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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 TUESDAY, MARCH 26, 2002

Jury Trial

Volume 26

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Shirle M. Perkins, RDR, CRR
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.

Tuesday Session, March 26, 2002, at 9:00 A.M.

(Proceedings in the absence of the jury:)

THE COURT: Would you bring us up to date on the welder, please?

MR. TRAFICANT: The welder is in transit as far as I know and will be here today before closing hours.

THE COURT: Okay. Let me just --

MR. TRAFICANT: It may be here this morning, this A.M.

THE COURT: Okay. It's -- it wasn't here as far as I could tell when I came in at 8:00. Does anyone know if it's arrived? No, okay.

Let me just go over something regarding this welder view. When it gets here and it's down in the basement, what I'll do is give an instruction to the jury, but I also need to talk to you about it a little bit.

Assuming that the inspection that's done through the Marshals allows it to come into the building and whoever the Government has looks at it and so forth, then we'll take the jury down to see it. It is necessary for me to come up with a procedure for them to do that since it's not here in the courtroom.

That will allow us to be in an appropriate part of the courthouse. So when we go down to the basement to view it, we'll take the Court Reporter. We'll take the parties,

we'll take anyone in the public and press who wants to go. We're going to be in a very different setting. It's a narrow long part of the courthouse basement. Remember it's a 1910 building. So all kinds of things are surrounding us down there. But it'll be down there, but while it's down there, we'll follow the kind of procedure we follow when we do a view of a scene or something else outside the courthouse.

That is to say they can look at it. You can submit to us, if there's anything you want to have pointed out about the object, like a serial number or something else, and we'll have the clerk designate that. But we don't talk. We don't have discussions down there. It isn't argued down there.

So nobody says anything to the jurors. If there's something about the welder that either side wants pointed out, we'll have a clerk present to do that. Now, what we tell the jury also is an instruction that allows them to go down but to understand that they are viewing something that is not in the courtroom because of its physical weight in this case. But that is like anything else they view, and they're also under certain restrictions, and I'll read them special instructions at that time.

MR. TRAFICANT: I move that the Court order that the serial numbers and the documentation numbers of

the machinery be photographed and --

THE COURT: We don't do photography here. We do a lot of things in court but --

MR. TRAFICANT: At least be recorded, and as well as the visual inspection and that the -- and the item is looked at, as far as its not being used. If the Government wants to view it first, they can take that, but I want to be with the Government when they do look at it first.

THE COURT: Well, you and the Government can figure out about that part of it. I am only dealing with giving you some advance notice, that when you take a jury somewhere else in order to view something, you still are operating under rules that are meant to protect the process up here.

So it's not a free for all where you go down and say whatever you want. We have to have some rules, and it means we have to spend some time. We're not there yet with this. It isn't even at the courthouse. I don't know when it's going to come. When it comes, several things have to happen.

MR. TRAFICANT: Yes.

THE COURT: But we are going to do what we can to accommodate you, that it be viewed, and so that's what we're going over now. Okay?

MR. TRAFICANT: That's fine.

THE COURT: Great. In terms of the serial numbers, there's one on it, and everybody agrees to what it is. You can make the agreement, and that takes care of one issue, but we don't photograph.

MR. MORFORD: We've just never seen it. We have no problem if that's what it says.

THE COURT: Yeah. That's the kind of thing you guys can work out.

MR. TRAFICANT: That is a mutual agreement?

THE COURT: Well, wait and work it out.

MR. MORFORD: We'll have to see it first.

THE COURT: They have to see it.

MR. TRAFICANT: I have to see it myself.

THE COURT: Okay. When it gets here, we'll deal with it.

Anything else before we start?

MR. MORFORD: Yes, your Honor.

The attorney for Champ Saadey approached us this morning and says he has a matter to raise with the Court regarding Champ Saadey's Fifth Amendment privilege, and I don't know if that's Congressman Traficant's first witness or not, but if it is, it's something that needs to be addressed before he calls Champ Saadey.

MR. TRAFICANT: Russell Saadey, Junior will

be my first witness.

THE COURT: If his lawyer is present, we do need to talk to his lawyer.

MR. KOPP: Hello, your Honor.

THE COURT: Glad you're here.

MR. KOPP: If you prefer I step through --

THE COURT: Yeah, why don't you come through, put your name on the record for us, and let's have a discussion here before the jury comes out.

MR. KOPP: Your Honor, my name is Brian Kopp.

THE COURT: Um-hum.

MR. KOPP: K-O-P-P for the record.

THE COURT: Right.

MR. KOPP: I am one of the lawyers for Russell Saadey and one of the trial lawyers involved in the case of USA versus Russell Saadey, Case 4:00CR488.

Mr. Saadey did go to trial in late October of last year. He has been found guilty in Judge O'Malley's courtroom of multiple counts in the indictment.

There are a number of sentencing issues still pending as well as several motions, and he has not been sentenced yet.

THE COURT: Okay.

MR. KOPP: That being said, I believe some research I did very quickly last night shows, both United

States Supreme Court and the Sixth Circuit, say that when a defendant has been convicted but yet not yet sentenced, incrimination is not complete, and he still has a Fifth Amendment rights.

THE COURT: Um-hum.

MR. KOPP: My concern is not only that but a gag order for lack of a better way of putting it of some issues that came up in that trial, pre-trial motions, we are still subject to that order.

THE COURT: Um-hum. That's an order from Judge O'Malley?

MR. KOPP: That's correct.

THE COURT: Okay.

MR. KOPP: And that was in regards to some FBI investigation issues.

THE COURT: Okay.

MR. KOPP: The other issue I have is I'm not quite sure -- I did have a chance and the Congressman had enough courtesy to tell me I think the gist of what he wants to ask, but there may be areas where he could incriminate himself and others in which he may not. So it's kind of a question -- question by question scenario as to whether or not the Congressman can ask a question and expect an answer.

THE COURT: Okay.

MR. TRAFICANT: I'd like to respond.

THE COURT: Okay.

MR. TRAFICANT: Are you referring to the gag order on FBI Agent Speranza?

MR. KOPP: I'm referring to -- yes, the motion that was filed under seal in regards to some investigative techniques which involved Agent Speranza.

THE COURT: Okay. You're standing, so I assume there's something you want to say, too, and I want to listen to everybody here, and we'll figure out how to go forward.

MR. KOPP: I'm satisfied, your Honor.

MR. SMITH: Your Honor, the Government, as is Mr. Kopp, is also subject to Judge O'Malley's ruling in that case. So I'm not at liberty to go into detail with the Court. The Government, of this witness, does intend, under two rules, to cross-examine Mr. Saadey extensively; specifically everything he was convicted of, Number 1, are crimes of dishonesty. He was convicted of RICO bribery, involving multiple predicate acts of bribing the then Mahoning County Prosecutor, James Philomena and others on Mr. Philomena's staff to fix criminal cases and drunken driving cases in the Mahoning County court system.

Mr. Saadey was also convicted of three counts of filing false tax returns, which means he was guilty of

making false statements. That's a crime of dishonesty.

He was also convicted of five counts of making false statements on credit card applications with banks, all of which are false statements. So there's two rules under which impeachment on all of that is permissible. Number 1, under 608(b), it's permissible regardless of whether or not he's been sentenced yet, based upon the fact that you're allowed to ask somebody about instances of misconduct that go to truthfulness.

And secondly, given that there is a jury verdict of conviction, albeit not a sentencing yet in that case, the Government was of the view that it also comes in under Rule 609 to impeach the witness. So it is the Government's intention to cross-examine this witness extensively about what he did with respect to Mr. Philomena in the county Prosecutor's Office.

MR. TRAFICANT: I'd like to respond under 804(a)(3). This is clearly a witness who is in jeopardy and making a statement against interest if I am citing the right law. And I understand the gag order dealing with Speranza and Speranza's issue, but this individual being subject to sentencing, who now places himself before the Court without immunity, subject to such strict cross-examination as mentioned now by Mr. Bernard Smith, allows me the opportunity to seek this witness's testimony

truthfully on all that he knows since he is a witness in jeopardy, and the hearsay exception would apply.

THE COURT: Okay. I am -- I am not agreeing with anything that's been said here. I'm just listening at this point. This is all news to me.

MR. SMITH: If it is the Congressman's intention to get into the matter that was before Judge O'Malley, we object strongly to that on relevancy grounds.

THE COURT: Well, we've already addressed, I think, that issue.

MR. SMITH: Yeah.

MR. TRAFICANT: I will not get into that issue.

MR. SMITH: I didn't know if I was implying he was going to.

THE COURT: No. I think he said two rulings on that.

MR. TRAFICANT: But I'd like to respond again. Clearly, Mr. Smith's statements by the very nature of the rules he cited, stating that he is allowed to extensive cross-examination and stating this man has been convicted of serious crimes and is here without immunity, is in jeopardy. And that jeopardy applies to his testimony relative to the hearsay exception and the rules governing same, which I believe are 804(a)(3). I could be wrong.

I'll look through my notes.

THE COURT: Okay. It'll be good to look at your notes on that. Let me go back to his lawyer. That's really why we're here so we can let his lawyer speak for a minute and decide how we're going to proceed.

MR. KOPP: Your Honor, therein lies my problem. I believe that the Congressman may ask some questions in which Mr. Saadey does not face criminal jeopardy. I believe that there may be grounds -- or questions asked by the Congressman in which I would have to advise him that he should exercise his Fifth Amendment rights. I can tell you that when the cross-examination starts, he will have no choice because I don't believe that his indictment will be the subject of anything on direct, and furthermore, he has been found guilty.

My understanding is that the verdict has been filed, but I do not believe there's a judgment of conviction on him yet because he hasn't been sentenced.

That being --

THE COURT: Okay. We all are going to have to figure out the state of that docket if everybody's going to proceed. But let me just ask you this question.

MR. KOPP: Sure.

THE COURT: One of the ways we can proceed in this case is out of the hearing of the jury to have him

take the stand, and we -- most people don't take the Fifth when they say their name and address, and there may be a few other things they don't take it on, and we'll just ask him some questions to try and figure out whether or not he's going to step into that area. You're his lawyer. You may want to do some inquiry of it.

MR. KOPP: That's my concern, and I was --

THE COURT: We can do that out of the hearing of the jury. It's the process we've followed in this case so far with some other people. And --

MR. KOPP: I would greatly appreciate that.

THE COURT: -- and the Circuit requires that we actually ask questions, put someone on the stand. They can't simply assert it through their lawyers. So we follow that with the witnesses.

What I propose we do is do that at noon or sometime when it's possible for you to have the time first to ascertain the state of the docket that you just raised and whatever else you want to do to prepare yourself for that.

MR. KOPP: I'm comfortable with the statement I made in regards to the docket, your Honor.

MR. TRAFICANT: Your Honor, I object to waiting until noon. I want to call this witness as my first witness today. I have scheduled witnesses here. You have clearly identified the Speranza issue. I understand

the Speranza issue, and there are no other issues.

The Prosecution has an opportunity to object for whatever reason they may have, and the counsel for this witness is allowing his witness to testify, even though his witness does not have immunity.

THE COURT: The lawyer can speak for himself. That's why he's here.

MR. KOPP: Your Honor, my understanding of how we're going to proceed is quite simply this: Like you said, the Circuit requires he be asked a question.

THE COURT: Right.

MR. KOPP: And the Court make a determination as to whether or not he has the legitimate Fifth Amendment right. I have spoken to the Congressman. I have spoken to the United States. I understand the gist of what the questioning is going to be. I've had an opportunity to counsel my client and will advise him at certain points in this question, whether it be on direct or on cross, that he is going to exercise his Fifth Amendment right.

Now, at that point in time, I believe it's your call as to whether or not he's going to be forced to answer a question that the Congressman may ask, that the United States may ask, but I -- I'm telling the Court that there are going to be circumstances in which I advise my client to exercise his Fifth Amendment rights.

THE COURT: Fine. Mr. Smith?

MR. SMITH: Your Honor, if the Congressman intends to invoke Rule 804 for some reason -- and I don't see the basis of that right now -- he has to, at least, do what the Government did in its direct case, which is to identify what statements he says are admissible under Rule 804.

THE COURT: Right. That's why we're going to do this at noon, not before because it takes time to get ourselves to a position where all of us are on board with what this is about. I didn't know he was being called this morning so -- it's one of the problems when you don't let us know in advance, but we'll just do it over lunch so we don't --

MR. TRAFICANT: This subpoena was finally serviced yesterday. The witness agreed to testify without immunity. I've called --

THE COURT: Okay.

MR. TRAFICANT: He is subject to jeopardy, and under the hearsay exceptions of which you have granted opportunities relative to hearsay to be brought in relative to Mr. O'Nesti, I cite the same law -- rules. I've had conference with counsel. I'm not speaking for him, but I'm only speaking to matters that deal with my case. The only thing I would do for the record would establish the fact

that he has had a jury conviction and what those convictions were for.

His questioning would only be in regards to his knowledge of my case, period. The Speranza matter, I have no intention of moving towards Speranza matter.

THE COURT: Thank you, Congressman.

MR. MORFORD: Your Honor, I want to address and follow-up on something the Court just said, which was the point I was going to raise even before the Court said it. I have some concerns that we have a continuing pattern here, where the Congressman does not notify the Court of potential legal problems that are going to arise such as hearsay and the need for voir dire. We have witnesses who show up, and the jury sits back in the back room sometimes for an hour, sometimes more.

The Court tried to accommodate by having a hearing on Friday. The witnesses weren't here. It is beginning to create a problem for the jury, for the Court, and the Congressman is going to have to address that by letting the Court and the parties know these -- that these witnesses are coming in advance, and let the Court know the subject matter of the witnesses, just as the Government did with Jackie Bobby and Grace Yavorsky or Kavulic so we would not have this downtime with the jury. That's what parties do.

When these kind of issues are going to rise, the

Court needs to know and we still have issues hanging out there with a number of witnesses on the hearsay situation that the Congressman hasn't addressed. He hasn't told the Court or the parties what it is that he's trying to get in so the parties know how to address it, and it's beginning to create a problem in the length of this trial.

MR. TRAFICANT: Let me respond. They did not have to tell us what the testimony of their witnesses was relative to the hearsay exception.

What I am saying is this: A subpoena was served yesterday. This is a willing witness to come up here this morning.

