci and the Congressman had made with respect to any such work that Anthony Bucci's employees were doing at the farm, right?
A. I wouldn't know of Anthony's business, no.
Q. You were not present for any meetings that the --

that Anthony Bucci may have had in late 1980s with the Congressman over at the farm, were you?
A. No.
Q. You weren't present for any meetings that Anthony Bucci may have had with Charles O'Nesti and the Congressman about the farm, were you?
A. No.
Q. Now, you referred to the -- to the bank box. Is that a safe deposit box?
A. Yes.
Q. And your husband was still alive when you went to open that safe deposit box, correct?
A. Yes.
Q. You have -- I'm sorry?
A. Yes.
Q. And you have no personal knowledge as to who put things into that box or took them out, correct?
A. My husband, my son, my youngest son had access to the box.
Q. All right. Your husband and your son had access to the box, correct?
A. Yes.
Q. Over at the farm, did you see any cement being poured in any of the barn floors over at the farm? Did you ever observe that?

A. No.
Q. So you have no idea who did or didn't do it, correct?
A. Correct.
Q. Or the -- or the arrangements that were made with financial arrangements, if any, of prospective pouring of the barn floor of cement, right?
A. Right.
Q. Did you see pipe being laid in the ground between the house and the barn or in the barns?
A. No.
Q. So you have no idea what arrangements were made with respect to doing that work either, correct?
A. Correct.
Q. Did you see grading work being done around the barn area by anybody?
A. No.
Q. And so if that was done, you don't have any knowledge about those arrangements either, correct?
A. Not of the arrangements, no.
Q. Did you see an addition at any time being built on the back of the farmhouse?
A. No.
Q. And so you would not have any knowledge about any arrangements that were made with respect to the building of that addition, if there is one, correct?

A. Correct.
Q. Or who paid for it. You have no knowledge about that either, would you?
A. No.
Q. Have you ever gone over to the Congressman's house on Main Street in Poland?
A. No.
Q. And so if there was any work done in the garage at that location, you wouldn't have any knowledge about that either, would you?
A. No, I would not.
Q. Or who paid for any such work there, correct?
A. No.
MR. TRAFICANT: Objection. Asked and answered three times.
THE COURT: Overruled.
BY MR. SMITH:
Q. Mrs. Bucci, did you ever observe any farm machinery being taken off of the farm on a flatbed truck?
A. My farm?
Q. No, I'm sorry. I'll rephrase. Did you ever see any equipment being removed from Congressman Traficant's farm on a flatbed truck?
A. No. We lived like way back. I mean, you could even hardly see his farm from my house.

Q. So you would have no idea of any arrangements that were made with respect to such equipment being moved and who paid for that or not either, correct?
A. Correct.
Q. Now, you mentioned you have -- withdrawn.
You have no knowledge, I take it, about Anthony Bucci's, Robert Bucci's, and your husband, Daniel Bucci's, relationship with the Ohio Department of Transportation, do you?
A. No, just from -- I don't know personally, just what my husband would tell me when he would come home from work.
Q. And you know nothing about any contacts that may have been made by the Congressman on behalf of any of the Bucci companies with ODOT, do you?
A. I do of one project, I know. They were having a real hard time getting the -- that one particular project done, 6680, I think it was.
Q. All right. And the Congressman helped the Bucci companies with respect to ODOT on that work?
A. I do believe he did.
Q. You know anything about a Mosquito Lake project that the Bucci brothers were involved with?
A. No.
Q. You know anything about any contacts that may have been made by the Congressman on behalf of the Bucci

companies with the U.S. Department of Transportation?
A. No.
Q. Are you aware of any contacts that the Congressman may have made on behalf of the Bucci companies to the U.S. Department of Labor?
A. No, I would not know that.
Q. Do you know anything about any contacts that the Congressman may have had on behalf of any of the three Bucci brothers with the U.S. Bureau of Prisons?
A. Yes.
Q. Okay. Well, what do you know -- let me ask you this: How do you know? What is the source of your knowledge?
A. Well, the Congressman and my husband would have meetings at my house, and Dan would ask him to see what he could do to get Tony out of the prison that he was in.
Q. So the Congressman, in your presence, was asked by Dan Bucci to help get Anthony Bucci out of prison, right?
A. Well, get him moved to the halfway house in Youngstown, closer to his family.
Q. And the Congressman -- what did the Congressman say to Dan Bucci when Mr. Dan Bucci made that request?
A. He said --
MR. TRAFICANT: Objection for the record only.
THE COURT: Okay. Go ahead.

THE WITNESS: Go ahead and answer the question?

THE COURT: Um-hum.

THE WITNESS: He said that he would do what he could and make some phone calls and would get back with Dan.

Q. So the Congressman agreed to try to help with U.S. Bureau of Prisons and the Community Corrections Association, right?

A. Correct.

Q. On behalf of Anthony Bucci, correct?

A. Well, I would think for my husband.

Q. Your husband wasn't in jail, was he?

A. No, but it was his brother.

Q. Tony Bucci was the one in jail, right?

A. Correct.

MR. SMITH: May I have a moment, your Honor?

THE COURT: Yes.

MR. SMITH: No further questions, your Honor.

THE COURT: Congressman.

REDIRECT EXAMINATION OF SUSAN BUCCI

BY MR. TRAFICANT:

Q. Susan, you were asked a number of questions. First of all about the $400 and $600 --

A. Yes.

Q. -- did you expect to get any money for those wagons?
A. No, I did not.
Q. What, in fact, was that thousand dollars?
A. Just to help me out with having to move and getting readjusted after Dan's death.
Q. Now, they asked you a lot of questions about the farm. Isn't it a fact you had knowledge about a lawsuit that was being discussed against the Buccis?
A. Yes, I did.
Q. And who was suing whom? Who was to sue whom?
A. I know Anthony came over one day talking to Dan, telling him to talk to you because he was afraid that you -- you would want them to redo the damage that they had done when the sidewalk caved in.
Q. Did the barn almost fall in?
A. To my knowledge, yes.
Q. Did I sue them?
A. No.
Q. Now, the time and safe deposit box, who was talking to your husband about taking the money from the safety deposit box?
A. Anthony and Robert.
Q. There come a time when your husband left with Anthony and Robert and left you?
A. Yes.

Q. How long before he died did he leave you?
A. Just about a week, about seven -- six days.
Q. Did you ever get any advice to contact an attorney about these guys?
A. Yes.
Q. About Anthony and Robert?
A. Yes.
Q. Who gave you that advice?
A. You did.
Q. Did you contact an attorney?
A. No, I did not.
Q. You wish you did now?
A. Yes.
Q. Now, the Government asked you about Tony going to a halfway house. Was it Tony who asked, or was it Dan who asked?
A. I would say it was Dan because he really hadn't seen Tony much, and I know it was a hardship on Tony's family, and we were taking care of them at the time.
Q. You know if I did that for other people?
MR. SMITH: Objection unless she has personal knowledge.
THE COURT: Well, she can answer if she does. And if she doesn't, you can say.
THE WITNESS: I don't have personal knowledge

of it, but as a --

MR. SMITH: Objection, she doesn't, she doesn't.

THE COURT: Okay.

BY MR. TRAFICANT:

Q. Was I known to help all people?

A. Yes.

Q. Did I treat you any different than anybody else?

A. I hope not.

Q. Now, when I was out there on that wagon or on that tractor, what, if anything, would you do on occasions?

A. Fix you lunch, breakfast, bring you beverages. That's what I did, the food.

Q. Was Dan and I real close?

A. I think you were.

Q. Are Anthony and Robert, are they trustworthy?

A. No.

Q. Is there anyone who's ever told you that?

A. Yes, several people, including yourself.

Q. Isn't it a fact when the Buccis had problems, they would talk with your husband?

A. Usually.

Q. When it concerned me?

A. Yes, always. I guess I don't know all of it. There were other times that I don't know about but quite often.

Q. Where would the three brothers meet at your farm?
A. In my kitchen.
Q. Where would you be?
A. In the kitchen.
Q. Do you have knowledge that I ever recommended that the Bucci brothers be fired from a job?
A. No, I don't.
MR. TRAFICANT: No further questions.
THE COURT: Thank you.
MR. SMITH: No questions.
THE COURT: Thank you very much. You're excused.
THE WITNESS: Thank you.
THE COURT: Careful on the steps going down.
THE WITNESS: Thank you.

SANDRA FERRANTE,

of lawful age, a witness called by the Defendant, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF SANDRA FERRANTE

BY MR. TRAFICANT:

Q. Would you please give your name, and spell your last name for the record?
A. Sandy, Ferrante, F-E-R-R-A-N-T-E.
Q. What is your current address?

A. 671 Meyer -- I'm nervous -- excuse me. Meyer Avenue, Boardman, Ohio.

THE COURT: Let me fix this water for you because all witnesses are nervous. There, you can pour whenever you want to.

BY MR. TRAFICANT:

Q. Sandy, do you have immunity for being here?

A. No, sir.

Q. Do you know what immunity is?

A. Yes, sir.

Q. What does immunity mean?

A. It means that whatever you say isn't held against you.

Q. If you have immunity?

A. If you have immunity, yes.

Q. And if you don't have immunity?

A. You're on your own with what your own honest testimony -- or testimony, rather?

Q. How long have you lived at 671 Meyer Avenue?

A. Two months.

Q. Are you married?

A. No, sir.

Q. What is the status of your husband's health?

A. Very poor.

Q. Could you describe what the medical problems were to

cause his situation to be poor?
A. He had open heart surgery, triple bypass, and following that, he had two -- two strokes, a light stroke and a major stroke.
Q. Now, are you my girlfriend?
A. No, sir.
Q. Are you my dear friend?
A. Yes, sir.
Q. Did we enjoy a common passionate relationship?
A. Yes, sir.
Q. Were you one of the most renowned -- were you known for one specific talent above all else?
A. Yes. I enjoyed showing horses.
Q. How many world championships have you won?
A. 13.
Q. Did you have exceptional citations for such performance?
A. Yes, sir.
Q. Were you ever recognized on national television?
THE COURT: Speak up.
THE WITNESS: I'm sorry.
Q. Were you ever recognized on national television?
A. Yes, sir.
THE COURT: Congressman, they can't hear her.
THE WITNESS: I'm sorry.

Q. Were you ever recognized on national television for such?
A. Yes, sir.
Q. Explain what that was.
A. I was asked to be on To Tell the Truth, and I was the one they were to identify. And I also was asked to be the Grand Marshal at the Rose Bowl Parade.
Q. Now, whose horse here are you riding?
A. Your horse.
Q. And what is his name?
A. Tuxedo Park.
Q. And what is the difference between a show horse and a racing horse?
A. A show horse is a saddle bred, is a very animated, proud carousel type horse that is -- has to have a lot of extreme motion, brilliance, and proudness. A race horse runs.
Q. A race horse crosses the finish line, he wins?
A. He wins.
Q. But this is up to the judge, isn't it?
A. Yes, sir.
Q. How many world championships did you win with my stallion?
A. Five.
Q. Now, what am I pointing to here?

A. His knee.
Q. Did this horse have a fault?
A. Yes.
Q. What was that fault?
A. He was very nervous at horse shows.
Q. For example, what happened at the Ohio State Fair Horse Show?
A. Well, that was one of his first shows. We took -- had taken him to -- and he was very, very nervous, and he climbed the walls and got his front feet hooked over the top of the -- very top board, and the fire department had to come and take him off to help get him down.
Q. Was he thrown off the grounds at certain places?
A. Yes, in Kansas City.
Q. Did he have to stay in a trailer?
A. For nine days.
Q. Who took him to the shows?
A. My ex-husband and I.
Q. How did you get him to the shows?
A. In your trailer and your camper.
Q. What kind of camper was it?
A. You had a truck camper that fit on top of your truck.
Q. Was it permanently attached, or did it slip in?
A. It was a slip in.
Q. Did I pay for the expenses?

A. Yes.
Q. Did you charge me all the expenses?
A. You paid for the gas, and my ex-husband would -- you know, he was always proud. He paid what he could, you know, paid for it.
Q. For the meals?
A. Yes.
Q. Did he on occasion -- would you stay at a motel because it was small?
A. Yes, sir.
Q. Was I offered a lot of money for this horse?
A. Yes, sir.
Q. What was I offered?
A. $50,000.
Q. Did we have discussions about that horse?
A. Yes, sir.
Q. As a result of those discussions, what did you advise?
A. Well, I loved him, and he -- he became very close to my heart, and I advised you not to sell him.
Q. Why?
A. Well, he acted up at shows, and we couldn't truthfully sell him as an amateur horse. We both discussed it. We didn't want to worry if someone couldn't ride him because he was very temperamental. You get him on one

time, and he'd buck around, buck, kick his feet, and he showed bad at shows. You couldn't hardly keep him in the stall.

Q. Isn't it a fact when you showed this horse, that he was half the horse he was in the barn back home?

A. Yes, sir.

Q. And why was that?

A. Because he left his -- most of his shows, in his stall, he'd get worked up and always hot, and he was so nervous, and he never was to his full potential.

Q. Who made the final decision not to sell the horse?

A. You did.

Q. Could somebody have gotten hurt with that horse?

A. A good possibility.

Q. And could that horse have turned out to be a nothing?

A. He could have.

Q. Isn't it a fact it took everything you did to keep that horse in the ring?

A. Yes, sir.

Q. Sandy, at the time you showed that horse, how much did you weigh?

A. 220 pounds.

Q. Now, there's an elaborate saddle. What is that saddle made out of?

A. Sterling silver.

Q. Who saddled -- who owns this saddle and all of this?
A. I did.
Q. Who bought it for you?
A. My mother and father.
Q. What kind of saddle is that?
A. It's a parade saddle.
Q. Made by whom?
A. By Holt Company in Allentown, Pennsylvania.
Q. Did your mother have a nickname?
A. Turnpike.
Q. Turnpike. Why did she have that nickname?
A. Because we used to travel up and down the road a lot and did a lot of shows.
THE COURT: Congressman, we need a number for that, for the record.
MR. TRAFICANT: I don't have a Defendant's Exhibit. Could we just make it SBF-1.
THE COURT: Fine.
Q. What was your maiden name?
A. Brownley.
Q. Now, Sandy, did you have any misdemeanor charges against you?
A. Yes. I was picked up for shoplifting.
Q. You remember the last time you were picked up?
A. Yes, sir.

Q. Do you know who helped you?
A. Well, Chuck O'Nesti said he'd help me, but basically, you did.
Q. How -- who picked you up from the jail?
A. You did.
Q. How many days did you spend in jail?
A. One day.
Q. What, if anything, happened when I picked you up at jail that morning?
A. We stopped and had breakfast, and you told me that --
MR. MORFORD: Objection as to what the Congressman told her. That's something that he would have to testify to.
Q. As a result of having that breakfast, have you had any more offenses?
A. No. Oh, no.
Q. Do you know who was responsible for keeping you in jail that night?
A. You were.
Q. Did you know Chuck O'Nesti?
A. Yes, sir.
Q. Did you see me give Chuck O'Nesti money?
A. No, sir.
Q. I am going to ask you that again. Did you see me give --

A. I didn't see Chuck --
Q. Yes. I didn't ask if you saw Chuck.
A. I'm sorry.
Q. Did you see me give Chuck O'Nesti money?
A. Yes, I did.
Q. On how many occasions?
A. Well, I'd say probably over what period of time?
Q. How many years you live out there?
A. Seventeen years.
Q. How many times did you see --
A. Several times, several times.
Q. -- me give Chuck money?
Did you ever give Chuck money?
A. Yes, I did.
Q. Why did you give Chuck money?
A. Because he said I had board money there for my ex-husband's horses and my horses, and he came to the farm and said he needed -- if you had left any money for him, and I said no, sir, you didn't. And he needed money. So I had some board money there.
Q. How much board money did you have?
A. There was a thousand dollars. It would have been a month's board.
Q. What was your board money per month?
A. $500.

Q. Why didn't you give him the $500?
A. Because I talked to you at that time, and you told me just to go ahead and give him the thousand, and that I didn't -- we didn't owe the next two months board.
Q. Now, you didn't know -- you didn't owe the next two months board?
A. Right.
Q. What was your board money per month?
A. $500 per month.
Q. And why would you have two months in advance?
A. Well, because my ex-husband sometimes would leave that amount of money.
Q. Did you have an experience prior that caused him to leave money like that?
A. Yes, sir, we did.
Q. Explain it to the jury.
A. We had horses for years together. And we had moved, in the process was moving, and we had gone to Kentucky for the championships, and we had sold the farm up in Richfield where we lived. And we boarded them for a short time until we could get our own facilities again.

And during this time we were gone, we were like five or seven days away, and I can't remember exactly how late we were on paying the board, and the man confiscated our horses and did it like a sheriff's sale. The bill of sale,

everything within one day. And we lost our horses.

We lost 14 head, and from that time on, he -- you know, as far as ever being late, forget it, we were never late.

Q. Sandy, are you familiar with Anthony, Robert, and Dan Bucci?

A. Yes, sir.

Q. Where did Dan live?

A. He lived across the street from the farm.

Q. How would you describe your relationship between myself and Dan?

A. I would say you were very good friends.

Q. Would we do things together?

A. Um-hum.

Q. Would he come over to the farm?

A. Yes.

Q. Would I go over to his farm?

A. Yes, sir.

Q. Did you ever see us do anything unusual together in the evenings?

A. Yeah. You had your Trike, and he had his Harley, and you'd go out riding together, and sometimes you'd meet and have coffee.

Q. Do you remember a time when there was damage to the barn?

A. Yes.
Q. To a barn? What barn was it?
A. It was the bank barn.
Q. What's the bank barn?
A. A bank barn is a big barn, two-story, usually built on the side of a hill.
Q. So you could do what?
A. So you could drive up the hill into the top portion of the barn.
Q. For purposes of doing what?
A. I would say for when you unload hay, makes it easier. You could just back your hay wagons in, and you don't have a problem.
Q. Okay.
A. That's what I call it.
Q. What, if anything, happened to the barn?
A. The wall caved in.
Q. Was it a minor damage or a major damage?
A. It was a major damage I would say.
Q. Did you have occasion to see anybody jack up the barn?
A. Yes.
Q. What portion of the barn was jacked up, if you recall?
A. It was the -- the northwest side of the barn. There

was damage done to that whole side that they jacked it up on the northwest of the far end of the barn.