THE COURT: Good. He'll be heard at noon. We're going do this at noon. Okay? Call your next.

MR. TRAFICANT: I do object to having --

THE COURT: I understand that you object, but we just got out, started with the proceedings when this issue came up. So we'll do it first -- some of it out of the hearing of the jury, at least to explore his Fifth Amendment issues. Okay.

Congressman, are you ready with your next witness?

MR. TRAFICANT: Ernestine, you want to bring in John.

THE COURT: All right. We'll bring in the jury.

MR. MORFORD: Your Honor, before we do that, it's my understanding that John Innella is going to testify to hearsay about Henry Nemenz which is neither relevant or admissible under --

MR. TRAFICANT: He doesn't know what he's testifying to. He's not testifying to Nemenz.

THE COURT: I don't know either. We'll see. You can go ahead.

(Proceedings resumed in the presence of the jury:)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: Congressman.

JOHN INNELLA,

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

DIRECT EXAMINATION OF JOHN INNELLA

BY MR. TRAFICANT:

Q. Good morning, John.

A. Good morning, Jim.

Q. Would you speak up, and give us your full name and spell your last name for the Court record.

A. John, last name I-N-N-E-L-L-A.

Q. Where do you currently reside?

A. At a farm, Greenford.

Q. What farm in Greenford?
A. Traficant's farm.
Q. How long have you lived there?
A. About a year and a half.
Q. Do you have a health problem?
A. Yes, I do.
Q. What is that problem?
A. I get coughing attacks like crazy, and I have burns.
Q. And what kind of a burn was it?
A. A butane explosion, third degree burns, second degree.
Q. What, if anything, has happened to your -- your system, your lungs, your throat, et cetera?
A. My throat has been burned.
Q. Would you please -- there's water there available for you.
A. Yeah, if I get to coughing.
Q. Yes. Are you allowed to do certain duties?
A. I got to stay busy all the time. My muscles get flabby. I've been losing weight.
Q. Did you have occasion to inspect the addition that was added to the back of the farmhouse in Greenford?
A. Yes.
Q. Did you ever work in the construction industry?
A. Yes.

Q. Whom did you work for?
A. John Innella company.
Q. And who was John Innella?
A. My grandfather.
Q. How many years did you work for your grandfather?
A. Since I was 16 part-time, and I left in '76.
Q. Approximately how many years did you work in the construction industry?
A. I grew up in it. I was going out on the jobs at four years old.
Q. Have you ever done jobs on your own?
A. Yes.
Q. Were you asked to look at that addition?
A. Yes.
Q. Did you do so?
A. Yes, I did.
Q. In looking at that, did you arrive at a conclusion?
MR. MORFORD: Objection as to whether or not there's been a foundation to establish his expertise to give that opinion.
THE COURT: We need a time, too, when he looked at it and --
BY MR. TRAFICANT:
Q. How long ago did you look at this?
A. When -- two weeks.

Q. And did you study carefully over those two-week period?
A. Yes.
Q. Did you study it inside and out?
A. Yes.
Q. Are you very familiar with it?
A. Yes.
Q. Could you answer questions from your own personal knowledge?
A. Yes.
THE COURT: Has he done foundation about when he's done inspections or valid work or something?
BY MR. TRAFICANT:
Q. Did you ever estimate and bid jobs in the past for construction?
A. Yes.
Q. Did you assist with your family's construction company to do so?
A. Yes, I was with my dad.
Q. Are you familiar with construction costs?
A. Yes.
Q. Are you familiar with quality of construction work?
A. Yes, I am.
Q. Are you familiar with the requirements that are necessary relative to constructing certain additions of

square feet?
A. Yes.
Q. Have you done this before?
A. Yes, I did.
Q. Who, in fact, requested you to do this?
A. Jim did on this one.
Q. Meaning me?
A. Yes.
Q. Do you have immunity, John?
A. No, I don't.
Q. You know what immunity means?
A. Yeah.
Q. What does immunity mean?
A. Where something goes wrong, can't be charged for it.
Q. If you have immunity?
A. Yes, I don't have it.

MR. MORFORD: Your Honor, then I object to his opinion on immunity because that's not legally what immunity is.

THE COURT: The legal definition of immunity is something we'll have to deal with I think in this case because it's been raised so many times. So we'll give it to you in the instructions at some point. Okay. Thank you.

BY MR. TRAFICANT:

Q. For the record, you do not have immunity; is that correct?
A. I do not have it.
Q. Okay.
Describe the floor of that addition on the first floor deck.
A. That's what I call plywood floor, CDX plywood, and the floor is not leveled.
Q. How do you know the floor is not leveled?
A. Because there's a china cabinet in there with an inch board under it.
Q. And did you, in fact, inspect how this plywood was applied?
A. It was nailed down right to the porch deck.
Q. Does the deck take water from the outside inside of the deck?
A. Yes, it does.
Q. Do you have knowledge that there are pictures to support that?
A. Yes, there is pictures.
Q. Now, on the construction of the portico, was the gutter removed and the siding placed up flush and even?
A. The gutter was removed. The four by four was notched around the gutter.
Q. Was there an opening above there that allowed animals

to get into under the porch roof?
A. Yes, there is.
Q. In your estimation, was the construction quality -- how would you describe the construction quality?
MR. MORFORD: Objection as to his expertise, your Honor.
THE COURT: You can answer.
THE WITNESS: I call that a butcher job.
Q. John, are you aware that it took six months to build that?
A. I was told by Jim that it took six months.
Q. In your construction, John, how long would it have taken you to complete that job?
A. With a helper, two to four weeks.
Q. How many helpers?
A. One.
Q. Plus you?
A. Plus myself.
Q. Were you familiar with the cost of materials in 1992?
A. I generally had the owner buy the materials.
Q. Have you purchased a glass sliding insulated door in the last five years?
A. Yes, I did.
Q. How long ago?
A. About three years ago.

Q. How much did it cost?
A. Around $300.
MR. MORFORD: Objection, your Honor. There's all kinds of prices for this.
THE COURT: Sustained, sustained.
Q. Now --
MR. TRAFICANT: Would you turn on that machine for me, gentlemen?
Q. How would you describe the condition of the home, John, itself?
A. The home repair site --
MR. TRAFICANT: Government's Exhibit 7 -- it's a joint Exhibit Number 7-33(2).
THE COURT: That's, fine, Congressman.
MR. TRAFICANT: Can I put this on the screen, your Honor?
THE COURT: Yeah, it's been admitted.
Q. What kind of a view is this of the farm, John?
A. Looks like it was taken on an airplane or a helicopter. I don't know what.
Q. Are there many missing buildings in that picture?
A. Yes.
Q. Where are they located on the screen?
A. Take that metal roof all the way back, that long section.

Q. Over here?
A. Down farther, about right where your hand is out there. There's a stepdown.
Q. Is there any other outbuildings that can't be seen?
A. Where your hand is, up in that area.
Q. So this shows from above a nice rendering of the farm?
A. It looks pretty good from here.
Q. Are the eves of the house completely rotted away?
A. Later on back.
Q. Are the window seals rotted away on the house?
A. Got to be replaced.
Q. Are the porch posts bottom rotted away?
A. Got to be replaced.
Q. Is the beam above the porch post rotted away?
A. To be replaced.
Q. Is there a hole big enough to put a basketball through?
A. Yes, there is in one spot.
Q. Is it the Taj Mahal that's presented on this screen?
A. No, it is not.
Q. Were there any gutters put on the addition?
A. No.
Q. Was there any insulation under the addition?
A. Jim told me he put insulation on --

MR. MORFORD: Objection to what Jim told him, your Honor.

THE COURT: Sustained to that.

Q. Do you know if the insulation material and vinyl under this deck was the same as the vinyl used on the house?

MR. MORFORD: Objection, unless he knows, other than the Congressman Traficant making statements to him.

THE COURT: Yeah, you can -- if you know because you -- that's --

THE WITNESS: The ripple of the jamming is different from the siding on the addition.

THE COURT: Okay.

Q. To the best of your knowledge, do you know if this addition was insulated?

A. It's not insulated.

Q. Now, when you said CDX, is that an expensive piece of plywood?

A. No, it isn't. It's just sheet.

Q. By sheeting, does it have one good side?

A. None good sides.

Q. Do you know who built the original deck?

A. I found out Jim built --

MR. MORFORD: Objection to what Congressman

Traficant told him, your Honor.

THE COURT: Right. When you testify, we need to know what you know yourself, what you saw, not what he told you.

THE WITNESS: I seen it built.

THE COURT: Okay. All right.

Q. Now, considering, did you do a rough estimate considering time, square feet, and material used as to what the cost of that addition would be?

A. I did square footage on labor-wise.

Q. You said on labor?

A. Labor only.

Q. John, can you see this?

A. Yes.

Q. You need glasses to see this?

A. If its long, I can see it.

Q. Pardon?

A. If you write big enough, I can see it.

Q. You said you would be the main worker?

A. Yes.

Q. And you would hire how many?

A. One helper.

Q. In 1992, what was the economic condition of the Mahoning Valley?

A. It wasn't that -- a lot of people were out of work

yet.
Q. What could you hire a reasonably skilled helper for?
A. Around $6 an hour, with labor.
Q. What would you have charged as the main, and what would you have charged if you would have done that job at that time with your skills?
MR. MORFORD: Objection.
THE COURT: Do you remember what you would were charging per hour and labor then?
THE WITNESS: I would -- our bid jobs out by square footage.
THE COURT: And how much --
THE WITNESS: That was around $2.50 a square foot.
THE COURT: Okay. So square footage is what you used to figure this out?
THE WITNESS: Yes.
THE COURT: And that was for your own wage, what you would --
THE WITNESS: My wages and helper wages would come out of that.
THE COURT: Out of yours?
THE WITNESS: Yes.
MR. TRAFICANT: Just for labor.
Q. Would that include electric, too?

A. That's start to finish.
Q. Start to finish?
A. Yeah.
Q. That would have been the portico with the privacy fence?
A. Yes.
Q. The addition on the back?
A. Yes.
Q. The drywall and flooring on the deck?
A. Yes.
Q. The trim?
A. Yes.
Q. The vinyl siding?
A. Yes.
Q. And what was your estimated labor cost to do this job?
A. About $4,200.
Q. In your opinion, was this job that you inspected done by a professional?
A. No, it wasn't. I called him a butcher.
Q. Do you know if there will be photographs that will be presented before this Court to document what you're saying?
A. Yes.
Q. Now, do you do any barn work?
A. Yes, I do.

Q. Wherever the horses are stabled, what kind of floors are there?
A. Concrete and walkway where you bring the horses out with rubber mats.
Q. What are the conditions of those walkways?
A. Clean.
Q. And why are they kept clean, John?
A. You have horse manure there. There's a lot of flies that come in, and you don't want a lot of flies around. They lay eggs and hurt the horses.
Q. Would they do anything to your shoes, John?
A. No. You step on it, like walking out in the yard where the dog is out there or a cat and you step on, it sticks to you.
Q. Do you have knowledge of wood stored in the big barn?
A. Yes.
Q. Was there enough wood stored in the big barn to complete any work needed on any addition?
THE COURT: What time period are we talking about? When?
MR. TRAFICANT: Strike that.
THE COURT: Thank you.
Q. Do you feed the horses?
A. My family and I feed the horses twice a day.
Q. Do you clean the aisleway?

A. Yes, I do.
Q. Do you clean the stalls?
A. Yes, I clean them.
Q. Have I ever helped you clean those stalls?
A. Yes, you did.

THE COURT: Are we talking about right now or ten years ago or 15 years ago --

MR. TRAFICANT: He's only lived there for 18 months. He's testified about that, your Honor.

THE COURT: So you're talking about in the last 18 months?

MR. TRAFICANT: We're now talking about his presence there, yes, 18 months he testified.

THE COURT: Okay. I'm just trying to figure out how this is relevant to this case. I suppose it shows something about him, but let's stick with things that have something to do with this lawsuit.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF JOHN INNELLA

BY MR. MORFORD:

Q. You need water, sir? Go ahead.

Sir, as I understand your testimony, for the last 18 years, you've worked as a farmhand at Congressman's farm;

is that correct?
A. 18 months.
Q. I'm sorry if I said years.
And during that time, you have not engaged in the carpentry business; is that correct?
A. No, I haven't.
Q. In fact, how many years has it been since you last engaged professionally as a carpenter?
A. Around '76.
Q. I'm sorry?
A. 1976.
Q. So you have not been engaged in the profession of carpentry since 1976?
A. Right.
Q. Sir, how is it that you're able to testify when Congressman Traficant asks you as to what you would have charged in 1993 when you have been out of the business for some -- over ten years?
A. Because I went to a man about it and talked to him.
Q. All your testimony today is based on hearsay of what other people have told you in preparing for you to come in and testify, correct?
A. To start the business up, and I did put bids out, and I did not get the jobs, so I just closed the doors.
Q. When was that, sir?

A. Around that time period.
Q. Around what time period?
A. '93, '92.
Q. What did you do from 1976 until 1993 and '92?
A. No, a little tinkering
Q. A little tinkering for --
A. My son-in-law.
Q. Seventeen years? So you were out of the carpentry business entirely for 17 years doing a little bit of tinkering before you came in today to testify as an expert about the cost of what a construction project would be. Is that your testimony?
A. I used to be a truck driver, and when I was 12 I worked for my dad, when it was rough.
Q. And, sir, it's your testimony you can come and put an addition on a house, including electric, windows, doors, siding, and everything else, for about $4,000?
A. Just in labor.
Q. I'm sorry?
A. Labor only.
Q. What about the windows and the doors and all that stuff?
A. There are too many people being hung for jobs for the material and contractor got to pay for the material. If I'm going to get hung, I better get hung on my labor.

Q. Now, sir, you're really not an expert in carpentry at all, are you?
A. I got two years in a Vo-Tech came out with a 90 degree average. I grew up in the business.
Q. And you haven't done the business in almost 30 years, correct?
A. I --
Q. In a professional manner?
A. I do help my ex-neighbor.
Q. But apart from tinkering -- sir, apart from tinkering, you have not been in business for almost 30 years, correct?
A. I try to get it started up and just don't get jobs.
Q. And now your working as a farmhand on Congressman Traficant's farm, correct?
A. I help him out.
Q. And you help him out, and what does he give you in return?
A. Between him and his daughter, I got a verbal agreement, a gentleman's agreement.
Q. And what is the terms of that gentleman's agreement? You clean out the horse stalls, and what do you get in return?
A. A place to stay, all utilities paid.
Q. And so as you sit here today, you're dependent on

Congressman Traficant to put a roof over your head, right?
A. I have no place I can go.
MR. MORFORD: May I have a moment, your Honor?
MR. TRAFICANT: I didn't hear that last answer.
THE COURT: He said I have no place --
(Thereupon, the record was read back by the Court Reporter.)
MR. MORFORD: I have nothing further.
THE COURT: Thank you.

REDIRECT EXAMINATION OF JOHN INNELLA

BY MR. TRAFICANT:
Q. John, did you help me construct a deck in Poland this summer?
A. Yes, I did help you.
Q. Did you see me purchase the material?
MR. MORFORD: Objection. Has no relevance and not in response to the cross-examination.
THE COURT: Sustained.
BY MR. TRAFICANT:
Q. Now, the Government said you have no ability, and you weren't able to bid on a job. Is that what they said?
MR. MORFORD: Objection.
THE COURT: No.

MR. TRAFICANT: Okay.
Q. They said you'd been out of it basically for 30 years?
A. Yes.
Q. Isn't it a fact you tried to reenter the field and was not successful with your bids?
MR. MORFORD: Objection to the leading questions. It's his witness, your Honor.
THE COURT: It is your witness.
Q. Were you a truck driver for many years?
A. Yes.
Q. Did you work carpentry on the side?
MR. MORFORD: Objection. He's testifying. He needs to ask the witness.
THE COURT: Well, the witness has already said all these things. So --
Q. When the Prosecutor asked you about your ability, you talked about a 90 percent average. Will you explain what you were talking about?
A. What was that?
Q. When the Prosecutor asked you a question and you responded about a 90 degree or 90 percent average, what were you testifying about?
A. I don't understand that.
Q. You said that you had two years of training.

A. Oh, now, I went to like a Vo-Tech school back in New York State, Orange County, New York. They got a Vo-Tech school called Bostins. I came out the second year with a 90 degree average for construction.

Q. Can you build a house?

A. Yes, I could.

Q. Could you build a foundation?

A. Right, the ground out.

Q. Could you put all the wiring in?

A. Yes, I can.

Q. Could you put all the plumbing in?

A. Yes, I can.

Q. Could you build a chimney?

A. Yes.

Q. Can you install any appliance that is made?

MR. MORFORD: Objection as to the relevance of any of that, your Honor.

THE COURT: Sustained.

Q. Now, did you come to me, or did I come to you when we first met?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. How did we meet?

MR. MORFORD: Objection.

THE COURT: You can answer how you met.

THE WITNESS: Through school, a speaking thing Jim went to speak to, and that's how we met.

Q. And what, if anything, after we met did you request of me?

A. Nothing.

Q. Did there come a point when you lost your home?

A. Yes.

Q. And what was the cause of the loss of that home?

A. It went down to foreclosure.

Q. Now, when the Government asked you the question and you said I had no place to go, what, if anything, did you do as a result of that?

A. Jim needed help at the farm. We talked, and I talked to his daughter, and that's why we are there. I do have another place where I can go.

Q. How big is your family?

MR. MORFORD: Objection.

THE COURT: Sustained.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: Nothing further, your Honor.

THE COURT: Thank you. Sir, thank you very much. Step down. Be careful when you go down those stairs. All right? Thank you, sir. Step right down.

MR. TRAFICANT: Your Honor, shall we proceed

until 10:30 and go forward now?

THE COURT: You have a witness?

MR. TRAFICANT: Yes, I do.

THE COURT: Thank you.

DOMINIC MARCHESE,

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

DIRECT EXAMINATION OF DOMINIC MARCHESE

BY MR. TRAFICANT:

Q. Good morning, Dominic.

A. Good morning.

Q. Would you please give us your full name, and spell your last name for the jury.

A. Dominic Marchese, M-A-R-C-H-E-S-E.

Q. Give us your home address.

A. 6666 Stoddard Hayes Road, Farmdale, Ohio 44417.

Q. Would you repeat that again, slowly for the Reporters.

A. 6666 Stoddard Hayes Road, Farmdale, Ohio 44417.

Q. There's water there, Dominic.

A. Thank you.

Q. Dominic, you know if you have immunity in this case?

A. I have no immunity, no.

Q. Where are you currently employed?

A. I'm currently employed as a staff representative for Congressman James A. Traficant.
Q. How long have you been in my employ?
A. Since May 1, 2000, just two years -- I'm sorry, April 1, 2000, very close to two years.
Q. Are you married?
A. Yes, I'm married.
Q. How many children do you have?
A. I have four adult children and eight beautiful grandchildren.
Q. Is your wife employed?
A. My wife is a Trumbull County Recorder, Diana Marchese.
Q. You hold an elected position?
A. Yes, I do.
Q. And what is that position?
A. Township trustee in Johnson Township, Trumbull County.
Q. Have you ever worked in the construction industry?
A. Yes, from my young years growing up with a father that had a construction company in Warren, Ohio, Anthony Marchese Construction Company, as well as his brothers having a concrete company that did masonry work. He did build very close to in his career 200 homes in the City of Warren. I would have to work along with carpenters and

bricklayers as I was growing up.

Subsequently, following Naval service, I became a journeyman bricklayer. I still have a card today.

Q. When was the last time you worked as a bricklayer?

A. It would have been February and March of 2000, just prior to coming on your staff as a part-time employee.

Q. Are you now full-time?

A. I'm full-time, yes.

Q. What are the areas of your responsibilities?

A. I do constituent work on a daily basis. Whatever calls need to be addressed there, their concerns, their needs. Mostly I believe I would be doing Veterans Service work and Social Security issues as well as farm -- the farm community. I would do community outreach, attend meetings, weekly and evening meetings, in Trumbull County.

Q. Were you ever appointed to a national committee on agriculture?

A. No. I was on a short list. I believe it was 1996, a short list for the national organic standards board in Washington, D.C.

Q. Do you currently own a farm?

A. Yes.

Q. What kind of farm is it?

A. Presently raising beef cattle, and it's -- it's been an organic dairy farm from 1976 through 1993, at which time

we had to sell the milk cows because of the cost of production was less than we were making.

I've raised beef cows ever since.

Q. Did you ever build a home?

A. Yes. I've built one home for my father in his business that I supervised and built. And then I built my own home, and I built commercial buildings and many garages and a small building in Warren, Ohio, called Mr. R's on Route 422.

Q. Is that a commercial building?

A. Yes, it is.

Q. Now, the home you built, is that the home on Stoddard Hayes Road in that you still reside in?

A. Yes, it is.

Q. Did you have occasion to inspect and review the addition on the back of the Traficant farm?

A. Yes, I did.

Q. And could you describe from your experience in construction the quality of work of that project?

A. I didn't see any quality of work. It was very poor work. I would not have wanted to pay for that myself.

MR. MORFORD: Your Honor, we're not getting a date of when this inspection took place.

THE COURT: We need to know when you looked at it.

BY MR. TRAFICANT:

Q. When did you inspect this property, this farm, this house?

A. I inspected that addition to the back of that farmhouse, if I'm not mistaken, today is -- I believe.

Q. Approximately how long ago?

A. A week ago.

Q. And you did take an extensive look at that house?

A. Yes, I did.

Q. Did you take an extensive look at the house in addition to that addition we're talking about?

A. I looked all around the farmhouse, a lot of the rotted soffits, overhangs.

Q. I'm going to place -- your Honor, the same exhibit that I placed before on the screen.

THE COURT: Fine.

BY MR. TRAFICANT:

Q. Are you familiar with what this is, Dominic?

A. Yes. That's an aerial photo of a farm building, farmhouse.

Q. Do you know what farm that is?

A. That is the Traficant family farm.

Q. Now, do you have an aerial view of your farm?

A. Yes, I do.

Q. Does your aerial view make it look real pretty?

A. Yes, it does, that's their business. Those are very expensive to have done.
Q. Does that look beautiful?
A. It really does.
MR. MORFORD: Objection. It is the jury that can decide these things, your Honor.
THE COURT: Exactly.
Q. Are there any buildings missing from this photograph?
MR. MORFORD: Objection as to the relevance of that. It's a joint exhibit that Congressman Traficant offered himself.
MR. TRAFICANT: I'm asking if there's any missing buildings.
THE COURT: You can answer whether there's missing buildings there.
THE WITNESS: Missing buildings? I believe there's a roof on the silo at this time.
Q. Are there any other buildings on the property that are not shown on there?
A. Not to my knowledge.
Q. Do you know if there is a machine shed north of the big barn?
A. Yes, there is, but it's not in the photo.
Q. Do you know if there's a stepdown shed north of the big barn?

A. Yes, there is.
Q. What are the conditions of those two buildings?
A. Pretty poor.
Q. Now, when you reviewed the porch of the house, what were the conditions of the posts?
THE COURT: This is a week ago we're talking about?
MR. TRAFICANT: Yes.
THE WITNESS: The posts were four by six posts. That's really all I can recall. I thought they should have been six by six, but --
Q. On the addition, did you see the floor of the addition on the first floor?
A. Yes, I did.
Q. What was it?
A. It was water damage in three different areas. It was plywood, subflooring materials, left as a finished floor from what I observed, and it had a lot of -- three different areas that were water damaged and water coming in on the floor itself, under the doors.
Q. Did you notice the construction of the privacy fence with the so-called open roof over it?
A. Yes, I did.
Q. Do you recall the wall where the gutter ran through?
A. Yes. It had a post notched out for the gutter to go

through.
Q. Was there anything unusual above the gutter?
A. There was a -- probably a four-inch area of above the gutter and the roof sheeting that was open, not a painted fill strip. It was open. There were signs of squirrels going in there between the roof and the porch ceiling, through that opening.
Q. Did you inspect the basement door?
A. Yes, I did.
Q. Where was the basement door located?
A. About in the middle of the back of that house, underneath the porch. You could walk into a basement door.
Q. Of that one here?
A. Somewhere right about there.
Q. How do you -- how would you estimate the age of that door?
A. The door would have had to have been built with the home, at least 100 years old, original home. The door was made of poplar, one-by-six, one-by-four, and one-by-six boards randomly placed on some bracing, three horizontal braces on the back of the door. Total thickness of the door would have been -- if it was one inch, poplar. I scraped some of the paint off, and I can tell it was poplar wood.
Q. Were there gutters on the addition?

A. No. There's -- there's no gutters on the addition of that two-story roofed area there. There's no gutters. Water just falls off of that on to your deck at the base of the first floor where the side sliding doors are laid right onto the deck. That's why the water is coming in underneath. It's -- I would have built that with a raised floor, at least six-inch step. Water would not have come in on your finished floor there.

Q. Did you estimate the size of that job?

A. Somewhere around 12 by 14 foot.

Q. The floor?

A. Right.

Q. But did you estimate the total amount of work that was needed to build the addition and put the siding on to the back?

A. Yes, I did.

Q. Have you ever bid on projects?

A. I've bid on numerous projects for my father. I had architectural vocational drafting and for three years --

MR. MORFORD: Objection unless we know what types of projects these were he's trying to qualify for, your Honor.

BY MR. TRAFICANT:

Q. What projects did you bid on?

A. I bid on the -- Mr. R's Restaurant on 422.

Q. Did you get the bid?
A. As far as materials -- no. It was a building that we built. I did materials I know we had in it. I bid on two different homes. One that we did get, and that was for a Peter J. Camretta on Patching Avenue in Warren, bid on the home and subsequently built the home for Mr. Camretta.
Q. You built the home?
A. Yes.
THE COURT: When was that? Congressman, you need to get these things tied down.
THE WITNESS: That was in 1972 -- '71 and '72 Mr. Camretta's home was built.
THE COURT: Okay. So you were bidding in the early -- 1970?
THE WITNESS: I would say it was '71 when we were bidding on it. I believe the work was done on the house in '72. Can't be far off with that.
THE COURT: Thank you.
BY MR. TRAFICANT:
Q. Have you since built an addition to your house on Stoddard Hayes Road?
A. Yes. I'm still working on an addition to my house at this time.
Q. Now, on or about 1993, did you -- what was your understanding of the economy in Mahoning Valley?

A. Early '93 I was dairy farming at that time, and the -- the agriculture, of course, wasn't part of the economic boom that the country was having in the '90s, but I -- I believe that construction at that time should have been -- should have not been a problem to get a job in construction at that time.

MR. MORFORD: Objection, unless he has some expertise to say that. He's just sitting here giving his opinion on things.

THE COURT: Right.

THE WITNESS: I was asked.

THE COURT: No. It's not about you answering; it's about whether or not we should permit an answer to be made. Given what we have here, we can't go forward on this with this witness.

Q. Did you give a rough estimate after having looked at that addition and considering what you would bid on that job?

MR. MORFORD: Objection.

THE COURT: Don't answer, please.

BY MR. TRAFICANT:

Q. Now, when you said very poor work, what led you to believe that it was very poor work?

A. There are some rafters in that open gazebo area that the bird mounts are as much as three inches away from the

top plate as far as fitting to notch around another post for the gutter on the existing house when it could have been placed away from it to begin with. The railings on the deck, I notice where they're nailed too close to the top of the board and split, the edge away and then pulled a nail out. It would be a hole there and in the split.

Inside, there's some trim work that is noticeable splits on the trim from nailing either too close or just leaving a trim board like that with a split in it.

The construction of the doors, I would never have put doors right down on to a deck where water can roll underneath the door and wet the floor underneath the plywood. That was -- that was the first thing that caught my attention. I just wouldn't -- it's not done that way.

People that are in construction wouldn't build like that. It looked more like a do-it-yourself project.

Q. When you said it looked like a do-it-yourself project, is it your testimony that you do not believe it was performed by --

THE COURT: Whoa, whoa. You don't ask him that way. This is on -- you ask him questions. Let him answer it. Don't say what you think his testimony is.

Q. Does the quality of that job appear to you to have been done by professionals?

A. No, it doesn't.

Q. How long would it have taken you to build that addition?

MR. MORFORD: Objection, total speculation.

THE COURT: Yes. We can't accept an answer to that.

MR. TRAFICANT: Pardon?

THE COURT: The objection's well taken.