Q. Who jacked it up? Do you remember?

A. There was fellows there, I don't -- no, I don't recall.

Q. Was he there with me?

A. They had come out with you, but I don't know --

Q. They came out later?

A. Through the present when they jacked it up or not, I couldn't answer that because I wasn't there. I just saw you come in.

Q. But I was present when he came?

A. Um-hum.

Q. Are you an engineer?

A. No, sir.

THE COURT: Can you speak up?

THE WITNESS: No, sir.

Q. In your opinion, would the barn have fallen if it was not jacked up?

A. Yes, sir.

Q. Were you worried for the horses?

A. Very much so.

Q. Did we move horses?

A. Yes, sir.

Q. Do you know who did that damage?

A. The Buccis.
Q. Did you have conversation with the Buccis about that condition of the barn?
A. Yes, sir.
Q. As a result of that conversation, what, if anything, did you determine?
A. I determined that they were worried that you were really going to be upset because of the damage done, because they had been told, in my presence from you that you --
MR. MORFORD: Objection to anything they were told by the Congressman as hearsay, your Honor.
THE WITNESS: I'm sorry. Okay.
THE COURT: Um-hum.
Q. Only what you know.
A. Okay.
Q. Do you know why the concrete was being removed in the big -- in the bank barn downstairs?
A. Yes.
Q. Why?
A. Because it was to lower the floor and also for safety precaution so that the stalls weren't that high.
Q. Was not the bottom of the -- what was the bottom of it usually used for in the old days, do you remember?
A. It was for cows.

Q. You know what kind of cows?
A. No. They're just cows.
Q. Are they as tall as horses?
A. No, sir.
Q. Are saddle bred horses big horses?
A. Yes, sir.
Q. Do you know who owned the farm, Sandy?
A. While I was there, yes, sir.
Q. Back then, who owned the farm?
A. Your father.
Q. Why do you say it was my father?
A. Because he told me.
Q. Did you meet often with my father?
A. Quite often.
MR. MORFORD: I'm sorry. I didn't hear the last question.
THE WITNESS: Quite often.
Q. What time of the day would you meet with my father?
A. He would stop in early in the morning, 6:30, 6:00 sometimes. I was an early riser, and we'd go have coffee.
Q. Were you close friends of my father?
A. I loved your father.
Q. Did you know what my father did after he had breakfast?
A. Yes. Sometimes I would go with him. We'd go off to

visit your mother's grave. I'd be right along with him. He'd talk, always put flowers on the grave almost every single day.

Q. Did there come a time my father was going to move into the farm?

A. Yes, sir.

Q. Did he move into the farm?

A. No, sir.

Q. What, in fact, occurred?

A. Well, I offered to have him move in with me, because I really didn't have an extra bedroom and told him we could take the living room, make him a bedroom because he had sold his property, but he had met a real nice lady friend that I had known for years, and he decided to move in with her.

Q. Do you know if he rented over there?

A. He rented, yes. He got a place, separate dwelling, but he rented there.

Q. Did he still come to visit you?

A. Oh, yes.

Q. Do you know a man named Pete Bucheit?

A. I met him one time.

Q. Describe how you met Pete Bucheit?

A. Your father introduced us.

Q. Were you in their presence? Were you close to him?

Did they introduce you?
A. Yes, sir.
Q. Where were you when they introduced -- when you met --
A. It was down by the barn, by the first barn. It was down the driveway within -- from the middle of the driveway to the very first barn.
Q. What were they looking at?
A. Well, they were looking everywhere, but they were primarily looking at the foundation wall of the back of the house where the deck was.
Q. Was there something wrong with the deck?
A. Yeah, it was bad back there. It was the bottom portion of it needed repairing.
Q. Now, was there a two-story deck with a roof on it?
A. Yes.
Q. When they looked at it?
A. Yes, sir.
Q. As a result of them looking at that, what is the next thing that happened?
A. Well, pretty soon they started to come out and repair it.
Q. What did they repair first?
A. I think the bottom portion. And they put -- your father and I used to talk, and I -- may I speak freely, or

I just have to answer directly? How does that go?
Q. Why don't you just answer my questions?
A. Okay.
Q. You can speak freely, but just answer my questions.
A. Okay.
Q. Did they do the bottom first, the pillars underneath?
A. Yes, yes.
Q. Did you have a conversation with my father after that?
A. Yes, I did.
Q. As a result of that conversation, what happened?
A. They started to close in a portion of the right side of the deck, the top roof, and put some boards around it, the top of it. I don't know what you'd call it.
Q. Do you have personal knowledge of me coming back and seeing that work done?
A. Yes.
Q. What, in fact, effect did my comments have on you?
A. You wasn't real happy about it, and how did I feel about it? I wanted it closed in. I asked him if he'd close it in so that we'd have a little privacy there. You objected because you wanted --
MR. MORFORD: Objection to what the Congressman said, your Honor. Again, we've been over this.
Q. Sandy, would you ask the workers out there to do

certain things?
A. Um-hum, yes.
Q. Would they do them?
A. No.
Q. Who would you talk to?
A. Your father.
Q. As a result, what, if anything, happened?
A. Well, things got done.
Q. Do you know if I had conversations with those workers about those things?
A. I would say after you talked with your dad or whoever you talked to. You seemed to know what was going on.
Q. Were those workers there full-time for six months?
A. No. They were there off and on. Sometimes they'd be -- they'd be there maybe three or four days, and other times you didn't see them for awhile, maybe two weeks to three weeks sometimes.
Q. Sandy, when was the first time you met with the FBI?
A. When they played the tapes for me or played a tape for me.
Q. As a result of them having played that tape, what happened to our relationship?
A. I was mad. I didn't like you anymore; didn't want anything to do with you.
Q. Did you have occasion to call anyone?

A. I called you.
Q. What, if anything, did you say?
A. I told you I couldn't understand after 17 years of having a wonderful friendship, being my very best friend, that you would have -- try to have anything -- any harm done to me, and I couldn't believe it. And I read you off, and I said everything I could say to you out of meanness that I was feeling.
Q. Did you swear?
A. Oh, I might have. I can't exactly --
Q. Did you cry?
A. Oh, yes, I was crying the whole time because I was hurt. My heart was hurt.
Q. Did you hear my voice on the tape?
A. Yes -- oh, no, no. No, I thought you meant talking to you, what was your reaction. I'm sorry.
Q. When you heard this tape?
A. Yes.
Q. Did you at some point make a public statement?
A. Yes, sir, I did.
Q. Who encouraged you to make that public statement?
A. Well, it was kind of a -- I had talked to one of the FBI agents, and I said -- I couldn't understand -- I was -- I was very scared. This really startled me because I was never in a situation that I had to fear for my life because

I never had -- was around people and I had to worry about things like that.

And the Dan Ryan show was on, and I was talking to an agent that day from the FBI's agency, and I said I wonder what I should do, and it was -- it was a -- I can't express myself.

I said I wonder what I should do. Well, sometimes he said if you go public, that it's better for you because you don't have to worry. Then the heat is off of you. So I decided at that moment I would go public and say what I had to say.

Q. And what did you basically say?

A. I said I could not understand why you would want to hurt me or harm me in any way.

Q. Did you ever ask the FBI on that first tape who was it that wanted to hurt you?

A. Well, I heard the tape.

Q. And what did they say when you asked them? Did you ask them any other questions about that tape?

A. I had them play that tape twice because I couldn't hear what -- I could not believe what I was listening to.

Q. And what, if anything, did they say to you?

MR. MORFORD: Objection, hearsay.

Q. As a result of listening to that tape, whom did you fear?

A. I feared you. And I feared Clarence Broad.
Q. Okay. The FBI do anything to protect you?
A. Yes. I was put into protective custody, taken away in protective custody.
Q. Where were you taken?
A. To Louisville, Kentucky.
Q. Why were you taken to Louisville?
A. That was my choice. I could have gone -- they would have taken any place, but I had a girlfriend that lived there, and we were very close, and I felt secure there.
Q. Did they pay for your flights?
A. Yes, sir.
Q. Did you have any dogs?
A. Yes, I had two dogs.
Q. Did the Government pay to keep your dogs in kennels?
A. Yes, sir.
Q. How much did they pay to keep your dogs in kennels?
A. Originally $750. I think I went back and got a few other dollars because it was a little bit more money than that. I can't -- I think it was $750 and then maybe $50 more.
Q. Did you have four horses on somebody's property?
A. Yes, I had --
Q. Whose property were the four horses on?
A. Yours.

Q. Did the Government, to the best of your knowledge, did I get paid for that?
A. No, sir.
Q. Do you still own those horses?
A. Yes, sir.
Q. Did I allow you to take them?
A. Pardon me?
Q. Did I allow you to take them without paying for them?
A. Well, I -- I chose the last two months not to pay the board on those horses because I was angry with you and for what I was going through. I took the horses.
Q. Were you ever advised to sue me?
A. No, sir.
Q. Now, who paid for your expenses in Kentucky?
A. I did and my friend.
Q. Were you reimbursed by the Government?
A. No, sir.
Q. Who provided the food?
A. Well, I got some money from -- I had -- my ex-husband sent me some money and my friend.
Q. And the Government didn't reimburse you for your food?
A. No, sir.
Q. Did they fly you to Cleveland to the Grand Jury?
A. Yes, sir.

Q. How many times?
A. Well, they flew me to Kentucky. I was in Kentucky. They flew me here to Cleveland. I stayed -- my ex-husband and I stayed here, and they flew me back to Kentucky.
Q. Did they fly you back to the Grand Jury?
A. And then they -- no, just one time, and then they flew me back home.
Q. So there's a two round-trip flights to Kentucky, from Kentucky to Cleveland, Cleveland to Kentucky, and then Kentucky to Cleveland?
A. Yes.
Q. Three flights?
A. Yes.
Q. How did the FBI treat you, Sandy, when they first were talking with you?
A. Nice. I liked them. They were very friendly.
Q. Treat you like a queen?
A. Yes, I'd say so.
Q. Now, you testified before the Grand Jury, didn't you?
A. Yes, sir.
Q. You know who was asking you the questions?
A. Mr. Morford.
Q. Is he in this room?
A. Yes, sir.
Q. Point to him.

A. Sitting here on the corner.
Q. Right there?
A. Yes, sir.
MR. TRAFICANT: Let the record reflect she's identified Mr. Morford.
THE COURT: Yes, she has.
Q. Now, did you truthfully testify before the Grand Jury, Sandy?
A. Yes, sir, to the best of my knowledge.
Q. What was the tone of Mr. Morford's query of you at some point?
A. Well it ran hot and cold. Sometimes he was nice, and other times his tail feathers I would say, were ruffled a little bit.
Q. Did he accuse you of anything?
A. Well, he brought up about the offense of the shoplifting, and it hurt me.
Q. Did you cry?
A. Not in the courtroom, but as soon as I left the room, I did, yes.
Q. Did you say anything to Mr. Morford in the Grand Jury room?
A. I just answered his questions.
Q. Now, after you testified truthfully, were you now being treated like a dog?

A. I'm sorry. Rephrase that.
Q. I said after you testified truthfully before the Grand Jury, were you now being treated like a dog?
A. Well, wasn't nice to me. He didn't like me. His other agents were nice to me. I can honestly say they treated me nice.
Q. Well, did they treat you like they treated you before when you made the public statements?
MR. MORFORD: Objection, these are all leading questions, and this is direct examination, your Honor.
THE COURT: Congressman, we need the testimony from her, not from you.
BY MR. TRAFICANT:
Q. When you left that Grand Jury room, how did you feel?
A. I felt belittled. I felt ashamed. I felt -- I didn't feel good. My heart was hurt that I was so embarrassed because of what was brought up. I'm ashamed of that. I'm not proud of that.
Q. And at some particular point, did you come to find out that I was indicted?
A. I hadn't given any thought. I don't know, I guess you were indicted or read it in the newspaper.
Q. Did it have anything to do with you?
A. No.

THE COURT: You need to speak louder, please.

THE WITNESS: No.

Q. As a result of that, did you do anything?

A. I -- I don't quite understand your question.

Q. After you found out that there was nothing about you that dealt with the indictment, did you do anything concerning me?

A. Oh, no, no. I just didn't do anything.

Q. Did you have occasion to meet with me?

A. Well, I'd see you at the farm.

Q. Who stopped at the farm?

A. When the -- when?

Q. After -- after the indictment and everything come down, what was the purpose of your coming to the farm?

A. I am kind of mixed up here.

Q. Okay. You went through this whole ordeal. Then you found out --

MR. MORFORD: Objection to the leading questions. He's testifying.

THE COURT: Just ask her questions one by one.

Q. Did you and I have a conversation relative to that whole ordeal you went through with the FBI and protective custody?

A. Yes. I came to the farm to apologize to you and to

tell you I was sorry. That's what I --
Q. What did you tell me?
A. I said that I'm very, very sorry, Jim. I said I felt in my heart at the time -- I didn't know what I felt. I didn't know if you were guilty or innocent, but since the fact that Clarence Broad was not even left, it was brought up, and he wasn't even a witness here. I wasn't called. I felt as though I felt used, and I felt bad, and I felt as though that our friendship was worth more than what I'd gone through because I realized that I felt used. I didn't feel that this was right.
Q. Who used you?
A. The FBI. I felt in my heart they did.
Q. Are you afraid of being here today, Sandy?
A. No, I'm not.
Q. Where is your husband right now?
A. He's at home in bed.
Q. Does he need attendance?
A. Yes. I have a nurse with him.
Q. Do you take care of your ex-husband?
A. To the best that I can.
Q. Did he spend the weekends with you at the farm?
A. He was there almost every weekend.
Q. Did you spend weekends with him in Canton?
A. Yes, sir.

Q. First time you met with the FBI, where was it?
A. It was at his apartment. We had just gotten back from a horse show in Lexington, Kentucky, and I met them at his apartment.
Q. Where did they take you?
A. We went to Wendy's.
Q. Is that when -- what did they do then?
A. They told me that there was a death threat on my life, and they wanted me to hear a tape, an audio tape.
Q. Now, before this ordeal occurred, was your husband active with horses?
A. Yes, not as active as he was in his younger days, but yes, he was.
Q. What, if anything, would you see him do?
A. He would come to the farm. He would long-line some of the horses.
Q. What do you mean by long-line?
A. You put up the bridle and a belly pad around -- their surf, single and two lines, and you go behind them, and it's on the ground. And you work them in circles, large or small, and twist and turn.
Q. Now, after this ordeal, what happened to your husband?
A. Well, when I had gone to Louisville, Kentucky, he was very, very concerned about me. He was very worried, and we

talked two or three times a day, and I have to say I was very -- very upset. I -- and I think through my being so upset, I upset him. And I just -- it was just terrible. It was -- this was something I really wanted to forget about. I was really upset.

Q. Did he have his heart problems after the FBI tape or before the FBI tape?

A. Well, it was after. He was active. He was working. He was at that time 80 years old. He was driving up here to Cleveland everyday. He had a part-time job and fit as a fiddle and golfing and just great, doing great.

Q. Did Tony Bucci stop at the farm?

A. Yes.

Q. Would he make any requests of you?

A. Yes.

Q. What would he ask you to do?

MR. MORFORD: Objection, hearsay.

THE WITNESS: He would ask me --

MR. MORFORD: Objection hearsay.

THE COURT: Hold on.

THE WITNESS: Sorry.

THE COURT: We get into this same --

BY MR. TRAFICANT:

Q. As a result of Tony Bucci's visits, what, if anything, would you do?

A. I would be asked to call Chuck O'Nesti.
Q. Did Chuck stop at the farm a lot?
A. Yes.
Q. Did you know Chuck's reputation?
A. Not really. I just knew Chuck. I just knew Chuck for the time that I had known him. I didn't know too much about him, just that he had been a fireman, and he worked for you.
Q. You didn't know anything about any bad reputation?
A. Well, towards the last, hearsay again, I've always been taught you don't believe half of what you see and little of what you hear, but I would hear little rumors off and on.
Q. Did he consider you -- did you consider him a friend?
A. I considered you a friend. Chuck was an acquaintance and someone that I knew.
Q. That day when you handed Chuck the money, did I show up that day?
A. Um-hum, later on.
Q. Was Chuck still there?
A. No. He was in a hurry to leave.
Q. Now, these men that worked on the deck, did they build a new door downstairs?
A. No, sir.
Q. How many years did you live there?

A. 17 years.
Q. Was that the door that went into the basement when you first moved in?
A. Yes, sir.
Q. Do you know who built the deck?
A. You built the deck.
Q. Did you see me build the deck?
A. Yes, I did.
Q. And did the deck almost fall in?
A. Yes.
Q. Did you ever meet with the Internal Revenue Service?
A. No, sir.
Q. Now, when you testified truthfully at the Grand Jury, how did you perceive the attitude of the questions changing?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. At the time you testified at the Grand Jury, was that not on or about the time you thought I was involved in having you murdered?
A. It was a little later than that. I was in Kentucky when I was called to the Grand Jury.
Q. And what were you doing in Kentucky?
A. I was in protective custody.
Q. From whom? Did you ask from whom? Did the FBI ever

tell you whom they were protecting you from?
A. No.
Q. What, if anything, did they say to you. Did you ask them?
A. Well, just that --
MR. MORFORD: Objection, hearsay.
THE COURT: Yes. It's the same problem. Just rephrase things, Congressman, you know.
Q. Did you question the FBI why you had to be in protective custody?
A. Well, I felt it a little strange. No, I didn't directly ask them the question, but I felt that it was strange that Clarence Broad was incarcerated, and I was still in protective custody.
Q. So what, if anything, did you learn as a result of that?
MR. MORFORD: Objection, unless she had firsthand knowledge.
THE COURT: Right.
Q. Did you meet with the FBI after that and inquire whom you had to fear since Clarence Broad was already in custody?
A. Your name was never brought up. They never mentioned your name, the FBI.
Q. What, if anything -- what, if anything, did you

learn, though? Were you advised to do anything?