BY MR. TRAFICANT:

Q. Did you take pictures of this -- of this addition and home?

A. Yes, I did.

Q. Are those pictures ready?

A. I was just finishing some labelling of them when I got called into the courtroom. I did not have them all labeled.

MR. MORFORD: Your Honor, can we find out when he took and made these pictures because we've never seen them before this moment.

THE COURT: Right.

BY MR. TRAFICANT:

Q. When did you take the pictures, Mr. Marchese?

A. I took the pictures of the -- this addition we're speaking of behind the -- from the deck, the deck -- the deck addition on Saturday of this past week, Saturday.

Q. And you did not complete identifying them for what

reason?
A. I had many pictures, and I wasn't done labelling. I got called to come in here.
Q. You didn't expect to be called this early?
A. No. I thought I'd have the day or something.
Q. Do those pictures depict damage to the house?
A. Yes, they do. That's the ones I took. Anywhere there was a problem that I felt needed a picture.
Q. Was there rot on the house?
A. Yes.
Q. Extensive rot?
A. Yes.
THE COURT: Well, Congressman, why don't we take the break right now, and maybe he can finish getting together whatever pictures you believe might be relevant.
MR. TRAFICANT: I didn't realize the time, your Honor, and I agree with you full-heartedly. How long of a break will it be?
THE COURT: It'll be a 20-minute break. Thank you.
(Proceedings in the absence of the jury:)
THE COURT: When you find out what you're going to use before we bring the jury back, they have to see them.
MR. TRAFICANT: I will do that.

THE COURT: Also, if you have any issue between the two of you, I need to come out here before 11:00. So you guys get about a ten-minute break. Okay?

(Thereupon, a recess was taken.)

MR. TRAFICANT: Your Honor, I would like to make a request of the court that pursuant to counsel for Mr. Saadey, who has an important meeting at 3:00 and thought he would be out in the morning, he be voir dired tomorrow morning at 8:00 or 8:15 before the jury, and he has to get back.

I'm not speaking for his counsel, but he thought he was going to be on at 9:00 this morning.

THE COURT: Okay. Do you have other witnesses to fill up the jury's time?

MR. TRAFICANT: Yes. I believe I do.

THE COURT: All right.

MR. TRAFICANT: I -- I'm hoping I do. I thought he would be an extensive cross, but he would --

THE COURT: You want me to release him. I have to ask this question because we have a jury here today, and we have to accommodate them, and I said I'd be willing to --

MR. TRAFICANT: Yes. I believe I have enough witnesses here, and --

THE COURT: To take us to 4:30?

MR. TRAFICANT: I don't know how long cross they're going to take but --

THE COURT: You never can exactly predict. I just want to make sure that if I let you reschedule him -- and I'm not sure it can be in the morning -- we normally start the trial at 9:00, but if I can reschedule him to some other period of time tomorrow, then I want to make sure that you have enough people here today.

MR. TRAFICANT: I would request that, and I'd also note that I was told that the welder is on its way, and I expect it here hopefully before 4:30.

THE COURT: Okay.

MR. MORFORD: Your Honor, I was going to say if Congressman Traficant tells us and the Court who he plans to call today, we'll tell you how long on cross. We have an idea of that. If he runs short, he can call people at lunch.

THE COURT: That's a good idea. Why don't you take a few minutes to do that? Meanwhile, is there any issue about the pictures here?

MR. MORFORD: Yes, your Honor. And the issue is this: At five minutes to 11:00, Congressman Traficant finally showed us these photos. And it is clear from a number of these photos that they do not relate to the addition at all, that they relate to the condition of the

farmhouse itself, parts that had nothing to do with the work that Manevich was doing.

And this witness has testified about squirrel holes and things that are on the old house. He wants to show a number of pictures and photos that really aren't relevant, and I -- I guess my request is, if he's going to be showing these pictures of parts of the house that didn't relate to the work, that needs to be made clear because so far he's made it sound like all this relates to the work that was done by him.

MR. TRAFICANT: Your Honor --

THE COURT: Um-hum.

MR. TRAFICANT: -- the bulk of these photographs are exactly related. There are five that are unrelated, though, that speak to the general condition, and one of them also speaks to a photograph that was shown to Mr. Angelo, if you'll recall, and that was already brought into evidence by the Prosecution, and that's the swayback building, in fact, that it still does exist and exists on that property.

MR. MORFORD: I'd like to note for the record the photos in the Congressman's hands I haven't seen yet. I want to read on the record what he's shown.

THE COURT: Okay, okay. All right.

MR. TRAFICANT: You can read on the record I

have exactly what I've shown you.

MR. MORFORD: You told me these were the ones you are going to use. I don't know --

THE COURT: Guys, this is the kind of stuff you're supposed to sit down together and -- please do it, and then we'll go on the record.

MR. TRAFICANT: I would like to stipulate.

THE COURT: No. Wait. You're off the record I just took you off the record.

(Discussion held off the record.)

THE COURT: I was just talking to this gentleman about what time we're scheduling his client tomorrow morning, and I'm willing to do it at 8:30 but not at 8:00. 8:30 which is half an hour. That should be plenty of time to allow questions to be put to your client. Okay?

MR. KOPP: Thank you.

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

MR. TRAFICANT: That will be fine with me.

MR. KOPP: Thank you.

THE COURT: Very well.

MR. TRAFICANT: I would like to ask for the record --

THE COURT: Okay.

MR. TRAFICANT: If his client is going to testify or take the Fifth Amendment.

THE COURT: Well, that --

MR. KOPP: For the record, I can't answer that until I know the questions.

THE COURT: That's right.

MR. TRAFICANT: Fine.

THE COURT: That's why we do the questioning. Okay.

MR. TRAFICANT: Thank you, your Honor.

MR. KOPP: Thank you.

THE COURT: I understand that you've reached some kind of agreement about these pictures. Am I correct?

MR. MORFORD: Yes, your Honor. I've now seen the pictures, and as long as he makes it clear with the witness where these pictures are in the house and what parts relate to the addition and not the addition, then that's fine.

THE COURT: Okay. Very well.

MR. TRAFICANT: And I've agreed to do that.

THE COURT: Excellent.

MR. TRAFICANT: Thank you. Your Honor, I have a piece of evidence I'd like to have admitted. Shall we do that later in the day?

THE COURT: Usually, we do that at a break,

and we really should bring the jury in.

MR. TRAFICANT: Bring the jury in, that's fine.

THE COURT: We'll bring the jury in.

(Proceedings resumed in the presence of the jury:)

BY MR. TRAFICANT:

Q. I'm going to ask if you can identify this photograph that is placed here and if you took that photograph.

A. Yes, I took that photograph. I notice the bird mount on the rafter, hanging out on the right-hand side at the top. See the -- the space that you can see above the wall where the -- that's the plate that the rafter sits on -- right -- no, right there. That opening right there, that's called a bird's mount on a rafter, and it should be up against that and totally off from the back and then from the top down on to the plate. But, see, it's separated, and it appears that it was -- that's the way they put it together. They didn't have much craftsmanship on that.

THE COURT: Congressman, before you replace that, we need the number put on the record.

MR. TRAFICANT: That is HA-35, your Honor.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Did you take this photograph, Dominic?

A. Yes. That is the finish floor that they left. It's

the bottom of the doors, the door track that you walk out on to the porch. You have two sliding doors that come together with a post in the middle. And that's the water damage at the base of the post and the floor underneath the aluminum track that's sitting on that.

THE COURT: Would you give the number, exhibit number, Congressman, it's better if you do it when you put it up.

MR. TRAFICANT: I'm sorry, that's HA-37.

THE COURT: Thanks.

Q. This is HA-39, and did you take this photograph, Dominic?

A. Yes. Although the photo doesn't -- photo doesn't do it justice, it's trying to show that the plywood they used was probably seconds because it is -- there's a big gap there of like one layer missing in the middle. It should be finished on one side for either tile or for carpeting, and basically, it appeared to be regular subflooring, CDX type material.

Q. Does that mean there was no one finished side?

A. No.

Q. Next photograph has already been introduced by the Prosecution, and did you take this photograph HA-400? It has a joint exhibit number for the purposes of today's identification.

MR. MORFORD: Your Honor, that picture was not introduced by us and doesn't have a joint exhib number.

MR. TRAFICANT: Okay. Then I --

Q. Did you take this photograph, Dominic?

A. Yes, I did.

Q. Did you go in that building?

A. No, I didn't. I --

Q. When did you take the picture of that building?

A. That particular picture was taken at least four weeks ago. That was not taken on the day that I took the pictures of the addition on the deck.

Q. When you took the picture addition of the deck, was this building still standing?

A. Yes.

Q. This is HA-38. Can you explain the significance of this photograph?

A. I had to get down very low to take this picture. There is a hutch you have on the floor that's got china in it. There's glass doors above that hutch, but you have a board on the floor at the other end of the hutch, and it's at least a one-inch thick -- not three quarters. That's a one-inch rough sod piece of poplar or spruce appears to be.

Q. And what if -- how wide was the cabinet?

A. I don't believe it's more than six-foot of china cupboard. I notice that, and then I looked at the china

cupboard, and you had dishes and things in there, and I figured, well, that must be because they were leaving that at an angle. See, from one end of that hutch to the other, that is making it level on the floor.

Q. Making it one-inch and six feet?

A. That's about right, yeah. So you needed to put that underneath to make that level for your china pieces, not to roll off the shelf.

Q. This is HA-1, did you take this photograph?

A. Yes. This one shows siding that they did coming around the wall on that side, above the -- there's a gutter on top of the siding that they -- that probably was on the existing house before the siding.

So the gutters there, there's a post coming up that's notched out. See where all that dark green mold is?

Q. Is this where it was notched and cut?

A. That's right. It's notched out there -- well, quality construction, you don't do work like that. That was my point in this.

Q. Did you take this picture, this is HA-60?

A. Yes. That's the same wall, going around the corner of an L-shape deck into the gazebo area. That's the corner. There's an existing gutter with a downspout coming off of it --

Q. Is this the gutter?

A. That's the gutter.
Q. Does the siding go up?
A. To the bottom of your gutter.
Q. And stops?
A. That's the work they did, yes.
Q. They didn't go up under?
A. No.
Q. Is this an opening up here?
A. That's where the rodents are going in between your roof and into the attic, and I would just -- didn't know why they wouldn't have plugged that up and put siding in -- you know, into that opening to seal it.
Q. Does this further show from another angle the notch that was made?
A. Yes. That's the other side of that four by four that you've seen on the previous picture.
Q. Next one is HA-50. Did you take this photograph, Dominic?
A. Yes. That's the west wall underneath a sliding glass door, where they stopped short of the subfloor, and the finished floor, left an opening. Evidently, they didn't square their room when they put the room on your deck, square up. One corner was hanging out further. There's an opening there, and there's water damage. You can't tell it, but to the right where the post comes down, that is --

Q. Water damage down in here?
A. That is all water damage on the plywood and the bottom of the post.
Q. Now, when we looked at the photograph with the piece of furniture that was set on an angle, would this be the down side or the top side of that?
A. That's the low side, in fact, that china cupboard is on that wall to the left of the picture.
Q. This is known as HA-80. Could you identify this photograph, Dominic?
A. That is your treated deck that they built a room on top of, setting the doors and the floor right on top of your deck. And water on your deck goes underneath that threshold of that door. Like I said, it should have been raised up six inches as a step-in, and you would have had a floor that would not be getting water under the doors.
Q. Could you identify this photograph?
A. This was directly underneath your deck where that addition is built, about the center of the back of the house.
Q. HA-90?
A. Yes.
Q. HA-90?
A. And that's what I -- what I deemed to be the original door that went with the basement, with the house.

Q. Why did you believe this was the original door that came with that house?
A. Well, the hinges that they put it on were hinges cut sideways so that it could be used on a one-inch thick door. So they -- those are very old hinges, and they even had to cut them to make them fit.
I don't know if we have a picture of them there, but the braces at the bottom and the top of the door that the boards were nailed to, that's the way they con -- they constructed the doors years ago.
Q. Can you see the difference in the width and one inch versus another?
MR. MORFORD: Objection to this on relevance because Mr. Manevich never testified he replaced that door. It's totally irrelevant.
MR. TRAFICANT: I believe Mr. Manevich testified he did the basement door.
THE COURT: No.
MR. MORFORD: He said he fixed it. He didn't replace it. This is irrelevant.
Q. Was that door fixed, Dominic?
MR. MORFORD: Objection to what he could know was replaced in '93.
Q. This is HA-70, Dominic. What does this depict?
A. They have the siding going up on the addition and the

soffit material, closed in, and a facial on the edge of the roof, but there's no gutter. So that water just comes off, hits the deck down below, goes under your floor inside.

Q. And that was HA-70?

A. Yes.

Q. This is HA-100, did you take this photograph, Dominic?

A. I took that photograph the same day that I took the photographs of the addition on the deck. That would have been Saturday.

Q. What, if anything, was the status of the eves?

A. The -- return wraparound eve is all rotted and open. That's all open where squirrels can go right into your attic, go right into the attic.

Q. That was not a part of the addition, was it?

A. No. This had nothing to do with that. I just wanted to know what the condition of this farmhouse was --

THE COURT: Okay. Well, we're getting into areas that really aren't relevant to anything --

MR. TRAFICANT: We've agreed to four other photographs, your Honor.

THE COURT: Well, whatever. Let's only deal with things that relate to testimony that has somehow come forward in this case.

MR. TRAFICANT: I believe it speaks to the

Defense as to the aerial photos being shown.

MR. MORFORD: Object to the speech, your Honor. Nobody's -- this is irrelevant.

MR. TRAFICANT: These were agreed to before we started.

THE COURT: Okay. We aren't going to have that discussion in front of the jury. You didn't tell me what you agreed to, so we'll take this up later. Just move along with things that he can testify to.

Q. Who suggested that these pictures be taken?

A. I suggested to you that I'd like to take some pictures of the farm and the buildings from my recollection of what was being portrayed to be J R's --

MR. MORFORD: Objection on relevance to this line of questioning.

THE COURT: Sustained.

MR. TRAFICANT: No further questions at this point.

THE COURT: Thank you.

CROSS-EXAMINATION OF DOMINIC MARCHESE

BY MR. MORFORD:

Q. Mr. Marchese, we never met before today, right?

A. I met you this morning.

Q. Out in the hallway I said hello. Before that we never talked, correct?

A. That's correct.
Q. And it would be fair to say you don't come before this jury as an entirely unbiased witness, correct?
A. I would say so.
Q. You're not a professional construction inspector who inspects construction for pay with no relationship to Congressman Traficant, correct?
A. That's true.
Q. In fact, you're a very close personal friend of his, correct?
A. Very close.
Q. As you testified on direct, you worked directly for the Congressman, correct?
A. Yes, I do.
Q. And you have done so for the past 18 months, correct?
A. Should be two years at the end of this month.
Q. And how much do you make per year for this job, sir?
A. My present salary is $30,900.
Q. Okay. And do you get health insurance paid by the Government?
A. No.
Q. Do you get a portion of your health insurance paid by the Government?
A. No, I do not.
Q. You don't get any insurance whatsoever?

A. Not based with the federal government. I have -- I have insurance through my wife's insurance. I'm covered with her.
Q. Now, do you get vacations, vacation days?
A. Yes.
Q. And how does that work?
A. Well, there is a schedule of so many years service, so many days vacation.
Q. Does anybody really keep track of them, sir?
A. To my knowledge, they do.
Q. Who?
A. Well, where I work in Trumbull County, it would be kept by the supervisor.
Q. But who was that, Betty Manente?
A. Yes.
Q. Sir, you don't have to actually fill out a leave slip like normal Government workers when you want to take a day of leave, do you?
A. No, you don't.
Q. You just take a day of leave, correct?
A. You notify the supervisor that you need -- a half a did or a day, yes.
Q. Isn't it true that under the workings of a congressional office, in particular your congressional office, that if Congressman Traficant wants to give you ten

additional days of leave, he can do so, correct? He has that power?

A. I'm not aware of that. I will -- I'm really not. I -- I read a note -- a memo that came from D.C. about vacation days, and that's all I know about it.

Q. And that's recently then, correct?

A. When I started.

Q. Which was what, 18 --

A. That was the April -- I think 1st of April of 2000.

Q. So --

A. That very week, I seen what days were allowed based on years, and I believe one year is 11 days, if I'm not mistaken.

Q. And that was after the newspapers began reporting about staff members going out and working at the farm that that memo would have come out, correct?

A. I'm not sure. I don't know what -- I don't know what date you're relating to in relation to when I started.

Q. Okay. Well, sir, did you start before or after the March 2000 primary election?

A. I started after the March 2000 primary.

Q. Isn't it true prior to that election there were wide spread press reports of congressional staffers doing work at Congressman Traficant's farm during congressional hours?

A. I'm not sure if that was reported that way. I've

since read about that, heard about that.
Q. How many hours do you generally work per week to earn your $30,000 a year salary?
A. I would -- I would have to say that I average between 37 and 44 hours a week, and I do have with me today time sheets that we fill out everyday.
Q. Who is it that actually sets your hours and duties? That would be Congressman Traficant, correct?
A. I believe it is up to the member, yes.
Q. In fact, if Congressman Traficant tells you I don't want you to work in the office today and do whatever you're doing, I want you to come with me here or there to a meeting, you'd go with him, correct?
A. If it's pertaining to congressional constituent work, meetings, he could do that, yes, I could go with him.
Q. Have there ever been times Congressman Traficant asked you to go somewhere that really didn't relate to constituent service work?
A. No, there has not. There's not been one -- one time when he's called me during a workday to go anywhere with him that wasn't relating to that type of work.
Q. Have you yourself ever done any work out at the farm?
A. Not since I've been employed by the Congressman.
Q. So since the time you started with Congressman Traficant, it's your testimony you have done no work out at

the farm?
A. No work out at the farm since the day I started.
Q. Have you ever sent someone else out to do work at the farm?
A. No, I have not.
Q. Now, it was Congressman Traficant that hired you, correct?
A. Yes, it was.
Q. And you understand that as a congressman he can fire you without cause for any reason whatsoever, correct?
A. I believe that's the way federal positions work, yes.
Q. Well, congressional positions I'm asking about. There's no Civil Service --
A. No, there's no -- no protections in congressional staffing.
Q. Just prior to the time that you started with Congressman Traficant, there was a man by the name of George Buccella who was looking to get a job in Trumbull County, is that correct?
A. George was always looking for, you know, to move up to another position, yes.
Q. Where does George now work?
A. George works for the Trumbull County Board of Health.
Q. Okay. And what does your wife do again?
A. She's the Trumbull County Recorder.

Q. And were you at one time opposing George Buccella from getting that job in Trumbull County?
A. Opposing George from getting the job?
Q. Yes.
A. No. I totally stood away from it or out of it.
Q. Did you ever tell people you didn't think he should get that job?
A. I do not recall ever saying that -- to anyone that I don't think he should get the job. I recall -- if I said anything that George was a worker. George would work. He would do a job.
Q. Now, did you replace George Buccella on Congressman Traficant's staff basically?
A. I replaced George as full-time position. I was part-time at the time.
Q. Now, you, in addition to working for Congressman Traficant, are close personal friends of Congressman Traficant, correct?
A. Yes, I have been, probably since '94, very close.
Q. And you and your wife have had him out to your farm on many occasion, correct?
A. Yes. The first -- the first time that he was at our farm was in 1984 when he was shown --
Q. My question was, that's not an infrequent occurrence, for you to have the Congressman out to your farm?

A. He's there a lot.
Q. Are there ever times he spent -- stayed overnight at your farm?
A. Yes. There's many times he stayed overnight.
Q. How many times would you say in the last three months he stayed at your farm?
A. Not at all in the last three months.
Q. How about in the last couple years?
A. In the last couple years, this past hunting season, he was not out at all. Normally, he's -- he's there every weekend during hunting season. The duck season especially in November.
Q. Did you drive up here today?
A. I drove up here last night.
Q. Who else did you drive up with?
A. With Mr. John Innella, he needed a ride so I was going to drive up this morning, but he needed a ride there, and I figured if the weather's bad coming up, I don't want to get stuck in the morning and cause a problem not being here. So I left last night about 10:30, picked him up and came up to Cleveland.
Q. Now, did you -- did you stay with anybody else?
A. I stayed with the -- with the Congressman.
Q. You stayed with the Congressman last night?
A. Yes, in the room next to the Congressman.

Q. Now, isn't it true, sir, that based on your friendship and employment with Congressman that you don't want to see the Congressman convicted in this case?
A. I would say that that's true. I would also say that I would not lie for him either.
Q. I understand that, but you've given some testimony today here about your expertise --
A. That's right.
Q. -- in the area of construction. I want to ask you questions about that.
A. Yes.
Q. First, you indicated you haven't done any work on the farm since the time you have been employed by Congressman Traficant, but the truth is, you have done work out at the farm on prior occasions, prior to the time you worked for him, correct?
A. That would be correct.
Q. And very close to the time that he hired you to work for him, correct?
A. No. I would not say very close. The last time we ever exchanged any labor where I would be helping him do something at his farm would have been in the early fall of '97; would have been the last time I've worked assisting him. Exchanging any work would have been the fall of '97.
Q. Okay. Well, you did some extensive kitchen repairs

at the farmhouse, correct?
A. I helped him remodeling --
Q. Why don't you go ahead and describe to the jury the extent of remodeling, personal work that you did yourself?
A. Well, anything I did there, I was with the Congressman helping him do.
Q. Well, thank you, sir. But my question is, describe to the jury what you personally did yourself.
A. I recall a premolded counter top that he wanted to have help put down. You have to glue those tops down and screw up from underneath.
Q. Isn't it true you also did some dry walling?
A. There was a piece of drywall in the hallway off of that kitchen that I helped him with, the base of which would have been half drywall going up, and the base would have been older, rough sod boards as a chair rail type, probably 48 inches high from the floor.
Q. Barn wood, right?
A. Yes.
Q. Barn board they call it, correct, barn board, is that what they call it?
A. I would say those were used board, yeah, barn -- barn siding.
Q. But that's what it's called when you have a look in your kitchen, a barn board look; is that correct?

A. I helped him do that.
Q. What else did you do in the kitchen?
A. I worked on an electrical outlet in that kitchen. Can't recall any other -- any other work.
Q. Do you remember any other workers being there and helping you?
A. Any other workers?
Q. How about your brother, sir, wasn't he there helping you?
A. My brother-in-law, Ronnie, would have been out there one day with me, and, in fact, we ate there.
Q. How about a guy name John Fortunato, times he was working out there in the kitchen?
A. I never saw John working in the kitchen. I recall John stopping there the day I was out there, but I don't recall him working in the kitchen.
Q. What were you paid for the work you did in the kitchen?
A. I didn't want to be paid. We were exchanging labor.
Q. What was he doing for you labor-wise?
A. Well, in 1996, the winter of '96 --
Q. Just an exchange for the work you did in the kitchen. Tell me what it was. Was this a barter work situation? You did something in the kitchen, and he did something for you. Is that what you're saying?

A. Basically, that's right. He painted every room in my house along with me in 1999.
Q. The Congressman did?
A. Right. He's a very good painter, and he enjoys it.
Q. How would you characterize his carpentry skills?
A. Pretty good.
Q. Pretty good?
A. He does very nice finish work. He also enjoys working with wood, making little cupboards.
Q. In addition to the work you did in the kitchen, did you also build some steps at the farmhouse?
A. We did -- we did do a set of steps that were very bad, an old farmhouse. We put a new set of steps in.
Q. So it's your testimony since the time you started working for Congressman Traficant you no longer traded work for work with him, correct?
A. That's not since I worked for him, that's right.
Q. Let me ask you this: I want to ask you questions about your experience in construction industry, and I'm not sure I fully understood what you said on direct.
Run me back through your full and complete experience in terms of -- before we do that, let me ask you this: Weren't you a fireman at one time?
A. I was a City of Warren firefighter from 1966 until 1991 when I retired.

Q. So until you retired in 1991. You were a full-time firefighter, correct?
A. Which is working one day on and two days off, yes.
Q. And then were you involved in the construction business during the time you were a firefighter?
A. That's what I continued to do from getting out of the Navy in 1964.
Q. Were you full-time or part-time as far as what you were doing construction-wise?
A. I would have been from '66 on -- I would have been part-time with my father's construction company.
Q. And that was a business that did what kind of construction?
A. Small homes and building.
Q. Building new structures, correct?
A. New and additions.
Q. How many additions did you personally work on, approximately?
A. I wouldn't be able to count them all, many.
Q. There were many. Isn't it true that based on your experience that it's sometimes much harder to do construction on existing structures than it is just to build an entirely new structure?
A. It's easier to build new.
Q. And isn't it particularly difficult when you're

building an addition on a structure that itself is not in very good shape?
A. Remodeling that, you mean?
Q. Yes.
A. Yes, it would be.
Q. And isn't it difficult if you're dealing with an owner that doesn't want a lot of changes to what already exists, if what already exists is not in good shape?
A. Well, example of that, you -- you're building an addition on a deck that was pre-existing, and the deck, for whatever reasons, could have been severed. You wouldn't just start to build a room for this individual or anyone off of that deck without trying to level that with a floor as a step-up, where you could shim the floor joist to make that room both ways level, set your door threshold on that new frame and go from there.

So you're saying is that difficult? It's not difficult if you're in the trades and are doing work and you got power saws and you can shim floor joists. I don't see where that's difficult.
Q. Let me ask you, sir, did you actually take and measure the balance of that floor?
A. I only observed that one cupboard with a -- within six feet that had the one-inch difference to be leveled.
Q. How hard would it have been to take a level and stick

it on the floor?
A. Why would I have to do that when you can see six feet it's on the floor on one end, and the other end is up an inch? Why would I have to do that?
Q. Isn't it true with old antique cupboards sometimes they --
A. That is not an antique cupboard. That is not an old antique cupboard. It's probably made in the 60's, French Provincial, I believe it is.
Q. Sir, let me ask you this: You're not a certified home inspector, correct?
A. No, I'm not.
Q. You've never done this type of work for pay in your life, correct?
A. Yes. I've done this kind of work for pay in my life.
Q. No. Inspection work for pay?
A. Well, no, but --
Q. You're not somebody that when somebody's buying a house, they don't go out and hire you to come in and look over the house and tell them where the problems are, correct? That's not what you do for a living.
A. That's right, but I can do that.
Q. But there are people out there that do that for a living, correct?
A. That's right.

Q. Now, is it fair to say as a contractor, a contractor's nightmare when you're working on additions to an existing structure, if the person that owns the additional structure keeps adding on little jobs every time you get one done they want you to do another?
A. You -- I'm sure that happens. It happened when we were building homes. They want changes on changes all the time. It's very frustrating.
Q. Isn't it true there comes a time you want to be done with a job and get out or there because suddenly you're becoming their handyman. Have you had that experience?
A. I can understand that.
Q. Now --
MR. TRAFICANT: I didn't hear that answer.
THE WITNESS: I can understand that happening.
Q. As you sit here today, you really can't testify about anything that went on in 1993 because you weren't there, correct?
A. When they constructed that addition?
Q. Yes.
A. No. But I can see what they did today.
Q. Well, how can you -- how can you see what they did when you don't know who did what, sir? You weren't there, were you?

A. I can see a floor with threshold doors sitting on a deck with only plywood underneath it for water to come in. None of -- you would not have accepted that work done for you.
Q. Well, sir, what I'm saying is, you have no idea in 1993 whether that door was put in by Congressman Traficant when he built the deck or whether it was something that was done by the workers when they came in to fix the deck, do you, based on your own firsthand knowledge?
A. My assumption is that addition, the way it's left right now, was the way it was built by whoever did it.
Q. That's an assumption because you have no idea really what was done or not done by Mr. Manevich, correct? All you can do is assume.
A. All I can do is appraise what's before me.
Q. Now, sir, you talk about the fact there wasn't a gutter on that roof. Do you have any knowledge of whether that roof existed before these carpenters even came out?
A. I understand the roof was --
Q. Your own personal knowledge, do you know?
A. I was told by the Congressman that that roof was --
Q. I don't want to ask what you were told by the Congressman. I want to ask about your own personal knowledge. Do you have personal knowledge whether that roof existed prior to Mr. Manevich and his crew coming out

to do work, your own personal knowledge?
A. No.
Q. And you don't have any personal knowledge, you yourself, as to whether Congressman Traficant wanted or didn't want a gutter there, correct, your own personal knowledge. You weren't there, were you?
A. At the time that that was done, no, I was not there.
Q. You testified on direct about this squirrel hole, and there was a squirrel hole, and it was a problem. Isn't it true that squirrel hole was on a part of Congressman Traficant's house that had nothing to do with this addition whatsoever?
A. That's right. And that's probably one of seven different squirrel holes in the -- around that house.
Q. Now, having been around construction, isn't it true it's not unusual when people put on a deck that at times they'll put on the deck and leave the doors like that. Sometimes people don't do it right, especially if it's home remodeling, they're doing it themselves?
A. This looks like a do-it-yourself job that I understand somebody charged money to build.
Q. And you only understand that because that's what Congressman Traficant's telling you, right?
A. That's right.
Q. The truth is, sir, you've even seen other sliding

glass doors where some wood on the inside is rotting, correct. That's not a -- that's not a totally unusual thing to see in houses where sliding glass doors were put on next to a deck, correct?