MR. MORFORD: Objection, hearsay.

THE COURT: Yes, it is hearsay. You can't answer it. Okay?

Q. Are we friends now, Sandy?

A. I hope we are. I feel we are, yeah. I'd say we are.

Q. Are we friends like we were before, Sandy?

A. No. In my -- I will always have that little doubt in my heart before I'd put my life in your hands, and I felt secure. Now, there's a shadow of a doubt.

Q. Why?

A. Was you or was you not part of that little deal on that tape? I'm being honest. I have that in my heart. I feel that I don't know if I can --

Q. Let me ask you this.

A. -- fully trust you.

Q. Let me ask you this: Do you fear me?

A. No. I really don't fear you, no.

Q. Are you worried about seeing me?

A. Seeing you?

Q. Yeah.

A. No. Or I wouldn't have came to the farm to apologize to you.

Q. Do people back home fear me, Sandy?

A. I never knew anyone to fear you.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. MORFORD: Your Honor, I have a fairly long cross-examination, and I know you haven't taken a morning break. So I don't know if you want to --

THE COURT: We're way over due on our morning break, so we'll take it right now even though it'll push you against lunch a little bit, but I think it's better we all take a break. And we'll do that. So we'll take a 20-minute break rather than 30-minute. You get a break, too.

THE WITNESS: Oh, thank you. Okay.

(Thereupon, a recess was taken.)

THE COURT: You're still under oath, and do speak out so everyone can hear you. Thank you.

CROSS-EXAMINATION OF SANDY FERRANTE

BY MR. MORFORD:

Q. Good morning, Mrs. Ferrante?

A. Good morning.

Q. We have not seen each other since how long?

A. Quite awhile, since I was here for the -- in front of the Grand Jury was my last encounter with you.

Q. Well, did we talk at the time of the Clarence Broad sentencing?

A. Oh, yes. I'm sorry, yes.
Q. You came there as a victim to watch those proceedings, correct?
A. Yes, sir.
Q. And what, if anything, did you tell me regarding your appreciation for all you felt we had tried to do for you?
A. I was very appreciative of your -- of all connected to you at that time, that you -- that you looked out for me. I felt in my heart that you really were caring about me.
Q. And you thanked me at that time, correct?
A. The only thing I felt about was I wanted to ask Clarence why he would want to do something because a week prior to this all coming about on that Saturday, when -- or when this had taken place, I wanted to ask him why he would want to do anything to harm me. And you said it's best that you don't ask any questions. Just let it go. That's bothered me.
Q. You used to work with Clarence, correct?
A. No. I never worked with him.
Q. Well, you -- you lived out on the farm, correct?
A. Yes, sir.
Q. And what was your job and position out there?
A. I was kind of an overseer kind of a person who would make sure things got done.

Q. Make sure things got done where?
A. Down at the farm.
Q. And what was Clarence Broad's position at the farm?
A. Well, he was -- he was an on again-off again type person.
Q. But when he was on again, what was his position?
A. He'd feed the horses.
Q. So you worked with him at least with respect to his horse duties, correct?
A. Well, I can't say I worked with him because I never -- I never really was crazy about him because he didn't do anything right. I would go down and see if he did feed, I had to always double-check on him because he was a -- he lied. He was a liar.
Q. Okay.
Isn't it true that at times you told us you felt he was a low life?
A. Oh, he definitely was in my eyes.
Q. And that you did not like Clarence Broad?
A. I can't say I did -- I never said I didn't like him, no. I never said that. He was a likeable person really. He had a big smile on his face, and he was a small talker, and he would -- he would make you laugh.
Q. Did you tell us at one time that you felt that he was not mentally stable?

A. I would say that he was -- yeah, I said he wasn't wrapped too tight at times, and I meant that. That's how I felt.

MR. TRAFICANT: I didn't hear that.

THE WITNESS: I said he wasn't wrapped too tight at times.

Q. Did you also tell us you felt he was dangerous?

A. I don't recall saying that I thought he was ever dangerous. I did say that he -- I knew that he had had a past record. He lived in Florida, and that he was -- he was very streetwise. I don't know if I told you that, but that's how I felt, and I didn't know -- yeah, I wouldn't say I really ever trusted him because he lied.

Q. And isn't it true that that day when I told you you're best off not talking to him and leaving well enough alone --

A. I listened to you.

Q. Is it true based on what you had told us what was on that tape that he's not a stable person and that talking with him could perhaps cause him to make calls or cause more problems for you; isn't that true?

A. I don't recall that. I do not truthfully honestly recall you saying that. I recall you saying I would advise you not to ask him any questions, and I said okay, Mr. Morford.

Q. And he was in custody at that time, correct?
A. He was in the courtroom, yes.
Q. In the custody of the U.S. Marshals, correct?
A. Yes, sir.
Q. In jail clothes, correct?
A. Yes, sir.
Q. So if you were to talk to him, you would have to go to jail to talk to him?
A. The Judge asked me, is there anyone here that would like to ask Mr. Broad any questions, and I was going to -- because I wanted to know why. I had been in two months, in protective custody down there. I was worried. I was worried about my animals. I was worried about my horses. I was worried about my ex-husband, my family, and why would this man do something like this or want this done to me. Yes, it bothered me, and I wanted to know why.

And when the Judge said is there anyone here, I wanted to yes, stand up and say yes. I'd like to know why, and I mentioned that to you. I said yes, I would like to, Mr. Morford, and you said no.

Q. Well, ma'am, let me ask you this. Isn't it true the Judge asked if anyone wanted to address the Court. He didn't ask if anyone wanted to ask a question.
A. I took it I could speak my mind.
Q. At that time, I was sitting at the table like Mr.

Kall is here, correct?
A. You walked over to me.
Q. I walked over to you at the end of the hearing, did I not?
A. No. You -- I believe you walked over to me at that time, and I wanted to say yes, I want to say something.
Q. Let me ask you this.
At the conclusion of that, you shook my hand and thanked me for everything we'd done for you, correct?
A. Yes, because I felt that you were directing me in the right direction there. Sure, I did.
Q. And since that time, you've had conversations with Congressman Traficant, correct?
A. I've talked to him a couple of times, yes, sir.
Q. On how many -- how many occasions would you do this?
A. I went out to the farm to apologize to him, a couple of other times.
Q. Isn't it true he has suggested to you perhaps we did some things that were wrong regarding Clarence Broad?
A. He never suggested anything. I came to my own conclusions.
Q. You never talked that matter over with the Congressman?
A. I apologized to him.
Q. No. My question is: Did you ever talk with the

Congressman about whether or not the Government did anything wrong with respect to Clarence Broad's situation? Yes or no.

A. Rephrase that again. I'm sorry. I didn't quite --

Q. My question is: During the time you met and talked with Congressman Traficant on several occasions since the time of the Clarence Broad sentencing, have you and he talked about --

A. About Clarence Broad?

Q. No, about these suspicions that the Government may have done something wrong regarding Clarence Broad?

A. No. I came to that conclusion myself because I could see that he wasn't a valued enough witness to be present. I wasn't called. He was taken to be incarcerated, and here I am still in protective custody, and I wondered hey, what's going on here? I never was contacted later on.

Q. And so it's your testimony that with all those concerns you never once talked to him with -- about them with Congressman Traficant during all these meetings?

A. I just apologized to him. I said, you know --

Q. That's not my question, ma'am. My question is: During all those meetings, you never once discussed with Congressman Traficant these concerns you just told the jury you have?

A. No. I didn't have any need to because I came to my

own conclusions.
Q. So you and he never talked about this situation with Clarence --
A. I didn't mention it. I want to forget that. That's something I want to forget.
Q. And in preparing you to testify before this jury here today and knowing he was going to ask you questions about Clarence Broad, he never once asked you about these things, is that your testimony here this morning?
A. That's true.
Q. Just went in cold and said surprise me?
A. You know what he told me? Tell the truth to your best knowledge.
Q. That's not my question.
A. Is tell the truth.
Q. My question relates to what you and he talked about with respect to Clarence Broad.
A. I just told you.
Q. Nothing.
A. That's nothing then.
Q. Okay.
Now, you testified on direct examination that at the time you came in the Grand Jury, that I was nice and then at some point I became not nice, correct?
A. Yes. I got very -- I felt very bad.

Q. Isn't it true the entirety of your irritation was the fact that I had asked you about the allegations of the shoplifting?
A. Yes, sir.
Q. And that made you extremely upset?
A. Yes, because I didn't see -- I wasn't on trial here. We were -- we were -- it was a different story. And why would you want to bring up something that I was ashamed of. And it hurt my feelings, yes, and I seen you got red in the face, and when I didn't answer questions, prior to that before you said that, you asked -- I can't remember what you asked me -- but you got upset with me. And I could see you getting irritated, and then you threw that at me, and it hurt me, yes, it did.
Q. Ma'am, there were 23 Grand Jurors in that room, correct?
A. I -- I have no idea.
Q. Well, you were there. Do you remember if there was a whole group of ordinary citizens watching that question?
A. I just remembered everybody was in the back. I couldn't tell you how many. I was nervous. I was scared.
Q. Well, isn't it true that the questions about the shoplifting came at the very end of my cross -- or my examination of you?
A. I wouldn't say at the very end. I would say it was

close to the end.
Q. Wasn't it --
A. I know you asked me questions, and you kept telling me, and you got angry with me with your tone of voice because you were nervous, you were getting mad at me, and then you threw that at me, and yes, it hurt me, and I --
Q. But that's not my question. My question: Isn't it true that was the very last thing you were asked at the Grand Jury?
A. I can't remember; can't remember. That's been -- what? -- a year ago, over six, eight, ten months. I can't remember.
Q. Isn't it true after we finished your Grand Jury questioning you told me how upset you were that I would have the audacity --
A. I didn't tell you. I told your agents, who I liked, Chuck Perkins and Rich. I told them, and I cried. I went in the room, and I said why? Why would this man want to embarrass me when I'm not here on trial and to belittle me in front of the Grand Jury. What is his point?
I said why would he do this? And that was my exact sentiments.
Q. And you were very upset about that?
A. I was hurt.
Q. And isn't it true --

A. More hurt than upset. I was embarrassed.
Q. Isn't it true I then came to you and explained to you why I felt I needed to put that on the record?
A. No. Chuck Perkins explained to me why. Chuck said, Sandy, don't feel bad. He's -- he's bringing this out in case it's brought out later on if you're called back, that will just be kind of an oversight that -- and it'll be already aired. That's what exactly what I was told.
So Chuck hugged me, and I said okay. That's -- I don't remember you coming to me and saying you were sorry. You never -- you didn't like me. I felt that the first time I met you when I came to your office. You were asking me questions and took me a little bit of time. I wanted to tell you the truth. You didn't even give me a chance. You just cut me right off, and you went on to something else.
So I knew that you didn't care for me.
Q. That was your opinion all along?
A. That was my own personal opinion.
Q. Well, let me ask you this.
Isn't it true, with respect to the shoplifting incident, that there were several shoplifting incidents?
A. There was five total, four maybe -- I think four.
Q. And over --
A. Yes. In the course of the time I worked at the farm, I didn't have -- and I always did it for other people being

a good hearted Samaritan and trying to do -- and yes, I'm not proud of my past. Those are the only things that anybody has against me, and I stopped. I learned my lesson.

Q. Over how long a period of time was it that you were arrested for shoplifting from the first incident?

A. The very first time it happened I was just married.

Q. So what year would that be?

A. I was married in '67, and my husband went to Kansas City, and my husband was Italian. He was very tight fisted. I had to write down to the penny what I spent. If it was for a loaf of bread, I had to write it down. And he was coming home from Kansas City, and it was Christmas time, and I didn't have any money for a Christmas tree and used the money for the dinner I was going to prepare for him, and I cooked a roast and threw it out the window.

Q. Can I interrupt for a moment? Was this the type of situation where when we met the first time occasionally I would interrupt you?

A. I never talked that much to you. I talked to your agents. I didn't talk to you very much.

Q. Well, you just told the jury about an occasion where we met, and I asked you a question and a couple times would interrupt you and asked you to come back to a certain area, and you felt that I didn't like you; is that correct?

A. I felt you didn't care for me.
Q. Were there times where you would go to tell a story with lot of details, and I would interrupt and say can we come back because I want to focus on a certain point?
A. Well, I just felt that you asked me a question, and maybe some people can say it in two words. Maybe it takes me ten words, but it's my truthful feeling, and it's how I perceive it. So I -- if it's just -- you know, everybody to their own. Maybe I just couldn't express it as quick as you wanted me to.
Q. The -- during the time that you lived out at the farm, how many times were you arrested for shoplifting?
A. Let me think: I was once arrested in Pennsylvania.
Q. What year probably?
A. I can't remember. I don't want to remember.
Q. How far back are we talking?
A. I would say -- well the very first time -- I never dated again for 22 years.
Q. No. During the time you were at the farm.
A. I can't remember. It was just a period of some years. I can't say. I honestly can't remember.
Q. Did it all occur in a year or --
A. No, no. It was off and on, and I would get -- somebody wanted something. I wouldn't have the money. I didn't have money. And I was always trying to be the good

Samaritan and always the one who was going to help everybody. And my family would come, my nephews would be in trouble. They gave money, and I wouldn't have money to give them. And I'm wrong. I'm not sitting here saying -- I don't recall how many times. You -- I'm sure you know.

Q. I'm just asking you about approximately how many times were you actually arrested for shoplifting?

A. I think four.

Q. Okay. During the time you were out at the farm, is that right?

A. Possibly, makes three. I'm not sure.

Q. Isn't it true that on each of those occasions you went to Congressman Traficant and asked him for his help?

A. No. I called the office and would talk to Chuck O'Nesti. And Chuck always said that he'd help me out. But, in fact, I -- Jim was the one who was behind it. I'm sure. But Chuck always took the -- said oh, Sandy, I helped you out. And it was Jim the last time kept me in jail for a day, and I learned a good lesson. And --

Q. Let's talk about the time prior to that. Isn't there times you told Congressman Traficant you had been arrested, and Chuck O'Nesti called the police and asked them to drop the charges because you worked for the Congressman?

A. I always called Jim. I'd say, oh, Jim, I'm sorry, and I'd apologize, and I felt bad.

Q. Isn't it true that there were times Chuck O'Nesti contacted local police and asked them to drop the charges because you worked for the Congressman?

A. I don't know exactly what Chuck would say because I was never there.

MR. TRAFICANT: Objection. She doesn't know what Chuck's thinking.

THE WITNESS: Right. I have no idea what he said.

Q. Were you ever present when Chuck --

MR. TRAFICANT: Okay. What was made? Are you sustaining it or what? I made an objection.

THE COURT: Thank you, Congressman. Now I'll rule on it. The objection is sustained, and now you can ask another question.

BY MR. MORFORD:

Q. Were you ever present when Chuck O'Nesti talked with the police?

A. Oh, no.

Q. Going back to my question then, I'm not sure what the answer was. Were there times you were arrested, and you went to Congressman Traficant and asked him to help you get out of trouble?

A. I would tell him about it, yes, and I'd say, what am I going to do, and I would tell him, yes.

Q. Let me ask you this: Do you recall testifying to the Grand Jury as follows:

"Question: On several occasions that you were arrested, isn't it true that Congressman Traficant attempted to contact the police and get them to drop the charges?

"Answer: I asked for his help, yes."

A. But Chuck O'Nesti always took a claim for helping me. And that's exactly what I said in the Grand Jury. I never said that he helped me. But I was sure he was behind it. But I said Chuck always took the credit for helping me.

Q. Ma'am, my question to you is were there occasions you got arrested and went to Congressman Traficant and asked him to contact the police in order to get them to drop the charges?

A. I never asked him to contact the police, ever.

Q. You asked him for --

A. I don't recall saying -- I asked him -- I'd tell him I need your help. I would say I need your help, but I don't know if he contacted the police. Why would he contact the police? That isn't who would help me.

Q. Let me read this question:

"On several occasions, you were a respected -- isn't it true that Congressman Traficant attempted to contact the police to get them to drop the charges?

"Answer: I asked for his help, yes."
A. Well, maybe I didn't quite understand that at that time.
Q. So now you're sitting here saying today that didn't happen?
A. I was nervous. Do you realize what I had been through, Mr. Morford, prior to that?
Q. That's not my question. My question is: As you sit here today, you're saying that testimony is true or not true?
MR. TRAFICANT: Objection. Asked and answered, she said she can't recall.
THE COURT: You can answer.
THE WITNESS: I really don't recall. And that's the truth.
Q. Well, you testified that Congressman Traficant was the one that contacted the police and had them leave you for one night in jail, correct. Isn't that what you told the jury?
A. I -- that's what I -- yes, he told me that.
Q. So?
A. Afterwards, he told me when he picked me up and we went for breakfast, he says you know why, he says, you spent a night in jail? He said -- he said I hope you learned your lesson. I said oh, I did. I never want to be

back there again, ever.
Q. So your testimony --
A. Maybe I'm not understanding. I'm just being honest with you. You can put it any way you want and maybe try to make me -- I'm just trying to explain to you.
Q. I'm not trying to put it any way.
A. Okay, all right.
Q. My question is this:
When you told the jury that it was Congressman Traficant that caused you to spend the night in jail to help you get over this program -- problem, as I understand, what you're telling us now, that's based totally on what Congressman Traficant told you that day; is that correct?
A. Well, he told me that, yes.
Q. But you have no other basis?
MR. TRAFICANT: Objection for the record on hearsay.
THE COURT: You can -- you can answer. You were just about to answer something. You can go ahead and answer. The objection's overruled.
THE WITNESS: Well, yes, I would talk -- would I tell him? He'd come home on weekends. I said, Jim, I am so sorry. I don't know what's wrong with me. I'm always helping people out and trying to do good things for people, and I'm wrong. I'm wrong. I will sit here and

say I'm sorry to everybody. I'm -- I learned my lesson.
Q. Wasn't it true when you were asked in the Grand Jury this question, "did Congressman Traficant ever tell you that he would contact the police in your behalf," you said "never. Personally, he did not, no, he never did himself"?
A. That's because Chuck told me he was always the one that helped me. Charlie would say he'd come out and say Sandy, you know what? I would say, I'm so sorry, Charlie. Thanks a million because I would talk to Charlie on the phone directly after something. I contacted Charlie when Charles was there.
Q. It was your testimony that Congressman Traficant never contacted the police on your behalf. How is it then that now you're testifying that he was the one that arranged for you to spend the night in jail?
A. Well, this was the last time. That was it. That was -- that's what he said. And I thanked him for it because I learned a valid lesson; couldn't get me to take a straight pin.
Q. So you believe you spent that night in jail because Congressman Traficant arranged that, is that your testimony?
A. Well, I would assume, yes.
Q. Based on entirely what he told you?
A. I can only say what he said. He said Sandy, you

learn a lesson? And I said oh, yes, I have.
Q. Isn't it also true when you testified at the Grand Jury you told the Grand Jury that you don't always trust Congressman Traficant because there were many times he lied to you?
A. Yes, I did say that. Yes, I did.
Q. And as to whether or not he was telling the truth that day in the restaurant, you have no way of knowing?
A. I knew he was telling the truth. I knew when he would tell me little stories. They weren't great major lies. He would say little things pertaining to the horses, to the barn, to little things, and I'd say oh, brother, you can put that tail on the end of your comb. I used to tell him, I know you're not telling me the truth. And I just sort of brushed it off, and that would be the end of it. And when I said he lied, those are lies, white lies are lies. But I knew when he was telling the truth and when he wasn't.
Q. On the first four times you were arrested, did you suffer any penalty? Were you jailed or fined or anything?
A. The very first time for the roast?
Q. That was back in the 60's, but during the time you lived on the farm, during the time that you would ask Congressman Traficant or Mr. O'Nesti to help you, did you ever have any penalty until the very last time?

A. I was taken with my cousin to jail, but we didn't stay.
Q. I mean --
A. The bond was put up, and I was released.
Q. Prior to the three or four times you asked the Congressman or Mr. O'Nesti to help you, you never had any penalty?
A. What type of penalty? Yeah, I had fines and community service.
Q. No type of jail at the time on those other occasions?
A. No. No, sir. No, but I was told the last time, if you ever, ever do it again, they'll throw the book at me, and I said you don't have to worry, I'll never do it again. And I never will, ever.
Q. I'd like to ask you some questions about the nature of your relationship with Congressman Traficant that would relate to your feelings for him, which would relate to any bias you might have here today.
A. Um-hum.
Q. He asked you in the beginning if you were his girlfriend. You said no. Are you a dear friend? You said yes, correct.
A. Yes.
Q. How exactly would you describe the nature of this relationship?

A. As I told you in the Grand Jury, it was kind of a love-hate relationship. I loved him like a brother, and we were very, very, very close. I loved him dearly because he was always there for me. And my dislike for him was always pertaining to the horses, things down at the barn, things that the horses needed done, like being shoed.

I'd say, Jim, please put some shoes on the horses, and he'd say they have to learn to earn their shoes, little things like this. And I disliked him for it because being a horsewoman and knowing that you don't -- you can't make a silk purse out of a sow's ear if you don't have something to work with. They needed shoes to protect their feet so I could work them and see and let them be worked.

And I -- you know, I would get terribly upset with him. And he has an up and down personality, as you well know. Sometimes he's -- he's as nice and dear and sweet and lovely and the next minute he's like a raging bull. So you know when he ruffled me, I'd ruffle him, and I disliked him.

Q. Isn't it true that you have the same tendencies, would that be fair?

A. Oh, I'm sure I do. I got them -- I'm all Irish.

Q. Were there times you lashed out at him?

A. Several, yes.

Q. You stated in the Grand Jury that you felt he almost

treated you like a wife at times; isn't that correct?
A. We were so close, yes, we were terribly close. I mean, we were just -- I saw -- I was like he was my left arm, and I was his right. I mean, we just were close. But we weren't involved sexually if that's what you're getting at. No, we did not have a sexual relationship. We had a true friendship, one you could count on your five fingers in a life time.

And when this all come down about this murder business and me getting whacked, yes, I was devastated because here sat a man that I truly loved dearly and thinking that there was a possibility that he can endanger me and want me killed for what, to worry that I might say something or whatever? I couldn't understand it. And I was so -- I was enraged over it. Then I got to thinking. You know what? You count your friends on your five fingers in a life time. He's still my friend.

Q. And that was a friendship?
A. Yes.
Q. A close friendship you'd had for 17 years?
A. Yes, yes.
Q. And that's something you missed during the time?
A. I missed it terribly because I missed him. I missed telling him -- when I'd get up or get down, I am kind of -- I'm an emotional person as you can well tell. I mean, when

I'm up, I'm up, and when I was down, I was down. And he always tried to pick me up and try to say, Sandy, it's not as bad as you think, and I can count on that and kept going on that. That was the basis for our -- you know, I missed that. I truly missed it.

Q. I think you indicated to us before that during those years he may have been the most important person in your life?

A. Never the most important person. My mom and dad was, I mean --

Q. In terms of apart from your immediate family?

A. Pardon me?

Q. Apart from your immediate family, in terms of someone you talked with and shared with?

A. Right, my ex-husband. I can't over -- I mean, he was Number 1, and I'd say Jim was Number 2, sure.

Q. Now, turning back to Clarence Broad, there came a time when Clarence Broad was hired to work out at the farm, correct?

A. Well, I don't know if he was considered hired. He put a roof offer over his head because he came up from Florida, and he had children, and he had no place to stay, and he came out there, and he wanted -- he asked Jim through other people that had been there if he could move in there, and if he could help out around there, there was

a roof.

And that's exactly what it amounted to, but as I said, he wasn't a good worker. He wasn't a real credible person, and I agreed to that.

Q. Regardless of what he was paid or how he was paid, he was brought out to work as a farmhand on the farm, correct?

A. He wasn't brought out. He brought himself out. He lived -- he stayed there.

Q. He was allowed to move into the house because --

A. Yes. I didn't want him to. I -- I told him, I said can't you see this guy's not going to be -- he doesn't even know straight up about horses. Jim said, oh, give him -- he said, Sandy, give him a shot. The guy doesn't have any place to live.

So that's what I did. And I said okay. It's all right with me. But I didn't like him. No, I mean, I liked him, but I didn't like him. As I said, he was a likeable person to the degree --

Q. Which was it? You liked him or didn't like him?

A. How can you say? Some people you like; some people you can't stand. Other people -- he was a guy that one minute you liked him. He was kindhearted. He'd laugh. He'd -- I don't know. He had a way about him. He was just that kind of a guy, and then other times, he would -- you could catch him in lies. Naturally, you didn't like him.

Q. Let me ask you this: When you testified at the Grand Jury, do you remember this question and answer:

"That was not someone you liked at all; is that correct?

No."

"You considered him to be a low life?

"Yes.

"He was a pot smoker and didn't take good care of the horses?

"Answer: Terrible."

"You also indicated to us you hounded Mr. Traficant for a period of time?

"That's true."

"Trying to get him to fire Thad. Is that correct?

"Answer: Yes."

A. Yes, that's all true. I did say that. And I meant that. But, as I said, at times, you couldn't -- you couldn't help it. I even invited him at Christmas. He had no place to eat dinner. I had all my family there. I felt bad. I said if you want to, you could have dinner. You're welcome.

Q. Aside from all that analysis, you disliked him enough that you went to Congressman Traficant and asked him to fire Thad, is that correct?

A. Yes, because --

Q. You don't need to explain. I don't want you to dislike me for cutting you off.
A. I am not disliking you for it, but the reason I went to him was because the horses were being neglected.
Q. My question is: You did go and ask Congressman Traficant to fire Clarence Broad, correct?
A. I didn't ask him. I told him to get him off the farm. He was a menace really. He didn't -- he was terrible there towards the end. You see, he was there off and on.
Q. Please, ma'am, I'm going ask you to try to respond to my questions because we'll be here a long time. Okay?
A. Okay. I'm sorry.
Q. You also at one time -- Congressman Traficant did not fire Clarence after you requested it, did he?
A. No.
Q. And you went back to him on several occasions and came a point of dissension between you and the Congressman; is that correct?
A. Big time.
Q. And there came a time you threw him off the farm yourself, correct?
A. I told him to get out, yes.
Q. After you told Clarence Broad or Thad -- is Thad his nickname?

A. Yes.
Q. After you told Clarence Broad to get off the farm and he left, isn't it true that Congressman Traficant became extremely upset with you?
A. Yes, sir. Yes, he did.
Q. And that led to a large fight and dispute between you and Congressman Traficant, correct?
A. Yes, sir.
Q. And at that time, would it be fair to say that you kind of went crazy a little bit?
A. I'd say I wasn't at my best point, but, yeah.
Q. Let's put it in real terms: Isn't it true that you took a knife and went out and slashed the tires?
A. His four tires. I said the only way to get to you is in your pocket book.
Q. And so you took --
A. That's exactly what I told him, and I slit four of his tires. I stuck a knife. I said, now am I proving a point to you? I says get this man off the farm. I said the horses down there are not doing well because of him. And, yes, I did do it. I am not proud of that either, but I did it out of fit of anger.
Q. You said you took a knife and slashed his tires and said this is the only way I can get to you. What did you mean by that?

A. Because he's easy -- he trusts people. He goes along like Thad.
Q. That's not my question.
A. I am telling you why I did it.
Q. My question is not why you did it. What did you mean when you said the only way I can get to you is to slash your tires?
A. Because he's thick headed when it comes to trying to tell him something. You don't tell him. He just sloughs it off. She's told me numerous times he sloughs things off. He's this kind of guy. He can't -- you know.
Q. Isn't it true --
A. It doesn't sink in.
Q. Isn't it true you told the Grand Jury that you slashed the tires because you knew the only way to get his attention was to hit him in his pocketbook because he's cheap?
A. I'm sure if I said that -- he was cheap, he has been cheap.
Q. Now, did you slash his tires on more than one occasion?
A. Yeah. I think I did two or three sets of them, one right after another. The trucker come back, put them on, and I sliced them, and they put them on again.
Q. Did there come a time towards the end you were

standing with a knife, and you and he had an argument over Clarence Broad's presence?

A. Yeah, I think there was. It was at the very end, and he was standing there and Clarence, and I said instead of cutting those tires, I ought to shove this into you. Yeah, I probably said that. I'm pretty sure I did.

Q. That all happened prior to the time that the FBI then later came to you with a tape involving Clarence Broad, correct?

A. Yes, that was prior to that.

Q. And when the FBI brought that tape out and played it for you, it's at that time that you began telling us about all these other incidents, correct?

A. I had -- played the tape for me at Wendy's.

Q. I did or the FBI did?

A. The FBI.

Q. Okay.

A. And I heard it, and I had them play it again, and then I said, oh, I just can't believe that he'd do this to me. I can't believe he was behind this, and your FBI agents indicated he was behind it, in a roundabout way they -- they did not mention his name, but I felt that they indicated it, and on the tape, it was very evident that it was. I thought it really was. In my heart, I thought it was. I thought he was.

Q. That's not my question. My question is: After you were shown the tape, isn't it true you then began telling the FBI about all these other incidents that had happened out at the farm?

A. Yes, yes, because I was upset. Yes, I was mad. I wanted to -- that's why I called him on the phone.

Q. But my point is --

A. He was saying Clarence Broad is my friend, and I'm thinking, my God, I've had 17 years of friendship.

Q. Ma'am, please, I'm going ask you to try to really pay attention to my question and restrict your answer to my question.

A. Yes, sir.

Q. My question: Simply after you listened to the tape, isn't it true that then you told the FBI about the tire slashing incidents?

A. I probably did. I'm being honest. I say what I think.

Q. Didn't you also tell the FBI at that time that during one of those encounters Congressman Traficant turned to Mr. Broad and said something like we need to get her out of here, or she needs to leave? We need to get her off the farm or something like that? You recall telling the FBI that?

A. Yeah. He was mad after those tires. He wanted me

out of there, yes.
Q. Didn't you also tell the FBI after they played the tape that for a period of about six months the Congressman had been very cold to you?
A. I said he totally changed, yes, I did say that.
Q. Isn't it true you told the FBI at that time that, quote, have you ever felt like you're a victim before something happens, unquote, remember making that statement?
A. I don't remember if it was phrased that way. I knew he'd changed. I knew he was cold. I knew his whole personality had changed.
Q. Let me ask you this: On Page -- I believe it's Page 71 of your Grand Jury transcript --
Well, I'll --
MR. TRAFICANT: What page is that?
MR. MORFORD: I believe it's Page 71, Line 14.
Q. "Answer." This is you speaking: "Have you ever felt like you're a victim before something happens?"
Do you recall that?
A. No, I don't recall that. I truthfully don't.
Q. Now --
MR. MORFORD: Actually, your Honor, I have sort of a new area related to this but given the time --
THE COURT: Yeah. It's a little past time

for lunch so we're going take our lunch break now, and remember all your admonitions, enjoy your lunch, and we'll see you at 1:30.

(Thereupon, a luncheon recess was had:)

Monday Session, March 25, 2002, at 1:30 P.M.

(Proceedings in the absence of the jury:)

THE COURT: Congressman, this morning, you filed three motions, and I've had time to look at them, and the Clerk's Office also called up to say they were having difficulty reading some of the words in them. So I wonder whether you could have somebody print these out for you or do something -- something so that we can be sure what we're reading.

MR. TRAFICANT: They are? Would you like me to have them try to get them typed and delivered to you tomorrow?

THE COURT: That'll be fine.

MR. TRAFICANT: I could read them for you if you want. That would take a lot of time.

THE COURT: That would take time. They'll be accepted as having been filed today, but I think -- I just can't consider them until I can see them better. So as soon as you can get something that's clearer, doesn't have to be typed, but it has to be a little more clear.

MR. TRAFICANT: Thank you.

THE COURT: So now we can go forward with the jury. I just want to say that because of the weather outside, our normal habit is that we would collapse the -- or the mid afternoon break and give our jurors a little bit

more time to get on the highway because some of them are going two and a half hours each direction in order to get home tonight.

So rather than having a long break in the middle of the afternoon like we normally do, we'll collapse that into a smaller amount, depending on where we are. But the lawyers and you, Congressman Traficant, and I can still stay here until 6:00. Okay?

MR. TRAFICANT: I object to that.

THE COURT: Okay. Well, the jurors have a long way to go and they --

MR. TRAFICANT: No. I want the jurors to go home, but I --

THE COURT: You don't want to stay?

MR. TRAFICANT: I don't want to have to stay until 6:00.

THE COURT: We can talk about that when we get there. Thank you.

(Proceedings resumed in the presence of the jury:)

THE COURT: Ladies and gentlemen, we are going to shorten your mid-day breakdown so you can go earlier today. We're going to try and let you leave around 4:00, and we'll probably have a break, but it'll be a much shorter one. Okay?

THE JURY: Okay.

THE COURT: It may be spring by the time you go home.

(Laughter.)

THE COURT: You're still under oath, and you still need to speak loudly and use the microphone. Thank you.

THE WITNESS: You're welcome.

THE COURT: Mr. Morford.

BY MR. MORFORD:

Q. Ms. Ferrante, did you talk with Congressman Traficant during the luncheon break?

A. Yes, I did.

Q. Did you talk at all about your testimony?

A. No, not really. We talked about -- just he told me to be honest, try to remember all the major and minor things.

Q. So during the middle of my cross-examination?

A. I am out of breath.

Q. Okay. Just take a minute.

A. Okay.

Q. So then during the break, you did talk about some aspects of your testimony, correct?

A. Um-hum. He told me just to be perfectly honest, try to remember everything, major or small, try to think back about things that I might have forgotten during my Grand

Jury testimony. I said okay.
Q. Did he go over some specific areas with you that you should talk about?
A. Not anything directly. He just said to try to remember.
Q. Like what, what area?
A. He says things that happened out at the farm.
Q. So during the break in our cross-examination, he went back over with you some things that happened out at the farm?
A. Not -- not directly but indirectly. I mean, not that he didn't bring up anything, remember this, say this, say that. He didn't say any of that. He just said try to remember all the major things that you can remember of the 17 years you were there and all the little tiny things that you might have forgotten. I said okay.
Q. But you and he did talk about some specific things, correct?
A. Like what?
Q. That's what I'm asking you.
A. Nothing major, no, that was it, just what I had talked about to you prior to that.
Q. No specifics whatsoever?
A. No, nothing.
Q. Now, you testified on direct examination that there

came a time when you came to fear Congressman Traficant and Clarence Broad, correct?

A. Yes.

Q. And I'd like to ask you some questions about the basis of your fear. Okay?

A. Um-hum.

Q. Did, as I understand it from your testimony, there come a time where the FBI came to you and advised you that they had received information that your life might be in danger, and that they wanted you to listen to a tape, correct?

A. Correct.

Q. And they had you listen to that tape; is that correct?

A. Yes, sir, twice I listened to it.

Q. And when you listened to that tape, you recognized the clear distinct voice of Clarence Broad on that tape; is that correct?

A. Instantly.

Q. Congressman Traficant was not on that tape at all, was he?

A. His voice was not on that tape, no, sir.

Q. Now, based on listening to that tape, you yourself concluded you had reason to fear that Clarence Broad was attempting to hire a hit man to kill you; is that correct?

A. It was evident, that it was, sure. They wanted $3500 up front and the balance of $10,000 after it was finished that I was murdered, and then whether I was to be found or not found.

Q. Now --

A. That's the reason I said he was a low life. That's another reason. Why should I say he's a nice guy when here he wants to have me murdered?

Q. Now, there was also -- you concluded from listening to the tape that Clarence Broad was claiming that he -- that he had approached an unidentified hit man in Florida prior to the conversation on that tape, correct? Do you recall that?

A. Did I hear that?

Q. Yes.

A. I was told that.

Q. Okay.

A. By you, by your men.

Q. Now --

MR. TRAFICANT: Objection as to hearsay.

MR. MORFORD: Your Honor, it would go to the effect on the hearer, which is why I believe this was brought up on direct in the first place.

THE COURT: Thank you. You can proceed.