A. I've personally not seen that before, no, I haven't.

Q. You've never seen that before?

A. No.

Q. Well, sir, let me ask you this: Isn't it true that a lack of maintenance can also cause water problems?

A. I don't know how much maintenance you can put into something. That's always going to naturally take water underneath.

Q. Let me give you an example. What happens if you don't clean your gutters? That can cause water to come in at certain places, correct?

A. Yeah, but in this case, there is no gutter above that that's forcing more water to come down.

Q. Wouldn't it be -- sir, wouldn't it be fair to say that in viewing this house, you can see there's a total lack of maintenance whatsoever?

A. It's an old farm.

Q. But it's not very well maintained in your professional opinion as a contractor?

A. No, it's not, contrary to what people are hearing.

Q. Sir, how do you know what people are hearing. Have

you been in this courtroom?

THE COURT: You know what? We have a jury here, sir, who have been here from the beginning, and they've heard all the testimony in this case, and I don't know where you're getting your information, but they need to get it firsthand from the witnesses who can put on evidence that they're allowed, under the law, to consider.

Q. Let me ask you one last series of questions.

As I understand your testimony, you're testifying as a contractor, that if a contractor came in to do this room addition, certain ways they should have done it, then you don't see they did it correct; is that right?

A. That's right.

Q. Let me ask you this: Wouldn't you agree that if a person hires a carpenter at $15 an hour to come out and repair a portion to a deck, that it's his responsibility to pay that person for the number of hours it took him to fix the deck, correct?

A. If you were given a price ahead of time?

Q. Yes.

A. And you agreed to that price?

Q. Yes.

A. Then that -- you should have paid for that.

Q. And then, if, when they finish the repair on the deck, which is a small job, if that same person starts

asking them to perform additional work, then once the deck is finished, then you'd agree that they're responsible to pay for that extra work, correct?

A. I'm sure that those type of arrangements are dealt with before any work would be done.

Q. But as someone who's been called in here as an expert contractor in the industry, isn't that a fair statement: If you keep asking the carpenter who's out to do a minor repair, to do more and more work and it's hourly work, then the number of hours he spends is what you should pay him, correct?

A. Yes, exactly right.

Q. And if one of the things you asked him to do after he's come out to do a one-or two day deck job is to enclose the porch and build walls around it and then put in windows and all these other things, you should pay for what you've asked him to do, correct?

A. I'm not sure if in this case --

Q. I am not asking you about this case, sir. I am asking you just in general.

A. You should pay anyone that you make a prior arrangement with.

Q. And as far as your knowledge of this case, you've already said you weren't around in 1993, and you have no idea, other than hearsay, as to what the arrangements were,

correct?
A. That would be correct.
Q. Let me ask you the same questions with electrical work.
If during the time that the person is having this porch enclosed they call out an electrician to put in a switch, they should pay the hourly rate for that electrician, correct?
A. Yes.
Q. And then if once they get them out there and start asking them to do all kinds of other stuff, if the person ends up out there for hours and hours, they're responsible to pay them that rate, correct?
A. If they're asking before it, yes.
Q. And because you weren't in this courtroom, you have no idea whether it was Congressman Traficant asking these people to do more and more extra work, do you, sir?
A. No, I don't. I only looked at this building, appraised how it was built, what I felt I would have charged for that --
Q. As a whole job, correct?
A. Yes.
Q. But if you had gone out there at an hourly rate of $15 an hour, with a partner at an hourly rate of $15 an hour and the customer kept asking you to spend more and

more and more hours doing work, you would expect them to pay you what they bargained for, correct?
A. I would, yes.
Q. And you're in no position as you sit here today to testify about how many hours Mr. Manevich and his helpers put in because you weren't there, correct?
A. That's right. I only know how many hours I would have figured that job.
Q. But you don't know everything they did, do you?
A. What's visible.
Q. Sir, how would you have any idea what they did if you weren't there?
A. Looking at the work that's done.
Q. But you're just looking at -- you don't know what all they did, do you?
A. If you're talking about extra work outside of that, no, I wouldn't know.
Q. Exactly. You really don't know what they did, do you?
A. I know what they did on that deck.
Q. Only because of what Congressman Traficant has told you, correct?
A. What I visibly seen.
Q. But you don't know who did that work, do you?
A. I could figure that job.

Q. And, sir, my question is: You don't know who did that work, do you?
A. No, I don't.
Q. You're just assuming it was done by them?
A. It was done by a company as far as I know.
Q. That's assumption, correct?
A. As far as who did the work, yes, but someone did it.
MR. MORFORD: Just a moment, your Honor.
THE WITNESS: Someone charged it.
MR. MORFORD: I have nothing further.
THE COURT: Okay, Congressman.
MR. TRAFICANT: Your Honor, it's about five minutes to. You want me to continue? I have a little bit of time left?
THE COURT: Sure, you have some time.

REDIRECT EXAMINATION OF DOMINIC MARCHESE

BY MR. TRAFICANT:

Q. Dominic, you just went through a number of questions from the Prosecutor about what you knew or didn't know; is that correct?
A. Yes.
Q. What did you see?
A. I seen it basically a do-it-yourself project on a deck addition.
Q. Now, he asked you about remodeling old homes, did he

not? Did he not ask you about remodeling old homes?
A. Yes.
Q. And did you not testify it's much tougher?
A. Very much tougher to work on something old -- especially 100 year old.
Q. Would somebody leave a gutter on and build around it?
A. A do-it-yourselfer might. I could never bid to do that kind of work for anyone. I wouldn't figure in a bid that I would notch out a post for a gazebo around a gutter. I wouldn't do that.
Q. Exhibit for -- joint exhibit -- but for the purposes of today, 7-33(2). Can you identify on there -- do you see the addition?
A. Yes.
Q. Did you see the work that was done in conjunction with that condition?
A. Yes.
Q. Was the siding the same?
A. They extended the siding across the face of the back wall on the deck that went around the new addition to have the same siding.
Q. Did they take it all the way up and close the roof line up?
A. I believe they did, yes.
Q. I'm talking about the east side of the house where

the portico fence is. Did they take the gutter off and take it up and close off the hole between the roof?

MR. MORFORD: Objection. There's no testimony that they did that work, your Honor, on that side.

Q. Whomever did that work, was that the same siding as the rest of the house?

A. I believe it was.

Q. The addition?

A. I believe it was, yes.

Q. Was it inside the portico with the roof built over it?

A. Under the gazebo.

Q. Now, if you bid that job today, after having measured it, what would you --

MR. MORFORD: Objection.

Q. -- estimate?

THE COURT: We have -- we have to know that he knows what that job is.

Q. Are you familiar with what was done at that -- of that job down there?

MR. MORFORD: Objection. He's already established he doesn't.

THE COURT: He's testified he doesn't. He wasn't there. He doesn't know; only what he heard from

you.
Q. Did you see the addition that was added?
A. That's what I observed, yes. I did not observe it in '93 when it was being done.
Q. But after you observed it, did you observe the addition that was put on?
A. Yes.
Q. And how could you identify the addition that was put on?
A. I took pictures of it.
Q. And what, if anything, showed you what differences were there between the addition and the rest of the house?
A. The different siding for one thing and --
Q. Well, would the addition have different siding than the rest of the house?
A. Yes, it does.
Q. What was the rest of the house siding?
A. It was the older aluminum like eight-inch siding, aluminum siding. It's the very earliest aluminum siding.
Q. So from the siding, that depicts the new addition with your experience in bidding at today's costs?
MR. MORFORD: Objection.
THE COURT: That won't help our jury.
Q. After having seen that project, if that were on your house, how much would you have paid for it?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. In today's dollars, is that addition worth more than $12,000?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Now, the Prosecutor asked an awful lot --

MR. TRAFICANT: Your Honor, it's 12:00, and I have some more questions for this --

THE COURT: Just go ahead. We'll see.

BY MR. TRAFICANT:

Q. He talked about exchange of work. Did you ever do any farm work with me at my farm?

A. Yes, I have.

Q. Can you recall any unusual incident?

A. I recall the evening we mowed hay all night long so you would have a chance over a weekend to get it baled. We mowed on Thursday night; got done about 5:00 in the morning.

Q. Do you know what, if anything, happened that night?

A. First time I seen a coyote.

Q. What else?

A. One mower broke down that night. We were running two mowers.

Q. Why were we doing that?

A. Because the weather that particular week was very humid. It was -- we were able to mow during the evening without plugging off and being wet. Normally, after 9:00, the grass is real wet, and, you know, it's pretty hard to mow, but it was dry, it was very dry out. And you could mow, get the hole filled down.

Q. Does it give you an extra day of sun light, Dominic?

A. Gives you -- if you mow at night you have another day of drying, yes.

Q. Did I ever mow hay at your farm?

A. I think one time.

Q. Now, when you said we made exchange of labor and you said I painted -- how much painting did I do?

A. I know we did ten straight evenings, and it was during the winter. I think the house was recessed. We painted every evening. Some of the evenings I went with you to a couple meetings. We'd come back and change and started painting at 11:00 at night, and about 7:00 in the morning, we quit, sleep until noon or so, and then you'd go to the office, and I had farm work to do.

Q. How much of the house was painted?

A. 1996?

Q. How much of the house was -- the interior house was painted?

A. The whole house. We painted the whole house. And

then --
Q. Was there any woodwork done in the house?
A. We ran it around the whole downstairs in all the rooms.
Q. Did I assist you to do that?
A. Yes, you did.
Q. Do you have any bent nails in your house?
A. Just one.
Q. And who put that bent nail there?
A. You did.
Q. Did you leave it or take it out?
A. I left it there.
Q. Does it bother you to this day?
A. No. It's the only one I have, so --
Q. Now, you were asked about George Buccella?
A. Yes.
Q. Did you deliver to my house a sealed envelope relative to Mr. George Buccella, approximately six to eight weeks ago?
A. I delivered a sealed envelope from a Mr. John Wilbow.
Q. Did you open it?
A. No, I did not.
Q. Did you see me open it?
A. Yes, I did.
Q. Did you get a chance to read it?

A. No, I did not.
Q. Do you have any personal knowledge that Mr. Buccella had been investigated by the FBI?
A. No, I don't.
Q. Now, they said that you were not a certified inspector; is that correct?
MR. MORFORD: We didn't say anything. I asked him, your Honor, it was his testimony.
Q. They asked you if you were a certified inspector?
A. I am not a certified inspector, but I can bid construction work, know what's good and what's not. That's what I've done most of my life.
Q. If someone came to you and asked you for advice on bidding a new home, could you assist them?
A. Yes, I could assist them.
Q. You believe you could assist them as well as anybody?
A. Yes.
Q. When I did the work over your house, did you pay me?
A. No, I did not.
Q. Did I ever ask to you do anything for me, at any time since we've been friends?
A. Not that I can recall, other than if you needed help with something and I was able to help you, I would. Same way --
Q. Did you campaign for me?

A. Did I campaign for you?
Q. Yes.
A. Yes, I've campaigned for you.
Q. Did I campaign for your wife?
A. Yes, you did -- yes, you have, over the years.
Q. Did I campaign for you?
A. No. I didn't ask you to.
Q. Now, when they were talking about used barn boards, they asked you a question about used barn boards. You remember that?
A. Yes.
Q. Were those the old rustic skinny boards, or were they old used boards?
A. They were just the way they were, and they were not -- they were not like one by ten's that was ten inches wide the whole way. They'd go from ten inches down to three inches.
Q. How thick were they?
A. At least one inch, inch and an eighth, some thinner.
Q. Did some have nails sticking in them?
A. Yes. You left nails in them I recall that.
Q. Is that how you determined they were used boards?
A. You could tell they were used. They had bent nails in it. I would not have done it like that.
Q. Are you a meticulous builder, Dominic/?

A. That's the way I was raised, probably too meticulous.

THE COURT: We can't have you just keep talking, sir. When you have a question, answer it. Congressman, how many more questions do you have.

MR. TRAFICANT: I still have a -- about ten questions of this witness, your Honor.

THE COURT: Okay. Then we're going to recess for lunch and bring you back after lunch. 1:30 for the jury.

(Thereupon, a luncheon recess was had.)

Tuesday Session, March 26, 2002, at 1:30 P.M.

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

BY MR. TRAFICANT:

Q. Dominic, did you take all those pictures out at the farm?

A. Yes, I did.

Q. Were you asked to take other photographs?

A. Yes, I was.

Q. What did you do as a result of that?

A. I took photographs of two homes and one business.

Q. Of whom's?

A. Mr. --

MR. MORFORD: Objection as to relevance, your Honor.

THE COURT: I don't know what they are yet. You may answer.

Q. Whose home and businesses did you take pictures of?

A. Mr. Sinclair.

MR. MORFORD: Your Honor, we've never seen these before, and I would object on relevance anyway.

THE COURT: Well, Congressman, as you know, these are the kinds of things --

MR. TRAFICANT: Your Honor --

THE COURT: As you know, these are the kinds of things we handle out of the presence of the jury, and so

at the next break, you can submit these as we asked you to do this morning with the other photographs. The jury is in the box. We need now to take testimony for this jury.

MR. TRAFICANT: I ask for a side bar now.

THE COURT: No. We just came back from an hour and a half during which we could have had a side bar.

MR. TRAFICANT: I just received these documents now.

THE COURT: We'll do it at the next break. This is your witness, sir.

MR. TRAFICANT: He's on the stand.

THE COURT: Go ahead and ask questions.

MR. TRAFICANT: I'll have to recall this witness today.

THE COURT: You have no more questions of this witness?

MR. TRAFICANT: I have some other questions of this witness as well.

THE COURT: Well, then, go forward with your other questions.

BY MR. TRAFICANT:

Q. Dominic, did you and I ever have any other business dealings?

A. Yes, we did.

Q. Did we have any business dealings before you were on

my staff?
A. Yes.
Q. We have any business dealings after you were on my staff?
A. No.
Q. Who did the purchasing?
A. You purchased hay, round bales of hay.
Q. And how did I pay for that hay?
A. By check.
Q. And did you maintain records of those?
A. Yes, I did. It was the winter of '94 and '95.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you. You can inquire.

MR. MORFORD: I have nothing further.

THE COURT: All right. You can step down, sir.

THE COURT: Congressman, who's your next witness.

MR. TRAFICANT: Michael Terlecky.

THE COURT: Come right up, sir. Would you raise your right hand?

MICHAEL TERLECKY

called as a witness on behalf of the Defendant and testified as follows:

DIRECT EXAMINATION OF MICHAEL TERLECKY

BY MR. TRAFICANT:

Q. Would you -- would you state your full name, and spell your last name for the jury?

A. Michael S. Terlecky. Spelling of the last name is T-E-R-L-E-C-K-Y.

Q. What is your current address?

A. 49 -- yeah, 4904 Leffingwell Road, L-E-F-F-I-N-G-W-E-L-L Road, Canfield, Ohio.

Q. How long have you lived at this address?

A. Seven or eight years.

Q. You have immunity, Mr. Terlecky?

A. No, sir.

Q. Do you know what immunity means?

MR. MORFORD: Objection. It's not relevant if he doesn't have it.

THE WITNESS: I didn't hear the question.

THE COURT: Well, I think I explained this morning --

MR. TRAFICANT: Okay.

THE COURT: -- that we'll give an instruction on what it is under the law.

MR. TRAFICANT: Okay.

THE COURT: All right.

BY MR. TRAFICANT:

Q. Mr. Terlecky, what was your former employer? Who was your former employer?
A. The Mahoning County Sheriff's Department.
Q. How many years did you work for the Mahoning County Sheriff's Department?
A. Approximately 13 years.
Q. You remember the dates when you started?
A. I believe I started in 1977, and I think the -- I know the last day I worked was 3-21-88 when I had -- when I got in a wreck with the cruiser.
THE COURT: If you will speak up a little. Your voice drops.
THE WITNESS: I'm sorry. 3-21-88 was the last day I worked, close to midnight that night -- the last day I worked.
Q. Did you serve as a deputy sheriff under my tenure as sheriff?
A. Yes, sir.
Q. Were you a supporter of mine?
A. Pardon me?
Q. Were you a supporter of mine?
A. No way. No, sir.
Q. Did there come a time you were arrested for a felony violation?
A. Yes, sir.

Q. What were you arrested for?
A. In the summer -- it was several things, that the indictment was kind of broad: RICO violation. To sum it up, to sum the thing up, I would have to say probably taking bribes to protect gambling in Mahoning County, but it was all kinds of different wording of it.
I never read the indictment to be honest with you, and I don't know exactly.
Q. When did that go to trial? Were you indicted?
A. Yes. I was indicted on -- a month after -- let me see. 4-21-88 I was indicted and arrested at my house in Boardman at that time.
Q. Who arrested you?
A. There were several agents from Cleveland. I didn't know. I would have to say --
MR. MORFORD: Objection as to relevance, your Honor.
THE WITNESS: I know the name.
THE COURT: You're going to find a way that this becomes relevant, Congressman?
MR. TRAFICANT: I'd like to proceed with my witness, your Honor. I think it's in line of what I'm attempting to do.
THE COURT: Okay. You need it to be relevant to this case.

BY MR. TRAFICANT:

Q. Who arrested you?

A. I know he's the head agent now in Las Vegas.

Q. Was he local police?

A. He was the local Youngstown FBI, the actual guy that handcuffed me, but there were probably -- at my house that day, there had to be nine or ten agents with shotguns, the whole deal. I was sleeping on the couch; just got out of the hospital. They woke me up.

Q. You said you had an accident on 3-21-88?

A. Yes, sir. I was attempting to stop a van, and I was shot at. My window was shot at in the van. My cruiser was kind of wedged in between the car and the rock.

Q. Were you hospitalized?

A. Yes, sir.

Q. How long were you in the hospital?

MR. MORFORD: Objection, again, your Honor, as to relevants to this case as to what happened to him in --

THE COURT: I understand, but you can go ahead and give us an introduction of things. How long were you hospitalized, sir?

THE WITNESS: Approximately a week. I don't remember really. I'd say approximately a week, somewhere in that neighborhood.

Q. After you got arrested, did you retain counsel?
A. Yes, sir, I did.
Q. And who was your attorney?
A. Stuart Mandel, Cleveland.
Q. Did the case go to trial?
A. Just the first day. I -- I took a plea bargain first day of the trial was the beginning.
Q. Was it your decision to take the plea bargain or the advice of your attorney?
A. I'd have to say probably the advice of my attorney. It was some other factors, but that was probably weighing the heaviest.
MR. MORFORD: Sorry. I couldn't hear the --
THE WITNESS: I said, it was probably weighing in the heaviest as far as my attorney goes. I didn't feel my attorney was prepared and thought I wasn't going to trial. That was probably weighing the heaviest aside from other issues. There were several other issues, but that was probably the -- probably the most.
Q. Were you sentenced?
A. Yes, I was. This is later on. We're talking two years later that I was even convicted. I mean, I worked -- no, I'm sorry. I didn't work after that, but I'm thinking when they picked me up on a search warrant a couple years before that, but, yeah, I was sentenced, I was sentenced in

1990.
Q. 19 --
A. 90.
Q. You know approximately what month?
A. Yes. I received a year and a day on a RICO conviction, and I served eight months and 23 days, and then I was released with no probation. That would be on August 23rd of 1990. I went in November 30th of '90 in Morgantown, West Virginia, and I was released the 23rd of August, 1991, and like I said, no probation. I didn't go to the halfway house.
Q. Did you come to learn at some point that your attorney was a former United States Attorney?
A. Yes. He was in partners with the Prosecutor.
MR. MORFORD: I'm sorry.
THE WITNESS: He was a partner with -- he was -- he worked with the Prosecutor that prosecuted me, Mr. Cain.
MR. MORFORD: Your Honor, I object.
THE COURT: Yeah. I don't know where this -- what this has to do with this lawsuit, and so we're going to have to excuse the jury and excuse the witness so we can find out how this is going, connected to this lawsuit. So far there hasn't been any indication that it is. So --
MR. TRAFICANT: I'm trying to establish a

foundation, and I think I am --

THE COURT: We'll take a break, and you can explain that out of the hearing of the jury.

(Proceedings in absence of the jury:)

THE COURT: Congressman, so far this witness has not demonstrated anything that connects to this case. And I understand that you feel you're laying a foundation to do that. But we need to know before we continue on with all of this how it's going to be relevant in this case.

MR. TRAFICANT: I'm willing to do that, but first, I object on the record that you want to know my witness' testimony before they testify.

THE COURT: Well, in some circumstances, that's the only way we can do it without having the jury subjected to testimony that isn't related to the case to then just have to disregard --

MR. TRAFICANT: They don't have to disregard it.

THE COURT: Congressman --

MR. TRAFICANT: What I was getting to, he was represented --

THE COURT: Do you want an opportunity to explain where this is going?

MR. TRAFICANT: Yes.

THE COURT: Thank you.

MR. TRAFICANT: I want an opportunity to defend myself in this court, and I'm not getting it, and I'd like to explain it.

THE COURT: Talk about this witness who's on the stand, Congressman, so that we can decide how we go forward with this witness.

MR. TRAFICANT: This witness is to testify that he was represented by a former U.S. Attorney, then went into business with a mob boss by the name of Lenny Strollo.

THE COURT: What does that have to do with this lawsuit?

MR. TRAFICANT: And it brings down to his relationship and his arrest and his process through Lenny Strollo and his association with people relative to my case. And I was setting the foundation of that.

THE COURT: This is not the Strollo case.

MR. TRAFICANT: No. But it does have bearing on some of his testimony relative to the culmination of his involvement in my case, and I don't understand why I can't ask a man who has a criminal record who his attorney was and if he was in business with the mob boss.

THE COURT: Well, because we have to see how, whatever this witness has to say, is going to advance this case for the jury on the issues that the jury has to decide

as opposed to whatever happened in the Strollo trial or wherever else this man --

MR. TRAFICANT: Your Honor, I am not going into the Strollo trial. I was just establishing who his attorney was and what his status was and what he had come to learn after that period of time and how he got involved in this particular case.

THE COURT: In this particular case?

MR. TRAFICANT: In this case.

THE COURT: Okay. And it's that involvement in this case that is not at all apparent.

MR. TRAFICANT: I am moving towards that. I'm establishing a foundation.

THE COURT: I understand.

MR. TRAFICANT: And I know what you're concerned about.

THE COURT: I am concerned about -- that my jury is going to sit here this afternoon and listen to a witness who's giving evidence that has nothing to do with what they have to decide.

MR. TRAFICANT: I disagree with that, and I object to that.

THE COURT: If there is something that they need to know from this witness that relates to what's in front of them in this case, then explain what it is, and

we'll go on with it, but right now, we haven't come anywhere near it. We're somewhere else.

MR. TRAFICANT: Does this man have a felony conviction?

THE COURT: I don't know. I don't know anything.

MR. TRAFICANT: Didn't you hear his testimony?

THE COURT: Well, yes.

MR. TRAFICANT: Well, then, you do know, and I'm establishing a foundation, and I'm moving through that foundation towards my case. Now, I want to know why my witnesses have to be subjected twice without the jury here in front of the press and then brought in and see whether or not they would be allowed to even speak. I object to this.

THE COURT: Thank you, Congressman.

MR. TRAFICANT: I'm not holding this jury up. You're holding the jury up.

THE COURT: Thank you. Just have a seat. We'll listen to the Government.

MR. MORFORD: Your Honor, before Congressman -- if Congressman Traficant can put any of this in front of the jury, he has to be able to show there's something relevant here. What we do know is Congressman Traficant,

while he was hosting a radio show in Cleveland, had Mr. Terlecky on the radio to talk about his claims of FBI misconduct in his case. That has nothing to do with this case at all.

THE COURT: I don't know anything about that, and what he does on the radio has nothing to do with this --

MR. MORFORD: What it does is, it gives us a future showing of what he may be trying to do here. He needs to show this Court that there's some relevant basis to bring out the stuff he's talking about.

THE COURT: Right.

MR. MORFORD: I would also note that the question about Mr. Mandel is entirely misleading. Mr. Mandel was an AUSA back in the early 1960's and has not been, from my understanding, for many years prior to the time of that case, which has nothing to do with this case.

THE COURT: Mr. Mandel is not involved in this lawsuit in any way.

MR. TRAFICANT: No. I'm building a foundation.

THE COURT: It --

MR. TRAFICANT: That will be after the trial.

THE COURT: Congressman, it's not a proper foundation, and it doesn't lead to anything, which you

identified, that could possibly come before this jury in this lawsuit. You can talk about it on the radio show if you want to, but we're in a --

MR. TRAFICANT: I am not moving towards prosecutorial misconduct.

THE COURT: What are you moving towards?

MR. TRAFICANT: Towards my case and my defense.

THE COURT: Well, if you are going to keep it that vague and if you're going to continue to elicit testimony like this, which is very confusing to this jury and could easily be misinterpreted by a jury, then you'll have to do it after you've been able to identify what it is, that the connection is between what he can testify to and the issues in this lawsuit. These people have to decide this case.

MR. TRAFICANT: They're not deciding it. You're deciding what they will decide.

THE COURT: Well, I'm deciding what they will hear.

MR. TRAFICANT: And what they will hear.

THE COURT: That's for sure.

MR. TRAFICANT: Exactly right.

THE COURT: That's my job.

MR. TRAFICANT: I object to that for the

record because the jury is not getting a full opportunity --

THE COURT: Anything else you have to talk to this witness about that is connected with this case?

MR. TRAFICANT: I want to talk.

THE COURT: Talk to me about what it's going to be.

MR. TRAFICANT: It's going to move forwards, his understanding and knowledge of Mr. Strollo, the activities of Mr. Strollo and Mr. O'Nesti, a key figure in this case, and those particular issues of understanding that he has relative to my particular case.

THE COURT: I will not permit this witness to testify further in this trial if that's all you have to demonstrate how it's connected because it doesn't show any connection to this case.

MR. TRAFICANT: I will attempt to show how it does.

THE COURT: Well, if you put on some other testimony somewhere that is linked with some other witness that links this up or in some other way, make it so that Mr. Terlecky has something to say to this jury about this case, fine.

MR. TRAFICANT: Look, Mr. Terlecky is a valid witness. He's a convicted felon. I brought out his

record, brought out his history, and I was moving toward direct examination of a witness that you immediately stopped. Now I'm saying this for the record. Is this why the FBI interviewed Judge Ann Aldrich, and you took my records from Cleveland to understand my style? Really?

THE COURT: I have no idea what you're talking about.

MR. TRAFICANT: Then why -- why did they say it was unusual that you had my 1983 transcript from the archives in Chicago, your Honor?

THE COURT: I don't know how many times we've gone over this, sir.

MR. TRAFICANT: Well, you're denying me the right to defend myself.

THE COURT: That's your position.

MR. TRAFICANT: You're requesting my --

THE COURT: Do you have any more witnesses?

MR. TRAFICANT: I only have one back there. I am going bring Terlecky back here.

THE COURT: That's your only witness today?

MR. TRAFICANT: If Mr. Kidwell doesn't get here on time with that machine, that's all I would have, yes, and I want to bring him out and continue with my examination. I have a right to do that.

MR. MORFORD: Mr. Traficant just told me a

moment ago he had someone named Dominic.

MR. TRAFICANT: He is still here. What about --

THE COURT: Let's go with Dominic Paolone. Is he somebody who knows something about the issues in this case?

MR. TRAFICANT: This man knows issues about this case.