Q. Now, it was at that point after you listened to that

tape that you first related and advised the FBI about the tire slashing incidents, correct?

A. Well, they questioned me. They asked me what had gone on prior to this. And I told them. I was honest.

Q. And you told them that you had, over a period of the last six months, been having troubles with Clarence Broad, correct?

A. No, because he wasn't there for six months. He was there off and on. He'd come and go. He'd come back and go, and yes, I did have problems. I did not -- you know, I was disgusted with him.

Q. But you told the agents you had actually thrown him off the farm, correct?

A. Oh, yeah, I did. That's why the tires got slashed because I had -- I said get out and stay out.

Q. And then who hired him back?

A. Well, Jim said he could stay because he didn't have anybody there.

Q. And so you related all that to the FBI after you listened to the tape, correct?

A. Did I what?

Q. At that time, after you listened to the tape, you relayed all those incidents to the FBI? You told them about him, correct?

A. Yes, yes, because they asked me what the past few

months was like there, and I told them.
Q. Isn't it true at all times the FBI told you that their Number 1 concern was your safety?
A. Yes, they did.
Q. And after they had played the tape for you and after you had told them about the incidents at the farm, isn't it true that it was at that point they offered to move you to a safer place until they could sort out what was going on?
A. They did not want me to go back to the farm. As a matter of fact, they wanted to take me that night, and I said oh, no. I got my dogs. I said my dogs are there. I have to go back to the farm and pick them up. I'm worried about them. I have my good silver saddle there. I'm not going to be whirled away someplace and have that. That wasn't even covered with my apartment insurance.
Q. But isn't it true they were more worried about your safety than your saddle?
A. Yes, they indicated that.
Q. And they wanted to, if it was okay with you, it was your call. They wanted to move you to a secure place of your choosing until they could sort out what was going on, correct?
A. Yes. They said we'd like -- we definitely don't want you to go back to the farm. They wanted me to do it that night. I said no, I says -- I said I'll go and stay. I

had my little niece with me. I said, I don't want her to hear any of this. I don't want to frighten her. I'll take her home the back roads, and I will stay at my niece's house that night, and I would meet Chuck Perkins next morning at 7:00 at the farm to get my silver saddle and pick up my dogs.

I took my dogs to the kennel, and then I had gone back to my ex-husband, who had at that time was living in North Canton, and then I was advised to pack my suitcases, and they were going to fly me where -- where would you like to go. They definitely didn't want me there. They wanted me away from my ex-husband; said it wasn't safe there, and I called my friend in Louisville, Kentucky, and asked if I could please come. I said there's been a death threat on my life, and I says I need a place to go. And they said -- so I had told them, and that was fine with the FBI.

Q. So you were the one that picked Kentucky as the place?

A. Yes, that or a hotel, and I would rather be a with a friend than a hotel.

Q. My question was: You were the one who chose the place you ultimately went to, correct?

A. Yes. I asked if I could go there because it was a familiar place, and I was going to be gone for very long. I didn't want to go in a motel room someplace.

Q. You're aware there came a time that Clarence Broad was charged with this conduct, correct?
A. Yes.
Q. And isn't it true it was after Clarence Broad was charged and the media began trying to figure out what the Broad thing was all about, that it was at that time you called the FBI about the radio show?
A. I talked to Rich Denholm, one of your agents --
Q. Okay.
A. -- about it.
Q. But that was after Clarence Broad had been charged, correct?
A. Yes. But it was also said it would be better for my welfare that it would take the heat off of me if somebody else was out there to try to get me.
Q. Wasn't it true that you called Rich Denholm and said I would like to call and talk on this radio show, is it okay?
A. The point -- how it was, Rich Denholm called me. I returned his call.
Q. He called you to say I'd like you to go on the radio?
A. Left a message on my recorder, and I returned his call, and we got to talking, and that's how that was brought up; that it would be safer for me to be able to -- it would be better for my welfare and my safety.

And I said, do you really think it would be, and he said yeah. He says, you know, it will take the heat off. He said you're less apt to be anything to be -- any harm to come to you if you go public with it. So I listened.

Q. Isn't it true you're the one that brought up the topic of the radio show in the first place?

A. I might have, yes. It's very well evident that I could have because it was on the -- it was on Dan Ryan.

Q. Isn't it true that you called -- that you talked to Mr. Denholm and told him you had a friend who told you you should call the radio show?

A. I don't recall that, Mr. Morford.

Q. Wasn't it true when you asked Mr. Denholm if it was okay for you to call the radio show, he told you although you have a First Amendment right and can say anything you want, and that he can't tell you to talk or not talk, that you'd probably be better off not doing it?

A. No. He did not tell me that.

Q. Isn't it true --

A. I don't recall him ever saying it would be better that I didn't do that.

Q. Do you recall him mentioning that you do have a First Amendment right, and he couldn't tell you not to do it?

A. He might have said that. I -- you know, we're talking about -- I've been through quite an experience.

It's like in front of the Grand Jury, there's things that I forgot. I was nervous.

Q. Now --

A. I mean, my whole life was upset. Just think about it, I came from a wonderful vacation, and I was whirled away, a death threat on my life.

Q. So your answer is, you don't recall all the details of that conversation?

A. I don't really -- no, I really truthfully don't.

Q. I'd like to ask you some questions about the farm. You lived out at the farm for 17 years; is that correct?

A. Yes.

Q. And how would you describe the shape of the farm when you first went out there 17 years ago?

A. I always called it the grapes of wrath if you want to know the bottom line. I never thought -- I mean, it's been painted on the radio and everything as a show place. It's a working barn. It's a farm to me. It's not a Lexington, Kentucky, or Louisville place by a long shot.

Q. Isn't it true you described it in the past as being quite rundown?

A. Yes, that's what I'm saying. It still is rundown as far as I'm concerned.

Q. And isn't it true that there are times that you have complained to people that one of the reasons it's so

rundown is because the Congressman's cheap and won't fix things that need to be fixed?

A. I have said that the Congressman's cheap, and he was cheap at different times. And then he was generous at other times.

Q. Isn't it true you complained to people there are things that need to be fixed, but he's too cheap to fix them, your words?

A. There always got to be a reason why something needed fixing, and that's the reason I always said you have some money, and I don't have any because I'm the type that would go and fix it right away, whether I had money or not, and he's the type that would think about it and think and think and think. It really needed to be done.

Q. Isn't it true you stated in the past that Congressman Traficant doesn't like to pay to have things done, that he's a trader. He's a huckster and likes to trade?

A. He's a huckster and likes to trade. If he can get a job traded for something, he loved it. I mean, if you mowed my hay, I will come help you mow yours, things like that. Yeah, he's -- he always was like that.

Q. Isn't it true that you've also stated that he would go out and try to find people who would come out and work on the farm for free because of his position?

A. No, I never said that. I never said that. I said

people dropped off there and would come there that needed work and needed a home and needed a place to stay. He never went out looking for people. They always flocked to him because they didn't have a roof over their head the majority of them.

Q. Bringing your attention to the Grand Jury testimony on Page 67, Line 20, isn't it true that you were asked this question and gave this answer:

"Question: I believe one of the things that you told the agent is that there were many times that people came out to the farm and offered to help Jim Traficant because of who he was, and that Jim Traficant would allow them to do him favors and overwork them until they got angry and left? Do you remember that?

"Answer: Yes. People went out there and volunteered their services, and he was a slave driver."

A. Well, he was.

Q. It was like being in a concentration camp. He wouldn't give them anything. He would just say I need more work done. I have to go back and get people that wanted to offer their services.

Isn't that your answer that day?

A. Here's how I -- what I said there was yes, he -- he was a slave driver. He'd come home on the weekends, and everybody was cracking, and people would come out there and

offer their services. And I'm talking about friends. I'm not talking about contractors and everybody else. People would come out and offer him a hand to do whatever it was on that farm. And he did work them to death, and I'd make him stop and take them water and feed them a sandwich because he's -- he's a nonstopper. I've watched him come home from Washington and get in there at 9:00 and work from 9:00 at night until the following day until he was done. He never stopped. All night long he'd work mowing or doing whatever he had to do. A lot of times he'd come home on weekends and have to clean stalls and wouldn't stop until they're done.

Q. Ma'am, the question for the Grand Jury was specifically regarding people that came to the farm and offered to help Jim Traficant because of who he was, and you said yes, correct?

A. Well, if it was -- you know, I was nervous during the Grand Jury. There's a lot of things of this and that. Maybe I did say that. I don't recall, but I do know that I have no reason to lie. I'm telling you what I can remember, and that's all I can tell you.

Q. But the truth is, you know that the Buccis were out at the farm doing work, right?

A. Yes, I knew the Buccis were there.

Q. On your own firsthand knowledge, apart from anything

Congressman Traficant might have told you, you had no idea what the arrangement was with the Buccis as to how they would be paid, correct?

A. I thought there was a bill that the Buccis presented. If I recall, I told you in your office.

Q. Isn't it true you told us you only knew that from what Congressman Traficant told you?

A. No, I did not say that. I don't recall that. I can't remember if I said that, but I do know one thing: That they came out there, and they -- Jim didn't like them. He liked Dan Bucci.

MR. MORFORD: Your Honor, I would ask -- this is unresponsive and going into hearsay.

THE WITNESS: It might be hearsay; it's a fact.

THE COURT: What we have to do in a court is have someone ask a question and have the witness answer.

THE WITNESS: Okay.

THE COURT: And then someone asks a question, and then the other side gets a chance to do that. We just do it so we don't let people just come up and talk.

THE WITNESS: Okay. Thank you, Judge.

THE COURT: So the jury can hear both sides. Okay?

THE WITNESS: Well, I don't know procedures.

THE COURT: It's nothing wrong. It's not easy to get used to. Just relax, listen to what he says, and try to answer the question he asks. Okay?

THE WITNESS: Okay. And I'd also, Judge, may I say something?

THE COURT: No.

THE WITNESS: I just -- okay.

THE COURT: That's what you can't do here.

THE WITNESS: Okay.

THE COURT: If we were sitting around talking, you could. All right?

THE WITNESS: Okay.

BY MR. MORFORD:

Q. Reading from your Grand Jury transcript at Page 30 and 31, beginning at Line 17, weren't you asked these questions and gave these answer?

"Now, with respect to some of this work that was done, were you aware of some people called the Buccis that came out and did some work?

"Answer: Yes.

"Question: Were you personally involved in discussions with the Buccis as far as what they would do or what they were doing and what they were charging and how they were being -- to be paid?

"Answer: No, sir.

"Question: So any information that you would have regarding that would have come directly from Congressman Traficant; is that correct?

"Answer: Yes, sir.

Isn't that, in fact, your testimony under oath?

A. I can't remember if I said that. I said that. I mean -- but I do know that I was --

Q. I'm sorry. There's no question.

My question was: Was that your testimony under oath?

A. If you said it was.

MR. MORFORD: May I have one moment, your Honor? I have nothing further.

THE COURT: Congressman, you may inquire.

MR. TRAFICANT: Yeah, I have some questions.

REDIRECT EXAMINATION OF SANDRA FERRANTE

BY MR. TRAFICANT:

Q. Sandy, did I coach you at all?

A. No, you did not.

Q. Now, Mr. Morford just put you through some rough questioning, didn't he?

MR. MORFORD: Objection to the characterization, your Honor.

THE COURT: Well, everybody was here. We all heard what happened. So go ahead.

Q. How did it compare with his tone at the Grand Jury?

MR. MORFORD: Objection.

THE COURT: You can answer that.

THE WITNESS: Well, he's nicer today than he was then. He's being nice to me. He's talking softly, he's talking nice. When we got in the Grand Jury, he was red faced and just like this. I mean --

Q. I didn't hear you.

A. At the Grand Jury, he got red in the face, and he was -- he seemed angry with me. That's the reason when I left the courtroom I was crying. I felt intimidated.

Q. Now, he had asked you, wasn't it a fact he came up to you and tried to console you and apologize to you after the Grand Jury testimony, is that true or false?

A. That's false.

Q. Now, he had shown you Page 31. You have Page 31 of what he just showed you?

A. I don't have anything.

Q. Read that.

THE COURT: Just read it to yourself.

MR. TRAFICANT: Read it to yourself.

THE WITNESS: I'm having a hard time seeing. Is your glasses magnifying? Can I borrow them?

MR. TRAFICANT: See if you can read that.

THE WITNESS: Thank you. I cannot see it. It's so blurry.

BY MR. TRAFICANT:

Q. When you testified to the Grand Jury, were you very nervous, Sandy?

A. Very nervous.

Q. Were you frightened?

A. Pardon me?

Q. Were you frightened?

A. I was frightened over the whole ordeal, yes.

Q. I have a number of questions for you. Did you testify truthfully on the stand about slashing my tires?

A. Yes, sir.

Q. Did you testify truthfully on the stand about shoplifting?

A. Yes, sir.

Q. Was that embarrassing?

A. Very.

Q. Did he use that tone of voice that he used today at the Grand Jury?

MR. MORFORD: Objection.

THE COURT: You've been over that and over that. Would you please go to a new question?

Q. Did you testify truthfully about Chuck O'Nesti?

A. Yes.

Q. What is important about the barn aisles, Sandy?

A. Well, you try to keep them clean.

Q. Why do you have to keep a barn aisle clean?
A. In the summer months, it's to keep the flies down, and for -- like during the summer months, flies -- if you have -- of course, everybody knows that debris brings flies, and manure if it gets on the horse's legs, it creates bogs, like little eggs that form on horses' legs, and bogs cause worms that get into the blood stream of a horse and kill a horse.
Q. Did you ever take it upon yourself to make sure that the aisles were kept clean when you were there?
A. Yes, good many years, I did.
Q. Was that one of the major problems he had with Broad?
A. Yes.
Q. Did you ever ask the FBI to allow you to visit with Thad Broad?
A. Yes, I did, on several occasions.
Q. Were you ever able to visit with Thad Broad?
A. No, because he was always moved from one place to another.
Q. Now, when the Prosecutor was going over about when the Judge said is there anybody that has any questions or wants to make a statement, did you want to make a statement?
A. I wanted to ask Thad, yes, I wanted to ask him why.
Q. Who stopped you from making the statement?

A. Mr. Morford.
Q. Do you know a man named Penny Pennington?
A. Yes, I do.
Q. Would you explain how you knew him?
A. He shows horses, and I've known him for a good many years.
Q. What kind of horses does he show?
A. American saddle breds and primarily parade horses, the type of horses that I've always shown.
Q. Did he have occasion to call you?
A. Yes, he did.
Q. Relative to what?
A. He wanted to buy some -- a couple horses, maybe one horse, two horses, and he knew that I had a -- your horse showing that was a world champion and said, do you have any more in the barn like that? I said he has a barn full of good horses. You ought to come take a look.
Q. Did Mr. Pennington ever come to the farm?
A. Yes, he did.
Q. Did Mr. Pennington talk with you and me?
A. Yes, he did.
Q. Did you see Mr. Pennington do anything?
A. When?
Q. After we concluded our conversation?
A. Yes. He -- he purchased two horses from us.

Q. How did he purchase the horses?
A. We bought them.
Q. How did he pay?
A. Oh, he -- he paid -- he had cash.
Q. And what did you see next?
A. You didn't want to accept it. You said no, give me a check, and he said -- he said I don't deal in checks. He says pay me cash. I'll pay you cash, and then you said he'd come over to me and said, you know, you've been in the horse business a good many years. He said money talks. And he says, you know, you sometimes can get paid in cash and get it cheaper. I said I know, but in this case, I said you've got to do what he wants you to do.
Q. Did you see him hand me cash?
A. Yes, I did.
Q. Did I accept the cash?
A. The first time, no.
Q. The second time?
A. Yes, you did. You took it.
Q. How many horses did he buy?
A. He bought two.
Q. Are you under treatment now, Sandy?
A. Pertaining to my health, you mean?
Q. Yes.
A. Yes. I have been a long time.

Q. Did they intensify after the FBI meeting with the tape?
A. Well, nerve-wise, yes. I mean, I -- I gained weight. I've gained 40 more pounds, and I've been -- you know, I would say -- I can't blame the tapes for my -- everything, but, gentlemen, I was nervous. I was upset. I ate more. I was, you know, I just -- the weight creates more back problems, more knee problems. So I'm doctoring for a lot of things.
Q. How much did you weigh approximately at the time that they played the tapes?
A. Probably 250 pounds. And I weigh 300 now, so --
Q. Did he ever demean you in public, Sandy?
A. No.
Q. Was it an election time for me when you made that public statement?
A. Yes.
Q. Did I ever make a statement about your public statement in the press?
A. No.
Q. When you apologized to me, were you crying?
A. Well, not when I first came. But, yes, I started to cry real bad. And I still feel bad, very bad. I'm hurt. I've been hurt over it all, and I just -- I feel bad about everything.

Q. You miss the farm?
A. Oh, and I have spent the last 17 years of my life there. Yes, it was a big expense. I had to move. I didn't have the money. I had a four-bank garage filled with stuff, antiques my mother and dad left me, a house full of furniture from my marriage with my ex-husband, and here I was, I didn't have any place really to go.

So -- I left everything at your farm. I had no choice, and I went to live with my ex-husband. So yes, it was a big -- it was a big thing for me. It was a mental and a physical big thing.

Q. What is the physical condition of your husband today?
A. He's in bad shape. He's -- he had the two heart -- the open heart and the two strokes, and he's pretty much flaccid on his left side, and he can't do anything himself.

He has totally -- he's -- he can walk with assistance, with somebody holding him, but it's not good. And he can only go like four steps. We have him in therapy now.

Q. How many years have you been divorced from him?
A. I got a divorce in 1987.
Q. And who is his primary caretaker today?
A. I am. We live together. We stay together.
Q. You help him with the bathroom?
A. Yes. I do everything possible for him.

Q. I'm going onto show you something.

Was there a time Chuck O'Nesti was being bantered around about being a member of organized crime, Sandy?

MR. MORFORD: Objection on hearsay grounds unless she has some firsthand knowledge.

THE COURT: She may, so --

MR. TRAFICANT: Look to the bottom of it.

THE COURT: You will have to establish some reason why this witness -- this could be --

MR. TRAFICANT: I want to show it to her.

THE COURT: -- used with this witness. Well, it's not just showing it to her. You have -- we can do this, at a short break, the afternoon.

MR. TRAFICANT: Let me try to establish it.

THE COURT: Okay. But don't show it to her first. First just try to establish some basis why she has any knowledge of it.

BY MR. TRAFICANT:

Q. Did you ever see anything that sort of like vindicated Mr. O'Nesti of ties with organized crime?

A. Yes, the newspapers, and things.

Q. Did Mr. O'Nesti ever handed you anything to show that he was clean?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. You have any personal knowledge of having seen anything concerning Mr. O'Nesti's supposed organized crime background?

A. Yeah, I can say I did. One time I saw he was passing out things. He brought one out. He gave me one of the papers showing that he wasn't affiliated, trying to prove a point, and gave it to other friends and people. I don't know, I just -- from what I recall, I believe he showed me something like that, gave it to me.

MR. TRAFICANT: Can I show it to the witness?

THE COURT: Yeah.

Q. I want you to look at this very carefully.

THE COURT: Well, look it over, and see if that's what he gave you.

THE WITNESS: Oh, not to read it? Yeah, it looks pretty much like what he gave me.

MR. TRAFICANT: Your Honor, I'd like to put this on the board, put the light on for me.

THE COURT: Congressman, Congressman.

MR. MORFORD: Objection. It has nothing to do with this witness.

THE COURT: Right. We're going to have to -- we have to go over this when we go over the other ones at a break. What we've done so far hasn't established that. We've got a jury here who's able to hear testimony. So

let's do it.

BY MR. TRAFICANT:

Q. Sandy, did you see George Buccella at the farm?

A. Yes.

Q. Do you know who he is?

A. Oh, yes, Butch.

Q. What was he known for?

A. Well, he was a great car driver.

Q. What, if anything, did you see him do out there?

A. He raked your hay, he'd come out and rake hay. He'd come out and put a part on a tractor from time to time. He would help with some of the hay as far as -- he always complained of his back.

He would take hay and take it from the -- from the -- as the bales close to the end and put them on the elevator.

Q. On the percentage of the time that you saw George Buccella at the farm, how many times did he have on office clothes versus farm work clothes?

A. Well, he'd come out -- he would come out, dressed a lot of times in his sports coat and stuff, and he'd fix a part on the tractor, and then I'd see him a lot of times on the weekends, and he'd be in different clothes. I mean, it was just -- you know, different times. I saw him both of -- both ways.

Q. How much would you say?

A. Well, I can't -- how can I say, to honestly answer you, I really can't say.
Q. That's fine.
A. Remember?
Q. When you slashed the tires, did you slash them on the side, or did you slash them on the threads?
A. No, I did it where the white walls are.
Q. Have you slashed any tires since?
A. No.
Q. You know a fellow by the name of Joe Altiero?
A. Yes.
Q. What do you know about a fellow by the name of Joe Altiero?
A. I was asked at the Grand Jury and showed a paper of a sketch, and I did not recognize him, not at all. They asked me several times. I said I did not -- I don't know him. I'm sorry. This man they said broke bred at your table. I said I can't remember. I don't remember him. And then one day, the -- two FBI agents came to my home in Heartfield, Chuck Perkins, and Rich Denholm and showed me another picture, which was much better, and I said I do remember him. I says -- I said I do remember him.
Q. What do you remember about him?
A. He came to the farm, and he helped out some there. He didn't know a lot. He did help. I remember I felt bad

for him. He didn't have a place. He broke up with his girlfriend, and then I proceeded to even tell the two FBI agents who told me that he was so broke. He was getting KFC chicken out of the dumpster and eating it.

They put it in bags because they weren't allowed -- they had to throw it away, and he'd go over to KF Doctor on South Avenue and eat it because he was that desperate and destitute, and that's what I remember of him. And he also told me he cleaned stalls at the Ohio State Fair. I asked him if he had ever had any experience, and he said he did. He cleaned stalls after the state fair.

Q. Did you ever see him turn a horse out?

A. No, he wasn't a horseman. He couldn't handle them. No.

Q. Sandy, if he was --

A. He was afraid of them really.

Q. If a horse is in a stall, would you turn it out in the field, in barb wire?

A. Not saddle bred you wouldn't. The type of horses you have, and I have, perhaps.

Q. Did you see them over a period of six months?

A. No, um-um.

Q. Did you see --

A. Maybe, or two, three weeks.

Q. By the name of Richard Rovnak?

A. Yes, I remember him.
Q. Richard Rovnak come out to the farm?
A. I didn't remember -- I can honestly say I didn't remember it. I saw his ad in the paper, but I did remember him later on. Yes, I did see him at the farm.
Q. When did he first start coming to the farm?
A. He came out there, and he wanted a job.
Q. You know if he ever got hired?
A. I really don't know if he did or didn't. I assume he did because I never saw him back after he was there off and on for about a week, and I never saw him back again.
So I don't know if you hired him or not because he wasn't of any interest to me.
Q. Was Anthony Traficanti out at the farm?
A. Yes, he was.
Q. And what did Anthony Traficanti do?
A. He helped -- he helped with the hay.
Q. And what did he basically do with the hay?
A. He would help -- he had asthma real bad, and he -- he couldn't breathe, and he'd come out there, and he was -- he's just a lovable big guy and wants to help you, and he'd come and couldn't breathe, and he'd wear a mask. And you kept on him about his weight all the time, and he said I'm coming out here to use this for a horse and ended up eating spaghetti in my kitchen.

Q. Did you make spaghetti for all the people?
A. I used to cook a lot. I love to cook, and I -- yes, because you worked -- you worked them to death sometimes up there. Say, no breaks no breaks, we got the weekend here, and got to go, got to go. I'd fix sandwiches.
Q. Are you familiar with making hay, Sandy?
A. Yes.
Q. What happens to hay if it gets rained on?
A. Gets moldy, and it's ruined, and you have to let it re-dry, and it's never as good as the first time around.
Q. What would we do when we found mold in the hay?
A. After you baled it?
Q. And it was baled and you opened up and --
A. You used to call Dan Bucci and you would tell him to come get it for their cows because I refused to feed it to the horses because it causes colic and can founder a horse, and in both cases, colic can be critical or complete -- it could kill a horse and founder can ruin a horse for life. So they're not of any use again. So I never would let you even think about feeding it.
Q. What's the difference between alfalfa and regular grass hay?
A. Well, alfalfa's the cream of the crop. It's the best hay a farmer could make. And if your a dairy farmers, you mostly feed alfalfa because it's very rich, tiny protein.

Q. If a horse is not used to alfalfa and is fed alfalfa accidentally, what would happen to the horse?
A. Well, they would either colic or again, they could founder.
Q. Would you explain what founder is to the jury?
A. It's when the sole -- the coffin bone drops on a horse's foot, drops down, and a ring develops and a disease sets in, and pretty soon, a lot of times, horses die from that, or they have to -- they get nervous. That's where the fetlock area takes the nerves out so they have no feeling in their feet, and eventually, they die from it because if it's a chronic case -- sometimes there's a rotation of the hoof, and sometimes it can be corrected, but in a lot of cases, it can't be.
Q. Did the horse that we showed on the screen have a problem with --
A. Yeah, he got a little touch of founder. He got a little touch of founder, too, and that was due to that, just a dab, but I -- I got it corrected with the vets, and he did have a little bit of a thrush problem.
Q. Was that the -- was that the bottom line with you and Thad?
A. Yes, it was. Yes. My heart ached because that horse was suffering because of his ignorance.
Q. At the time during the week, where was I?

A. In Washington.
Q. Were you in good health?
A. Well, I haven't been for quite awhile. I was working, and I fell, and first I fractured my lower back galloping a race horse years ago, and then in '86 or '87, I was working and had heals on, got my hook caught in a driveway in a little crease and refractured the lower part of my lower back half.
Q. Did you ever see me with manure all over me, Sandy?
A. I've seen you many ways, yes. I've seen you -- I've seen you dirty, perspiring, working.
Q. You ever see seen me clean stalls?
A. Oh, yeah.
MR. MORFORD: Objection on relevance and also well beyond the scope of cross I should say.
THE COURT: Let's move this along, Congressman.
Q. Are you familiar with my equipment?
A. Yes.
Q. Is it old, or is it new?
A. I'd say it's pretty old. You bought not a -- a few years ago, not too long ago, you bought a nice -- I think it was a baler, a new baler. You had problems after you got there. Seems like your equipment was always breaking down, something was wrong with it.

Q. Did the FBI at any time make you believe deep down that I was behind your murder threat?

MR. MORFORD: Objection.

THE COURT: You can answer.

THE WITNESS: All they would ever say was here, you heard the tapes. I'd say do you think he could really -- I was in doubt. I mean, I heard the tapes myself, and they said you heard the tapes. You heard the tapes.

But they never mentioned your name, I can honestly say that.

Q. Did you ask for a copy of it?

A. I wanted a copy, yes, and I didn't get a copy. I asked her four times for a copy of it. As a matter of fact, I went right to their office and asked for a copy, and they said they wanted me to --

Q. Where was their office?

A. Off of Western Reserve Road.

Q. Now, when you had this conversation with Mr. Denholm, was it --

A. Rich, um-hum.

Q. Rich, whoever it was -- did you suggest to him you would be safer by going public?

A. See, I can't recall that. I just know that we had talked, and it seemed to me that it was the -- in our

conversation, word for word, I can't remember what was said. I just felt it was the best thing, and I got the feeling that he felt the same way.

I mean, I just felt that.

Q. Would you have made that statement had you not talked with the FBI Agent Denholm?

A. I can't honestly answer that. I don't remember truthfully. I really truthfully do not remember.

Q. Are there some buildings at the farm literally falling in?

A. Yes.

Q. The back of the machine's yet falling in?

A. Yes.

Q. Back step down the shed falling down?

A. Yes. The grapes of wrath.

Q. Now, if you saw that picture a thousand feet in the air, how do you think it would look?

A. Which picture?

Q. If you saw a picture of the farm way up high, how would it look?

A. I saw in the newspaper how it looks. It looks real good.

Q. When you get up close and look at the fine points, how does it look?

A. Well, the arena looks nice. The rest is old. The

rest is -- and there is a lot of buildings that aren't nice, and a lot of area in the back that's -- that's essentially terrible.

Q. Now, did anybody ever make hay when I wasn't there?

A. Oh, no, no. You wouldn't let them. Nobody could suit you. Nobody could do anything. You had to be there to make sure everything was being done, the mowing and the tettering, all that was done. It was always a rush job. I even asked if the neighbor could come down one time and mow for you because I was worried about the hay getting too ripe, and you would say, no, no, no. I got to do it. One time Dan Bucci I remember came over and made a patch of hay for us --

Q. Stop right there. Do you know why he came over?

A. Yeah. Your machine broke down.

Q. How much hey did he bale?

A. It wasn't very much. I can't say exactly how many bales, but it wasn't that much.

Q. How would you describe your life now as compared to the day the FBI visited you at your husband's house in Canton?

MR. MORFORD: Objection.

THE COURT: We've heard a pretty good description of all this. The jury can pull this together. We need to stay on what's relevant with this witness.

Q. Mr. Morford was asking you about this ordeal with the FBI. In looking back, were you used by the FBI?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Did you once or twice run hay to the farm?

A. I'm sorry?

Q. Did you drive a hay rake at the farm?

A. Yes. I tried, years ago.

Q. Now, do you know for sure that Chuck Perkins is an FBI agent?

A. He was with them. Yeah, he showed me a badge of some sort when I first met him, when I -- when I heard the tapes. He was a very nice person. I liked him a lot.

Q. Now, when you come out of the Grand Jury room, who consoled you?

A. He did. He has a great warmth. He knew how I was feeling. He knew how upset I was, and he -- he put his arm around me, and he said Sandy, he says, honey, he says, don't take this to heart. And I said, well, he tried to embarrass me in there; he tried to belittle me.

MR. MORFORD: Objection. This has nothing to do with his question. It's been asked and answered.

THE COURT: We've heard this a couple of times now, Congressman, let's move along.

BY MR. TRAFICANT:

Q. Now they asked you about the bartering. What kind of bartering did I do?
A. Well, for instance, across the street, Dan and you exchanged each favors to each other as far as doing hay and doing a favor for him. You'd go over and mow and help him out, that type of thing. I mean, you know, if you could get somebody to give you a hand, you loved it.
Q. Did Dan come over and ever take sawdust out of the barn?
A. Yeah, he did, um-um.
Q. And we used to give him -- you gave him --
THE COURT: Wait. There's no question in front of you.
THE WITNESS: I'm sorry.
Q. You also gave him the straw and molded hay, didn't you, Sandy?
A. Yes, sir.
MR. TRAFICANT: No further questions.
MR. MORFORD: Nothing further.
THE COURT: Thank you so much. Step down carefully.
THE WITNESS: Okay.
Thank you for having patience with me.

BRIAN KIDWELL

of lawful age, a witness called by the Defendant, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF BRIAN KIDWELL

BY MR. TRAFICANT:

Q. Would you give us your full name, and spell your last name?

A. Brian Keith, K-I-D-W-E-L-L.

Q. And where do you reside?

A. I live at 1861 Youngstown, Kingsville Road, Ravenna, Ohio.

Q. How long have you lived there?

A. Since 1985.

Q. Where do you work?

A. Standway Metal Products.

THE COURT: Could you speak a little louder? Would you speak into the microphone like I am here?

Q. Where do you work?

A. Standway Metal Products.

THE COURT: That's good.

Q. What do they make?

A. Tanks.

Q. What kind of tanks?

A. For fuel tanks and gas stations and --

Q. What specific task do you perform there?
A. Weld.
Q. Can you use all kind of welding equipment?
A. Yes, I can.
Q. Did you own any other property?
A. Yes, I owned 1863 Youngstown-Kingsville Road; the adjoining line property.
Q. And if you could speak up. 1863 Youngstown Kingsville Road, what was it?
A. Vienna, Ohio, a rental house.
Q. Did you rent the home?
A. Yes. I did.
Q. Did you at some point come into possession of a welding machine?
A. Yes, I did.
Q. Who delivered the welding machine to you?
A. You brought it.
Q. And where did you pick it up?
A. Your office in Youngstown.
Q. Is it a very heavy machine?
A. Yes, it is about seven or 800 pounds.
Q. You know if it's on its way up here for the jury to see?
A. Yes, it is.
Q. And when is it expected to be here?

A. I'm not sure. The trailer he had it on, the wheel bearing went out of it.
Q. But, it will be here today or tomorrow?
A. Yes, it will.
Q. C-7.
THE COURT: Thanks.
Q. Would you look at this?
A. Yes, that's the machine.
Q. Is that a picture of the machine?
A. Yes, it is.
MR. TRAFICANT: Can I put this on the screen, your Honor?
THE COURT: Yes.
Q. Are you familiar with all kinds of welding equipment?
A. Yes.
Q. Is that the machine that was delivered to you?
A. Yes, it is.
Q. Did you ever use that machine?
A. No, sir. It's never been wired up for use.
Q. How did you get that machine that weights 7 or 800 pounds into your truck?
A. We backed the two trucks up together and tailgate -- the tail gate and roll it on some wheels.
Q. At what location?
A. Your office in Youngstown.

Q. Is that the office on Overhill Road?
A. Yes, it is.
Q. Describe the driveway into that garage.
A. Okay. Go down a little bit.
Q. From the driveway, it goes down hill, does it not?
A. Yes, it does.
Q. How did we transfer that from my truck to your truck?
A. You dropped the two tail gates and backed them in, the two tail gates together.
Q. Where did you take that?
A. To my house.
Q. And where did you put it?
A. Into my garage.
Q. Did you ever start that machine?
A. No. The machine's never been used.
Q. Was there another part of that machine the picture doesn't show?
A. Yes. It is -- it sits on top of the box there. It's a yellow box.
Q. What is that box?
A. The equipment to haul the machine in it.
Q. Now, what, if anything, were you told about this machine?

MR. MORFORD: Objection, hearsay.

THE COURT: Right.

Q. What was your understanding of what the machine was to be used for?

MR. MORFORD: Objection, because it comes from hearsay.

THE COURT: Right, he knows well. Maybe you can rephrase these questions.

Q. Were you to do something with that machine?

A. Yes, I was.

Q. What were you to do?

A. I was going to make some trailers, aluminum trailers.

Q. For who?

A. Aerospace.

Q. Did you have a conversation with any of their principals?

A. Yes, one person.

Q. Who?

A. Richard.

Q. You remember his last name?

A. Detore.

Q. Did you make a trailer?

A. No, I didn't.

Q. Then how did you know what kind of trailer you were to make?

A. They give me the drawings.

MR. TRAFICANT: G-66.

THE COURT: And that's fine.

Q. Can you look through those?

Do you recall this document?

A. Yes, I do.

Q. How did I get this document?

A. Through Richard -- I give you --

MR. MORFORD: Objection, unless he knows from his own firsthand knowledge, your Honor.

THE COURT: Yes, now he's testifying --

Q. Did you have this in your possession?

A. Yes, I did.

Q. Did you give it to me?

A. Yes, I did.

Q. What is that made out of?

A. Aluminum.

Q. What is that welding machine for?

A. Welding aluminum.

Q. Did I have anything aluminum at my farm?

A. No, you don't.

Q. Is that another view of that same thing we've just seen?

A. Yes. That's the back of it, but you need to turn it.

Q. Do you know if a prototype was to be built?

A. Yes.

Q. After the prototype was built, what, if anything,

were you to do?
A. I was going to take a copy of it, see if I could build it cheaper.
Q. Did you ever get a prototype copy --
A. No, I didn't.
Q. Do you know if the company ever built one?
A. No. They never had one built.
Q. Now, are you familiar with a generator?
A. Yes.
Q. What kind of generator was it?
A. A Honda generator.
Q. Did you ever -- who delivered it to you?
A. You brought it in, I picked it up.
Q. Where did you pick it up?
A. At your farm.
Q. Where was it when you picked it up at my farm?
A. On the pickup truck.
Q. Was it real heavy?
A. Yes, it was probably 300 pounds.
Q. What did we do? How did we unload it?
A. The same we did with the welder.
Q. Now, where did you have the welder stored?
A. Underneath the --
Q. The welder, the welder?
A. Oh, the welder was in my garage at home.

Q. Did you yourself buy any further equipment for this welder that wasn't provided for it?
A. No. I ordered a foot pedal but never picked it up.
Q. You ordered a foot pedal?
A. Yes, I did. I never picked it up because it fell through.
Q. Did you have a -- where did you store the generator?
A. I had it in my next door house.
Q. Where in your next door house?
A. A crawl space right between the breezeway and the house.
Q. A breezeway between a house and what?
A. The garage.

MR. TRAFICANT: C-8.

MR. MORFORD: I've never seen this before.

MR. TRAFICANT: It was an exhibit presented on discovery.

THE COURT: Thank you. C-8? This has writing so I have to keep this up here. Don't show him the writing.

MR. TRAFICANT: I won't show him the writing.

THE COURT: Thanks.

BY MR. TRAFICANT:

Q. I want you to take a look at this, and just take a look at it.

A. Yes.
Q. I want to put this on the screen.
THE COURT: See if he can identify it. Can you identify this?
THE WITNESS: Yes. That's the garage to the house after it burned down.
THE COURT: Where is that, Congressman? Would you find out where the -- what the --
MR. TRAFICANT: That was -- what was the address at the house that was burned down?
THE WITNESS: 1863.
Q. Did you report it on your insurance?
A. Yes, I did.
Q. Did you report the generator on your insurance?
A. Yes, I did.
Q. Had you ever started the generator?
A. No.
Q. Have you ever started the welder?
A. No.
Q. Now, in looking at this, what remains?
A. Just the garage that got torn down.
Q. What happened to the generator?
A. It burned in the fire.
Q. And you reported to the insurance company?
A. Yes. But they wouldn't cover it because it was a

rental house.
Q. And you had no insurance on that piece of equipment?
A. No, I wasn't covered.
Q. Now, in this breezeway, what was the floor of that breezeway?
A. The floor was concrete.
Q. And that's where you stored it?
A. It was underneath the house.
Q. You have immunity, Brian?
A. Pardon?
Q. You have immunity?
A. Immunity? No. I never been convicted, no.
Q. You know what immunity is?
A. Tell me.
Q. If you don't know, I can't tell you.
Did the Judge or anybody ever say you had immunity and --
A. No. I've never been convicted of anything or on trial for nothing.
Q. Did you ever get a call from the company about this equipment?
A. Yes, I did.
Q. Who called you?
A. Richard Gear.
Q. Richard Gear?

A. Richard.
Q. Whatever.
A. Yeah, whatever.
Q. Would you remember his name if you heard it?
A. Yes.
Q. Would it be furlough?
A. No.
Q. Detore?
A. Yeah, Richard Detore.
Q. And did, in fact, Mr. Detore call you about this equipment?
A. Yes, he did.
Q. As a result of that, was there to be a meeting between the two of you?
A. Yes.
Q. What was the purpose of that meeting to be?
A. He was going to pick the two machines up.
Q. Was that before or after the fire?
A. Before.
Q. Did you make arrangements to meet with him?
A. Yes, I did.
Q. Where were you to meet with him?
A. On Western Reserve Road at Highway 680.
Q. Is that near the turnpike?
A. Yes.

Q. What, if anything, happened on the day you were to meet with him?

A. He called and told me that to cancel --

MR. MORFORD: Objection to what Richard Detore said.

THE COURT: Okay. We can't talk about what he said to you. Okay?

Q. Did Mr. Detore show up for the meeting?

A. No. He did not.

Q. Did you -- did you come to learn that Mr. Detore was no longer with the company?

A. Yes, I did.

Q. Did anyone else later then call you about the equipment?

A. Yes, one person did.

Q. Do you know whom that person was?

A. I never met the guy before. His name is Al.

Q. Did he talk about the machinery?

A. Yes. He wanted to know if I had it and what I was doing.

MR. MORFORD: Objection to what Al Lange said.

THE COURT: You can't state that.

Q. Did anyone ever pick the machinery up?

A. No, they did not.

Q. People back home like me, Brian?
A. Yes, they do.
Q. People back home fear me?
A. No.
Q. When is your birthday?
A. November 15th.
Q. Do you recall a weekend, the day before your birthday, November 14th?
A. Yes, I do.
Q. What, if anything, did you do?
A. That morning I picked you up.
Q. Picked me up where?
A. Lincoln and Phelps, Youngstown College.
Q. Who gave you the directions?
A. You did.
Q. Are you very familiar with that?
A. Yes.
Q. But are you familiar with Youngstown State University?
A. No, not really.
Q. Did you and I recently visit Youngstown State University?
A. Yes, we did.
Q. Have you noticed changes around Youngstown State University?

A. Yes.
Q. Did you identify the building?
A. Yes.
Q. What time did you pick me up?
A. Somewhere between 10:30 and 11:00. Somewhere in there.
Q. When did you first see me?
A. Coming out of the building.
Q. Was I coming out early or late?
A. You were one of the first ones out.
Q. Have you ever gone to events with me?
A. Yes.
Q. Do I go out later, or do I go out early?
A. You're always one of the first ones out.
Q. What were you driving?
A. 1995 Chevy pickup.
Q. What was unusual about that truck?
A. Regular pickup with a cap on it.
Q. Where did you get the cap?
A. From you.
Q. How much was the cap worth?
A. Probably about a thousand dollars.
Q. Now, during the week, had we been doing something in your garage?
A. Yes, we have.

Q. What were we doing?
A. Building some walls for a hunt.
Q. For whom?
A. For Dominic Marchese.
THE COURT: Could you spell it?
THE WITNESS: I'm not sure how you spell that.
THE COURT: Okay.
Q. Do you know Mr. J.J. Cafaro?
A. Yes, I do.
Q. Did I come out of the building with Mr. J.J. Cafaro?
A. No, you didn't.
Q. Do you know whom I come out of the building with?
A. No. I'm not sure what the guy's name was.
Q. Could you describe him?
A. Yes. He was a shorter guy, grayish hair.
Q. How long have you known Mr. Cafaro?
A. The years -- everybody knows J. J. Cafaro.
Q. Where did we proceed to go from there?
A. Your office.
Q. Why did we go to my office?
A. Pick up the pickup truck.
Q. Why did we need my pickup truck?
A. So I could haul the sides to build the hut.
Q. Why couldn't your truck be used?

A. Because I had a cap on it.
Q. Could we remove the cap?
A. Yeah, we could have, but it would have took a lot of time.
Q. So we proceeded to the office. Where was the truck located?
A. In your office, in your garage.
Q. Did you notice any other vehicles in the garage?
A. Yes, the gardener.
Q. Did you notice any other car in the parking lot?
A. Yes, your car outside.
Q. What color, what color was it?
A. A white car I believe it was.
Q. Did we enter that building?
A. Yes, we did.
Q. Through what door?
A. The main door. It was an access door going in.
Q. Did you start the diesel?
A. Yes, I did.
Q. How long was I gone before I returned to you after you had the truck running?
A. Five minutes, if that. Long enough to change your clothes.
Q. What, if anything, did we do after that?
A. I followed you back up towards my house.

Q. Did I stop in your house?
A. No, you drove home.
Q. Which direction was I headed?
A. North.
Q. On what route?
A. 193.
Q. What is that known as?
A. Youngstown-Kingsville Road or Belmont Avenue.
Q. And did you have knowledge of what -- where I was going?
A. Yes.
Q. Where was I going?
MR. MORFORD: Objection, unless there's knowledge something other than what the Congressman told him.
THE COURT: If you know some other way besides what he may have told you where he was going.
THE WITNESS: No. I knew where he was going.
THE COURT: Okay.
Q. Where was I going?
A. Dom Marchese's house.
Q. What's particular about the month of November?
A. It's my birthday, November 15th.
Q. What else?
A. Deer hunting, deer season.

Q. Do you know if I went deer hunting that day?
A. Yes, you went deer hunting.
Q. Do you know if I went deer hunting late in the day or early in the day?
A. Later in the day.
Q. How did you come to learn that?
A. Because you tracked me down at The Rig.
Q. What was the rig?
A. It's a lounge.
Q. Were you with anybody?
A. Yes, I was.
Q. Were you driving?
A. No, I wasn't.
Q. Who was the fellow you were with?
A. Gene Fogel.
Q. Was he driving?
A. Yes.
Q. What kind of vehicle did he have?
A. Ford pickup truck.
Q. What color was it?
A. Burgundy.
Q. Did you see me in there?
A. Yes.
Q. Did you see me come in with somebody?
A. Yes.

Q. Whom did I come in with?
A. Dom Marchese.
Q. Did we leave together?
A. No, you did not.
Q. Who left?
A. Dom did.
Q. How long was he in the building?
A. He was gone within five minutes.
Q. And how long did we stay after that?
A. Ten minutes.
Q. Did Dominic come back and pick me up?
A. No, he did not.
Q. Do you know what car Dominic had?
A. At the time, I didn't.
Q. Now, when we left the rig, where did we go?
A. Back to my house.
Q. Who was all in the vehicle?
A. Me, you, and Gene Fogel.
Q. Who was driving?
A. Gene Fogel.
Q. Where was I seated?
A. In the back.
Q. At approximately what time, to the best of your knowledge, did anybody show up?
A. You guys got to The Rig, it was right around 1:00.

Q. And when we got back to your house, did anyone pick me up?
A. Yes.
Q. Who picked me up?
A. Dom Marchese did.
Q. What car?
A. Your car.
Q. Were you asked to do anything?
A. Yes. I was asked to go hunting with you.
Q. Was Gene Fogel still there?
A. Yes, he was. You asked me to go hunting with you the next Wednesday to Mississippi, too.
Q. Did you go hunt in Mississippi the next weekend?
A. No, I didn't.
Q. Do you know if I had personal knowledge if I gone to Mississippi hunting the next weekend?
A. Yes, you did.
Q. You know who I went with?
A. Yes, I do.
Q. Who was it?
A. Dom Marchese.
MR. MORFORD: Objection, unless he knows as opposed to being told.
Q. Did you ever do any work for me out at the farm?
A. No.

Q. Did you do some repairs on the horse trailer for me?
A. Yes, I did.
Q. Describe how old it was?
A. 25, 30, 35 years old.
Q. And what was the problem with the horse trailer?
A. Rusted out.
Q. What was the condition of the floor?
A. Very poor.
Q. What, if anything, did you do?
A. I put a patch on the floor and fixed the tail gate and supports.
Q. Now, if we kept score, who would owe money? Would you owe me money over the top, or would I owe you money over the work you did for me?
A. I would owe you money if we kept score.
Q. Did we keep score?
A. No.
Q. Now, when your house burned down, did that generator burn up with it?
A. Yes, it did.
Q. Was that generator taken with the rest of the rubbish?
A. Yes, it was.
Q. What insurance companies do you have?
A. State Farm.

Q. Did you list it with State Farm?
A. Yes. But they weren't covered because it was a rental house. They wouldn't cover it.
Q. Now, on that hut, let's go back to the weekend now of the 7th, 6-7. Did you and I go anywhere relative to that hut?
A. Yes, we did.
Q. Where did we go?
A. We went to the lumber mill and bought the poles to build the hut.
Q. What mill? Speak up. What business was it?
A. We went to DIY, or Lowe's, one of the two. I can't remember which one it was for.
Q. You know what road it was on?
A. Elm Road.
Q. What, in fact, was purchased?
A. The lumber to start building the hut.
Q. You know who paid for the lumber to start the hut?
A. Yes.
Q. Who?
A. You did.
Q. How did I pay it?
A. By check.
Q. Did you see me write the check?
A. Yes. I seen you as I was going to get the truck to

load the stuff.
Q. Now, to the best of your knowledge, who put the poles in the ground?
A. Me and you.
Q. And who put the flat form on it?
A. Me and you.
Q. So now -- can you see this Brian?
A. Yes, yes.
Q. How many poles were there to this?
A. Four.
Q. How big was this hut?
A. Eight by 12.
Q. No, Dominic's hut.
A. About eight by ten or eight by 12. I can't really recall right now. It's been awhile.
Q. And it's set off the ground, right, four posts?
A. Right.
Q. And we put the posts in. Did we put braces in?
A. Yes, we did.
Q. Did we put this top on?
A. Yes, we did.
Q. And did we put a floor on it?
A. Yes, we did.
Q. Did we do anything else that day?
A. No.

Q. Where were the sides built?
A. In my garage.
Q. How were they hauled to be put back here?
A. In your pickup truck.
Q. Were they already prebuilt?
A. Yes, they were.
Q. Did you have -- did you ever hunt out of that hut?
A. Yes, I did.
Q. With whom?
A. You.
Q. Now, at any point, did the Cafaro Company call and ask about the welder and generator?
A. No, sir.
Q. Have you had possession of that welder from the day it was delivered to you?
A. Yes, I did.
Q. Did you have that generator from the day it was delivered to you?
A. Yes, I did. If they picked them up that day, they wouldn't have got burnt.
Q. Were there arrangements made to pick them up?
A. Yes, there was.
Q. Did you have knowledge that they would not be picked up?
A. Yes. Somebody called and told me about an hour to

meet them.
Q. After having received that phone conversation, what was your understanding of what you were to do with the equipment?
A. Keep them. The guy no longer worked for the company he said.
Q. You know if he recently quit or quit a long time ago?
A. He was done then so. It was a long time ago.
Q. Do you know if they have been brought as evidence in this trial --
THE COURT: What are you talking about?
Q. Do you know if the welder and generator have become issues in this trial?
A. Yes.
Q. Did you become familiar with Mr. Cafaro's statements in this trial?
A. Yes.
Q. What is the general reputation of Mr. Cafaro back home?
A. Swindler.
Q. Have you started the reconstruction on that rental home?
A. No, I haven't yet.
Q. Is what remains only the garage itself?
A. Yes. But I'm tearing that down to start the house.

Q. Did you do anything illegal with U.S. Aerospace?
A. No, I did not.
Q. Did you make them a proposal on money and costs relative to production of a trailer?
A. Until after the first one, I could give him a better idea how much it would be. I told him I could beat the price of the first one.
Q. Did you make any suggestions of what type of material they should use to build it with?
A. No, sir. Just aluminum is what they wanted?
Q. And what was it you asked of them to provide you with?
A. The aluminum machine because I didn't have one to weld the aluminum.
Q. And what did you need a generator for?
A. Generator to run the machine.
Q. Cafaro Company ever send you a letter about the machinery?
A. No. They did not. I didn't know the Cafaro Company owned the it.
Q. When did you learn the Cafaro Company owned it?
A. Someone just said that the other day.
Q. Now, when we were at the rig, did other people see us?
A. Yes, they did.

Q. When Dominic picked me up at the house, your house, was there somebody there?
A. Yes, there was.
Q. Who?
A. Gene Fogel, my son.
MR. TRAFICANT: No more questions at this time.
THE COURT: Thank you.
MR. MORFORD: I have a number of questions. I don't know if the court wants to take a break now.
THE COURT: We'll take a short break. About 15 minutes. Okay?
(Thereupon, a recess was taken.)
THE COURT: Mr. Morford. Sir, you're still under oath.
CROSS-EXAMINATION OF BRIAN KIDWELL
BY MR. MORFORD:
Q. Good afternoon.
A. How are you doing?
Q. You and I never met; is that correct?
A. No, sir.
Q. And, in fact, you have never discussed any of the things that you testified to here today with anyone from the Government, correct?
A. Yes.

Q. You testified about a number of events, but unless I missed it, I didn't hear any years. Do you recall what year it was that you were out picking the Congressman up at YSU?
A. Pardon?
Q. What year?
A. About three or four years ago.
Q. Do you recall precisely which year it was?
A. '97 '98.
Q. And how about the year that the Congressman delivered to you the welder and generator. Do you recall what year that was?
A. Yes, that was '99.
Q. So the YSU thing took place a year or two before the welder generator?
A. Yes.
Q. And can you tell us what date the Congressman delivered the welder to you?
A. No. Approximately a month.
Q. I'm sorry, approximately?
A. A month, about May.
Q. Of 1999?
A. March or May, yeah.
Q. How about the generator?
A. Yes, about a week later.

Q. And prior to testifying here today, have you met with Congressman Traficant and gone over your testimony with him?
A. We've talked about it.
Q. How many times did you get together and go over your testimony?
A. Never really went over it. Just talked about things that happened.
Q. Did he show you any documents to help refresh your recollection on the dates?
A. No.
Q. How is it that you're able to recall the month and year that the generator and welder were delivered?
A. It was in 1999.
Q. Right. But how do you recall it was May? What did you say?
A. The girl I was dating at the time was with me.
Q. How long had you dated her?
A. About a month and a half, two months.
Q. That's how you remember this?
A. Yes.
Q. Okay.
Do you remember the date you were supposed to meet with Rick Detore in order to get him back these pieces of equipment?

A. No, I do not.
Q. You remember who you were dating at that time?
A. Yes.
Q. Who?
A. My future ex-wife -- the girl I was dating then was a girlfriend.
Q. Could you try to put a date on it. What time period are you talking, winter, spring, was it --
A. No. I really don't remember.
Q. Well, you testified on direct you had a series of conversations -- or odd conversations, and you were set to go meet him. You have no idea when that was?
A. No, because I never thought about. I just didn't.
Q. Fair to say it was many months after you received --
A. Yes, it was.
Q. I'm sorry?
A. Yes.
Q. When did your house burn?
A. Pardon?
Q. When did your house burn?
A. Last spring it burned.
Q. I'm sorry?
A. Last spring, May.
Q. May of what year?
A. 2001.

Q. Okay. How long before -- how long was it prior to the house burning that you were supposed to meet with Mr. Detore?
A. The year before that.
Q. So it would have been May of 2000?
A. Yes, somewhere in there.
Q. Isn't it true that --
A. I don't have an approximate date on that.
Q. Isn't it true the time you were supposed to meet with Mr. Detore to give him that equipment the papers were already reporting that Congressman was under investigation for his dealings with USAG?
A. No. I never heard that.
Q. Do you ever recall those stories breaking in the paper?
A. Yes, afterwards.
Q. Well, sir, if that took place in May of 2000, isn't it true those stories broke in January and February of 2000?
A. I really couldn't tell you on that. The welder part was never brought up to my knowledge.
Q. Now, sir, is it fair to say you and Congressman Traficant are pretty good friends?
A. Yes.
Q. How long have you known him?

A. Since probably 1995, '96.
Q. And how is it you two first took up and became friendly?
A. Through Dom Marchese and --
Q. How often would you get together and do things with Congressman Traficant?
A. Quite awhile when we was down, quite a bit.
Q. What frequency?
A. Just go hunting and stuff like that. He come out to Dom's farm.
Q. How would you describe the nature of your relationship and your feelings towards him?
A. Just a good friend.
Q. Now, as I understand it, there are times when you've actually done welding work for the Congressman, correct?
A. Yes.
Q. And there are other times that he's asked you to do things as well; is that correct?
A. Yes.
Q. Isn't it true at one time he asked you if you could build him a new horse trailer?
A. Well, he told me if I did a good job on these here, he would see what it would cost. Maybe I could build him one.
Q. And he was talking about a very elaborate horse

trailer, correct?
A. Pardon?
Q. He was talking about a very elaborate horse trailer; is that correct?
A. A little bit bigger than I can handle.
Q. Kind that has a sleeping compartment as part of the horse trailer?
A. Yes. I would say just exaggerating a little bit on the size but --
Q. Why don't you tell us what it was he wanted to you build?
A. That's what he was talking about, something like that, yes.
Q. And when did those conversations take place?
A. Just sitting around talking here and there.
Q. When?
A. When we were out doing things.
Q. Within the past two years, correct?
A. Pardon me?
Q. Within the last two years?
A. I got the welders and that.
Q. You've got the welders and that. Congressman Traficant was talking to you about whether you could build him a fancy horse trailer with a sleeping compartment?
A. Nobody ever said fancy.

Q. Okay. A larger horse trailer?
A. Yes, he needed one. You seen his, you would think he needed one.
Q. Okay. And this was going to be something made out of aluminum, correct?
A. Yes. It's made of a lot of trailers.
Q. Now, did you have your own personal welding equipment at your house?
A. Yes, for steel, not for aluminum.
Q. Not for aluminum?
A. No.
Q. So if you were going to make this larger horse trailer with a sleeping compartment and all for the Congressman, you would need to have access to an aluminum welder, correct?
A. He never said nothing about aluminum.
Q. Didn't you say --
A. He said if I did a nice job, if it didn't cost too much, he would go with aluminum but never said he would actually do it.
Q. My question is: If you were going to do that, you would need to have access to an aluminum welder, correct?
A. If he was going to do it out of aluminum.
Q. Right.
A. But he never said one way or the other, aluminum or

steel.
Q. But as you were talking to him, that's what he was talking about potentially of having you do, correct?
A. Yes.
Q. Now, you don't deny it was Congressman Traficant that delivered that welder, that aluminum welder to you, correct?
A. No, I do not.
Q. You don't deny it's Congressman Traficant that delivered the generator to you, do you?
A. No, I do not.
Q. Why did you have the welder stored at one house and the generator stored at the other one? One runs the other?
A. Didn't want somebody to steal the generator, or it would just be in the way right there. You can see in the picture my garage is pretty full.
Q. How big is the generator?
A. Probably about the size of the -- probably two by four, two by three.
Q. You said it was pretty heavy. Why would you store it off somewhere else and haul it?
A. It was on wheels.
Q. Why not the two together in one place?
A. Takes up quite a bit of room.
Q. Isn't it true there were times you used the

generator, sir?
A. Pardon?
Q. Isn't it true there were times you used the generator?
A. No. The generator was never started.
Q. Never used at all?
A. It was never wired.
Q. So your testimony is you had the welder in your garage, and you had the generator over at the other house because why?
A. Just to store it there.
Q. Why not store them both there?
A. The welder was too big to slide underneath the crawl space of the house. There were a few things in there.
Q. That's where you had the generator, underneath the crawl space of the house?
A. Yes. There was a breezeway with my furniture in there and like a little access door, and you store things under there.
Q. Now, when you set up this alleged meeting with Mr. Detore to return the equipment, was that done by telephone?
A. Yes.
Q. Did you call him or he call you?
A. He called me.

Q. And where were you when you received that call?
A. At home.
Q. And what was your home telephone number?
A. At the time 394-2141.
Q. Did you have any other numbers at the house?
A. No, I did not.
Q. Did you have a cell phone at the time?
A. Yes, I did.
Q. What was the --
A. 502 -- I had about three or four. I couldn't give you for sure on that one.
Q. What was the company?
A. Cellular One and Altel, and I have Sprint right now.
Q. What did you have at the time that that call took place?
A. I really couldn't tell you. I have to go back and check my records.
Q. How many times did you talk to Mr. Detore regarding setting up the meeting to return equipment?
A. Just one time.
Q. Is that the only time you ever talked to Mr. Detore?
A. Pardon?
Q. Is that the only time you ever talked to Mr. Detore?
A. No, one other time.
Q. Isn't it true it was Congressman Traficant who talked

to you about getting the welder and the generator?
A. Giving them back?
Q. No, just in the first place.
A. He got them. They talked to the company, arranged it for me.
Q. You didn't know the company people from Adam, correct?
A. No, I did not.
Q. And you weren't in the building -- you weren't in the business of building trailers, were you, sir?
A. Yes. I built quite a few of them.
Q. You have a trailer building business?
A. I build them in my garage, just side jobs, something to do.
Q. Isn't it true, sir, that a company named Trailex had actually already built a prototype of that trailer. Were you aware of that?
A. I couldn't tell you that either. I never received the first one.
Q. No one at the company told you they had gone to Trailex and had them actually build a trailer?
A. They said the first one that was built, and I was supposed to get it for a copy of it.
Q. And that never happened, did it?
A. No, it did not.

Q. And you have nothing in writing to show that this alleged arrangement existed?
A. Just the drawings I gave you right there.
Q. How did they give them to you?
A. Pardon?
Q. How did they get those to you?
A. Jim brought those to me.
Q. They didn't send you a letter, did they?
A. It was in an envelope I had with an address on it.
Q. But USAG never sent you a letter stating what it was they supposedly wanted you to do?
A. Yes. I did what he told me they wanted.
Q. What I'm saying, they never wrote you a letter to memorialize the terms of this agreement, did they?
A. No. I never signed a contract with them or nothing.
Q. Nothing in writing other than you receiving those drawings, correct?
A. Yes.
Q. And you received those you said from Congressman Traficant?
A. Yes. I was told he would get this to me.
Q. Did you ever ask Congressman Traficant why a high tech company would want to be contracting with some guy out of his garage that doesn't have aluminum welding equipment?
A. He was always trying to get jobs in the community.

Q. Did you talk to him about it?
A. Yeah. He knew I wanted to get out of the company I was at.
Q. Let me ask you: If USAG was going to order this welder for purposes of providing it to you so that you could build trailers, wouldn't it make a lot more sense to have them drop-ship it to you in Youngstown?
A. I didn't really care. They were giving me the ball in producing it so --
Q. Did it seem strange to you a company would order a welder from New Jersey, have it shipped to Virginia to put it on a congressman's truck to have him drive it to your garage?
A. No. It didn't seem strange to me at the time. Like I say, they picked it up. I wouldn't have to worry about replacing the generator now.
Q. Why didn't you end up building the large horse trailer with the sleeping compartment for Congressman Traficant?
A. It was never an issue actually to build it; was just something we talked about; never had the plans or nothing like that.
Q. You talked a whole bunch about some kind of a tree stand or something. Was there any metal or welding involved in that?

A. No.
Q. Was that built -- at Congressman Traficant's farm or down --
A. Each.
Q. So you built the one out at Congressman Traficant farm as well?
A. We helped on that, yes.
Q. You said that when the garage burned, that --
A. The house burned, not the garage.
Q. The house burned. You attempted to claim the generator on your insurance; is that correct?
A. Yes.
Q. It wasn't your generator, was it?
A. No, it wasn't.
Q. Why would you try to file a claim on it then?
A. Hopefully, get them to replace it.
Q. Not having gotten the money, have you replaced it?
A. No. But I don't have to.
Q. Has anybody from USAG ever told you you have to replace it?
A. No. They said I have never heard no more about it since that night when they called and told me to call when I have the stuff, and that was after Richard said he would pick it up.
Q. You said you did, in fact, perform some welding

repairs to a trailer for the Congressman at one time, correct?

A. Yes.

Q. What was that trailer made out of?

A. Steel.

Q. Just so I understand your testimony in total as it relates to this trailer -- and please help me if I don't have it right here -- I understand what you're telling us is -- you're telling us that Congressman Traficant told you he was going to try to help you get some contracts to build a whole bunch of trailers, correct?

A. Yes. I didn't say how many.

Q. But a bunch?

A. Yes.

Q. And you're going build them out of your garage, correct?

A. Yes.

Q. And you -- you never got anything -- any kind of written letter or contract from the company, correct?

A. No, sir.

Q. And the only thing you received were some documents Congressman Traficant gave you, which was a drawing of a -- some kind of --

A. You have to talk to Richard. He told me they were coming.

Q. But, in terms of any kind of written instructions or contract, you never got anything like that?
A. No, sir. That's why the machine was never wired up.
Q. They never actually placed an order with you, correct?
A. No. I don't even know if they ever got the first one.
Q. Well, you're telling us you don't even know that Trailex made a prototype for the company?
A. They were supposed to have one done, and I never heard no more about it.
Q. But they never got that far with you?
A. Not with me they didn't.
Q. It's your testimony they went out and bought a welder and generator and brought them to your garage months before they ever even decided whether they were going to place an order with you or not, is that your testimony?
A. Yes. I imagine they were going to if they would buy the machine for me.
Q. But they never followed up, did they?
A. No. The guy said they went out of business or something. He quit.
Q. Well, sir, you got it in May and June of 1999, correct?
A. Pardon? Yes.

Q. Do you know when the company actually went out of business?
A. No, I do not.
Q. Well, during the year or so after that, nobody ever placed a single order with you, did they?
A. No. They were supposed to pick them up shortly after that, probably six months to a year.
Q. Six months to a year after you received it?
A. Yes.
Q. So it was sometime between December 1999 and May of 2000 that they were telling you they needed to pick them back up, correct?
A. Yes.
Q. And isn't it true that by that time you were aware Congressman Traficant was under investigation by the FBI, in part, because of his relationship with USAG?
A. No. I didn't know that, not at the time.
Q. Well, sir, isn't it true it was being widely reported all over Youngstown?
A. Yes. But whether they were supposed to pick up the machine and that, I didn't put two and two together on that.
Q. Okay.
MR. MORFORD: Just one moment, your Honor.
BY MR. MORFORD:

Q. Do you have the technical wherewithal and background to get military contracts?
A. No.
Q. Do you think you making trailers out of your garage could have satisfied the strict regulations that apply to things like Army contracts?
A. I could about -- I could build them to their prints if had them. The Army didn't have nothing to do with it.
Q. The Army didn't have anything to do with this?
A. No.

MR. MORFORD: I have nothing further.

THE COURT: Thank you. Congressman.

REDIRECT EXAMINATION OF BRIAN KIDWELL

BY MR. TRAFICANT:

Q. Brian?
A. Yes.
Q. When you got that welder and generator, did you request it, or did they call you?
A. I told them I needed that to build the aluminum. I had to weld aluminum.
Q. Now, how old is my horse trailer?
A. 25, 30, 35 years old.
Q. And what, if anything, did you really build well?
A. I can weld about anything -- well, trailers.
Q. Did a horse trailer discussion have anything to do

with this USAG business?
A. No, it wasn't.
Q. Didn't they seem screwed up to you?
A. Yes. That was just a conversation we had. Nothing was ever said actually about it.
Q. Now, were they not supposed to give you the blue prints of the prototype when it was done?
A. Yes.
Q. Did they ever do that?
A. He give me those to show me actually what it was.
Q. But, did you ever see a finished product?
A. No, I did not.
Q. Did you know that one was made?
A. No. They were supposed to have one made. They said it was done.
Q. Did you have the ability to make this product?
MR. TRAFICANT: You want to turn that on, gentlemen?
Q. Is there any trailer that you're not capable of building?
A. Probably something I couldn't make, but ones like this, I could make or haulers or something like that -- I made a lot of car haulers.
Q. Was that a difficult job for you to make?
A. No, it wasn't.

Q. Did you tell them that?
A. Yes.
Q. How much did you tell them you thought you could save?
A. I never actually give them a total figure on it until I gave the first one I told them.
Q. Now, they talked about a little garage. Did you at any time discuss the numbers that they would require?
A. No, sir.
Q. If there would have been enough numbers, would you have built them?
A. Yes.
Q. Would you have quit your job?
A. If I could have made enough money to work with it.

MR. TRAFICANT: No further questions.

THE COURT: Anything else?

MR. MORFORD: Nothing further.

THE COURT: Thank you. Sir, you can step down. You're excused. So will the jury be in just a moment.

MR. TRAFICANT: Your Honor --

THE COURT: Yes.

MR. TRAFICANT: I have no further witnesses. He let them go --

THE COURT: No, that's all right. That's

fine. We're going to be able to release the jury early, and you folks should be very careful. There has been a winter storm warning. You know how much you can say you can put in that but is supposed to continue on for a couple of hours. What they say includes not just rain but -- not just snow but some freezing rain, so be very careful on your way home. Remember your admonitions. We'll see you tomorrow morning at 9:00. And you're released for the day.

(Proceedings in the absence of the jury:)

THE COURT: Congressman, there were also -- I mentioned your three motions that were filed that you said you'd give us another.

MR. TRAFICANT: I'll try to have them typed.

THE COURT: Right. That'll be helpful or either just printed in a way that we can read it, but also the Government filed a motion today, maybe two motions. So you may want to look at those and begin to respond to those. Have you served those?

MR. MORFORD: Yes, we have. It was actually a motion in response to his motion from --

THE COURT: Okay. The other was a response. So there's one other motion?

MR. TRAFICANT: You have another one here?

THE COURT: We have a draft ready on jury instructions as I said to you. We carry this on throughout

the case. We aren't really ready to issue final jury instructions until we've heard all the evidence, but a lot of the instructions don't relate directly -- or we're able to put options in depending on what happens. So if you want a copy of those, we'll make them available to you. You don't have to have them, but if you want to look at the draft, you have a chance to submit things, but I'd like to keep that as a conversation as we go through the case.

Anything else from anybody? You -- I think you let your guy go home today. You're going to bring him back tomorrow?

MR. TRAFICANT: No, if I have to bring him back as far as to identify the welder, but I have put the picture on record, and if that picture is what the welder is, I think we'll be fine.

THE COURT: Okay.

MR. TRAFICANT: But, your Honor, here's the problem we do have. They did breakdown on the turnpike. The trailer was carrying it. If they get here after hours, I don't want that thing sitting outside. I'd like to have arrangements made if you could make arrangements for it to be put in doors somewhere in the basement of this facility so the jury can see it.

THE COURT: I have to address the -- let the Marshal, and they will have to get GSA to address that.

We have one or two people who may be able to be available, but basically, there's a point at which everything shuts down here around 6:00. So I don't know how that's going to work out. But, we'll -- if you hang on for a few minutes, we'll see what it is, but I don't think you're going to have a 24-hour place where you can unload things.

MR. TRAFICANT: No.

THE COURT: But, I think it may be okay until 6:00. What do you think? You know the answer to that.

DEPUTY MARSHAL: Until 6:00, there's not anyone who can check it.

THE COURT: When does it start up again in the morning?

DEPUTY MARSHAL: 7:00.

THE COURT: Okay. Okay. So as long as it happens before 6:00 today, you're okay, and they'll bring it inside, and if it's -- if it's starting at 7:00 tomorrow morning, we'll make them available.

MR. TRAFICANT: Okay.

THE COURT: It takes a lot of people, you know, because they operate the elevators. They have to inspect it, all that.

MR. TRAFICANT: Shall I remain here in the event that it does show before 6:00?

THE COURT: I don't think you need -- I don't think you need to.

MR. TRAFICANT: I don't know if they know where to take it.

THE COURT: Okay. I think they do. Right, Howie, downstairs?

DEPUTY MARSHAL: CSO's you're referring to?

THE COURT: I don't know. Can you set it up so if it comes before 6:00 --

DEPUTY MARSHAL: Yes, we'll take care of it.

THE COURT: So you don't need to stay, Congressman, but I don't know what will happen after 6:00.

MR. TRAFICANT: It may get here before 6:00, but not knowing where to take it and miss dropping it off, that's the only thing I'm concerned about. The courthouse closes at 6:00, right?

THE COURT: Right. What are the instructions?

DEPUTY MARSHAL: Might be best for him to wait until they get here so he knows it's here and direct them to the side.

THE COURT: You decide.

DEPUTY MARSHAL: Anyone can inspect it when it comes in regardless of what it is.

MR. TRAFICANT: Yeah, then the federal

government is going to have time to look at it, too.

THE COURT: Right. They can do that tomorrow once it's inside. It's just a question of what do you do between 6:00 and in the morning. I don't know the answer to that. Okay?

All right. Thank you very much. We'll see you tomorrow. I think 10 of 9:00 will be early enough tomorrow, gentlemen.

MR. TRAFICANT: Thank you, your Honor.

THE COURT: You're welcome.

(Proceedings adjourned.)

DIRECT EXAMINATION OF SUSAN BUCCI..... 4588
CROSS-EXAMINATION OF SUSAN BUCCI..... 4602
REDIRECT EXAMINATION OF SUSAN BUCCI..... 4610
DIRECT EXAMINATION OF SANDRA FERRANTE..... 4614
CROSS-EXAMINATION OF SANDRA FERRANTE..... 4649
REDIRECT EXAMINATION OF SANDRA FERRANTE..... 4699
DIRECT EXAMINATION OF BRIAN KIDWELL..... 4721
CROSS-EXAMINATION OF BRIAN KIDWELL..... 4747
REDIRECT EXAMINATION OF BRIAN KIDWELL..... 4765

C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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