THE COURT: Well, you're not going to bring him on until you can establish by -- maybe Dominic Paolone or whoever the next witness is will allow you to establish --

MR. TRAFICANT: Why do I have to have someone come in and establish Mr. Dominic Paolone then, your Honor? Did they have to establish any of their witnesses they called?

MR. MORFORD: Yes.

THE COURT: Do you want to call another witness?

MR. TRAFICANT: I want to call Michael Terlecky, and I believe I have a right, and you're limiting my defense.

THE COURT: I am not letting you him call him as things are now. If it turns out there's something else that shows in this trial that makes what it is you say

he'll testify to relevant, fine.

MR. TRAFICANT: I believe it is time that we go over to the hearsay problem we have in this case. Mr. Terlecky will testify that Mr. O'Nesti said he did not make kickbacks to the Congressman at a time when he was not under duress by the Government. And under 804(b)(5), the last paragraph says that when an individual, with circumstances, certain circumstances, can be considered to be truthful, that those statements are admissible.

THE COURT: Sir, are you saying that Mr. Terlecky --

MR. TRAFICANT: Mr. Terlecky had a conversation with him where he, in fact, told Mr. Terlecky he did not make any kickbacks to Jim Traficant.

THE COURT: To whom? He had the conversation with O'Nesti?

MR. TRAFICANT: O'Nesti came out and made the statement. He didn't even ask for it.

THE COURT: Okay. Well, then, he may be connected in some way.

MR. TRAFICANT: He may be connected.

THE COURT: Yeah.

MR. MORFORD: Well, your Honor --

MR. TRAFICANT: Either I cite -- here's what I'm citing, and I think it's time to get it on. You are

denying me a defense --

THE COURT: I know you say this every day. Let's talk about it.

MR. TRAFICANT: Don't take offense, but that's for the record, and it's on there everyday.

THE COURT: He has --

MR. TRAFICANT: Okay. 804(b)(5) -- let's get to business. They said that Mr. O'Nesti's hearsay should be allowed in because he made a statement against interests. Now, Mr. O'Nesti was near death when they went in and threatened him with their own 302, that if he didn't cooperate, they were going to take him to some Army facility with the guys --

THE COURT: That is not evidence in this lawsuit.

MR. TRAFICANT: No. But this is the -- this -- you have this 302. Now, you should allow me to cross.

THE COURT: You got all the 302s.

MR. TRAFICANT: Allow me to examine Perkins and Pikunas.

THE COURT: The evidence you're talking about was never put forward in this case, the evidence that you're talking about.

MR. TRAFICANT: They submitted me a 302 on

discovery.

THE COURT: That's right.

MR. TRAFICANT: They submitted the 302 themselves. They used the hearsay exception to get people to come in and make statements.

THE COURT: Congressman, we have a whole fist full of hearsay issues we need to decide.

MR. TRAFICANT: Yes. I'm saying that 804(b)(5) corroborates the truthfulness of O'Nesti's testimony, not the threatened Army hospital situation that the Government put him under two weeks before he died.

THE COURT: There is no evidence in this case about that.

MR. TRAFICANT: 302 given to me on discovery. Will you allow me to call Pikunas? Hassman took the stand. Will you allow me to call Agent Pikunas?

THE COURT: Hold on, hold on.

MR. TRAFICANT: I will call Pikunas right now.

THE COURT: I'm really not sure what you're talking about. You have a witness you can call right now, but just hold on a minute.

MR. MORFORD: Several things, your Honor: First of all, he keeps mixing up different statements. The Government has never offered any of Mr. O'Nesti's

statements that were made after the time of his arrest and conviction. The statements that were made -- and we've briefed this -- took place in the period from 1985 throughout the time before he left Congressman Traficant's employment.

Those other statements we didn't offer because they are hearsay, and all the things he's talking about are totally irrelevant to the facts in this case, Number 1.

Number 2, if his purpose of putting Mr. Terlecky on the stand dealt with hearsay, this Court has made it clear he had to raise that prior to putting the witness on the stand. He understands that, and he was going to put this witness on the stand and ask him the question the Court said he cannot do.

THE COURT: I understand that.

MR. TRAFICANT: I was going to get the Judge or you to object by the nature of my questions.

THE COURT: But the problem --

MR. TRAFICANT: And I have a right to question my witnesses.

THE COURT: Congressman --

MR. TRAFICANT: -- and to frame my words.

THE COURT: Congressman, the issue that I have around this doesn't have anything to do with the hearsay; has to do with how is this possibly relevant, the

testimony that you're eliciting from this particular person. And I --

MR. TRAFICANT: I have had it.

THE COURT: -- would ask you to link it up, and you're unable to do it, so you can't bring him in.

MR. TRAFICANT: No, that's not true. You've had two witnesses of hearsay exception that you granted to them because of Mr. O'Nesti's unavailability.

THE COURT: This is a very hard part of representing yourself.

MR. TRAFICANT: No, it's not hard at all.

THE COURT: You are completely confused.

MR. TRAFICANT: I would cite the law. I am not confused one bit, and I want to cite 804, hearsay exceptions, declarant unavailable. Section B, hearsay exception, Number 3, a statement tending to expose the declarant to criminal liability and offer to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

Mr. O'Nesti was not under pressure by the Government at the time when he made this statement to Mr. Terlecky. And thus, under that, it should be allowed in.

MR. SMITH: And, your Honor, we briefed this in the brief we gave you Monday. The circumstantial

guarantees of trustworthiness in this situation, would you expect it would be natural for someone in Mr. O'Nesti's position to say I didn't bribe my boss, or I didn't give kickbacks to my boss? Circumstantial guarantees of trustworthiness exist when the person says something that you wouldn't expect him to say. That's what makes it ring true.

It's -- and so when Mr. O'Nesti tells an ally of the Congressman, well, I never kicked back to the Congressman, that's exactly what you'd expect him to say. It's self-serving. It doesn't self-inculpate Mr. O'Nesti in any way, and it is the type of statement, an exculpatory statement, you would expect to be made. If it's only -- it only has circumstantial guarantees of trustworthiness, the situation we had, where Mr. O'Nesti is telling co-workers that he did something wrong with the Congressman.

In other words, you wouldn't expect him to say something like that unless it were true. The situation is completely reversed.

THE COURT: We've been through this so many times.

MR. TRAFICANT: They cited 804(a)(3) as a matter of hearsay exception.

THE COURT: Right.

MR. TRAFICANT: You allowed their hearsay in.

I am saying that --

THE COURT: Because they met the conditions of the rule.

MR. TRAFICANT: Mr. O'Nesti was under complete duress, and you don't know if those statements are true or not. He didn't even get along with those two women for crying out loud, and you know it, and you're keeping my defense out, and I'm objecting to it.

THE COURT: Okay. Well, you call your other witness, please.

MR. TRAFICANT: No. I want a hearing on hearsay. I'll call my other --

THE COURT: No, you will not. We have a jury here.

MR. TRAFICANT: I will, but I want a hearing on hearsay relative to --

THE COURT: We don't need any more hearings. I'll give you more rulings. We've been over this. We did hearsay issues before this trial. We did it all through this trial, and I will give you a final ruling on it. That will probably settle the dust for you.

But any way, what I want you to do now, because we have a jury here, is call your next witness.

MR. MORFORD: Your Honor, before he does that, there are some issues. If this is the same Dominic

Paolone that I believe it is, and I'm not positive, but I want to bring this to the court's attention before I would ask any of these questions, to make sure it's proper. There is a --

MR. TRAFICANT: I object to this. Now you're talking about my witnesses I'm calling before they're on the stand. You have a right to cross-examine.

THE COURT: You know what? This is what lawyers do everyday, day in and day out across courtrooms in America. They talk to one another and try to work out problems in advance so that they can have a jury sitting in the box.

MR. TRAFICANT: He never talked to me about it.

THE COURT: No. You just told him who you're calling.

MR. TRAFICANT: I told him that some ten minutes ago.

THE COURT: Well, whatever, ten minutes ago.

MR. TRAFICANT: I said he would be the next witness after Mr. Terlecky.

THE COURT: Okay. Now it's time for that next witness, and so he can say what he needs to say, and you can respond, and we'll hear from the witness.

MR. MORFORD: What I need to say is, there is

a Dominic Paolone who, as I understand it, has ten arrests, numerous convictions. One of them is a possession with intent to distribute cocaine, for which he was -- has served a sentence, and his sentence ended April 16, 1993.

That's a felony conviction that would be admissible under Rule 609. In addition to that, there was an arrest for conspiracy to distribute cocaine prior to that in 1990, in which he was sentenced to three years in prison, five years supervised release, and prior to that, there was an arrest in 1978 on homicide and attempted murder for which he received a sentence of 15 years.

If this is that same person, then these are matters that I want to ask him about, and although two of those convictions are beyond the ten years, I would ask that I be allowed to ask him about those because they followed one after the other after the other, which shows a pattern of criminal conduct, which goes to his credibility, if this is the same person.

MR. TRAFICANT: Your Honor, you're making these guys -- letting them make press statements. I plan to ask him those questions myself, and I object to what you're attempting to do, and you're not dealing with a wimp attorney who's afraid of you, and I object to what you're doing, and you're limiting my defense.

MR. MORFORD: Your Honor, I would ask you --

ask Mr. Traficant to address the Court and quit bending over, coming over to me saying this stuff to me.

THE COURT: Congressman, when --

MR. TRAFICANT: I'm going to go get my witness.

THE COURT: When you bring these things up or he brings them up, we now are all aware that this could come up in this trial.

MR. TRAFICANT: No. You are aware -- you are aware because he told you what my testimony was to be. This guy, he has intimidated every attorney in this case, I'm not an attorney, and I've had it.

THE COURT: Are you --

MR. TRAFICANT: I have had it.

MR. MORFORD: I ask that he quit yelling at me and pointing at me.

MR. TRAFICANT: I would ask you to ask them to constrain themselves.

THE COURT: Would you call your witness, please?

MR. TRAFICANT: Absolutely.

THE COURT: Thank you.

MR. TRAFICANT: No need to get upset about this.

MR. MORFORD: Your Honor, before we go to the

next witness, I would ask that the Court strike any testimony of Mr. Terlecky and instruct the jury to disregard it being --

MR. TRAFICANT: I object.

THE COURT: Oops, wait a minute. I couldn't hear the end of it. Congressman, don't talk over other people.

MR. MORFORD: And ask the jury to disregard it being there's nothing relevant that he said.

MR. TRAFICANT: I object.

THE COURT: Sir, come on up. All the way around behind here and up here. Would you raise your right hand?

DOMINIC PAOLONE

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

DIRECT EXAMINATION OF DOMINIC PAOLONE

THE COURT: Rest there for a minute. Don't bring in the jury yet because I have another request. I think the best time to deal with that is after we get through getting the witness rather than on the heels of evidence. Okay?

MR. TRAFICANT: I didn't hear the Judge.

THE COURT: There's a request to strike

testimony of the preceding witness. I'm not going to deal with it now. I want you to go forward with this witness so we'll get some testimony before the jury, and then I'll let you respond to their motion to strike. The reason is because we have people sitting back there who can hear a witness who's on the stand, and we'll let you address that issue after the witness is off the stand.

MR. TRAFICANT: You haven't allowed me to address any issue. I'm ready for the jury.

THE COURT: We can bring out the jury.

This witness has been sworn, ladies and gentlemen.

(Proceedings resumed in the presence of the jury:)

MR. TRAFICANT: Has the witness been sworn in, your Honor?

THE COURT: Yes.

BY MR. TRAFICANT:

Q. Good afternoon, Dominic.

Would you please state your name, and spell your last name for the jury?

A. Dominic Paolone, Junior, last name P-A-O-L-O-N-E.

Q. Where do you live?

A. 173 East Loughton Boulevard, Youngstown, Ohio.

Q. What is your employment?

A. Self-employed jeweller.

THE COURT: You have to speak up a little. People couldn't hear you. Your a self-employed jeweller.

Q. And what -- is where is your business located?

A. In downtown Youngstown.

Q. Do you have immunity?

A. No.

Q. Do you remember the first time you were arrested?

A. Yes.

Q. What was it for?

A. Attempted murder.

Q. When was that?

A. October 1978.

Q. Were you convicted?

A. Yes, I was.

Q. By a jury trial?

A. By a jury trial.

Q. Did you have any further arrests and indictments?

A. After that?

Q. Yes.

A. 1989.

Q. And what was that for?

A. Conspiracy to possess with intent to distribute cocaine.

Q. Did you have a jury trial?

A. No, I didn't.

Q. Did you plea bargain?
A. Yes, I did.
Q. What was the extent of that plea bargain?
A. 36 month sentence.
Q. What did you plead to?
A. Conspiracy to possess with intent to distribute cocaine. I don't remember the amount.
Q. Now, did you have an arrest before 1978, to the best of your knowledge?
A. May have been misdemeanors. I really can't remember. It may have been a few incidents, nothing that I can recall that was --
Q. In your first trial, did you mount a defense?
A. Yes, I did.
Q. And what was that defense?
A. Self-defense.
Q. Was the original charge a murder charge?
A. Yes, it was.
Q. And what was your conviction for it?
A. Attempted murder in the second degree.
Q. Have you served years in prison?
A. Yes, I have.
Q. How many years in prison have you served?
A. On the 1978 sentence, I served six years.
Q. Where did you serve those?

A. Florida State Prison.
Q. After your last arrest in 1989, how many years did you serve?
A. 31 months.
Q. Were you released early? Yes or no.
A. No, not really.
Q. Did there come a time you contacted my office?
A. Yes, I did.
Q. What, if anything, happened?
A. Nothing.
Q. Did you have a conversation with anybody about that?
A. My father.
Q. What, if anything, did your father do?
A. My father called you.
Q. As a result of your father calling me, what happened?
A. I got moved to a halfway house.
Q. What halfway house was it?
A. CCA in Youngstown, Ohio.
Q. Where is that located?
A. I believe it's Marcus Street in Delason.
Q. Delason?
A. Market and Delason.
Q. D-E-L-A-S-O-N?
A. I believe so.
Q. There's some water there if you want some.

A. Okay.
Q. While you were at CCA, did you meet a man by the name of Anthony Bucci?
A. Yes, I did.
Q. Did you get to know Anthony Bucci?
A. Yes, I did.
Q. How did you get to know Anthony Bucci?
A. He bunked with me.
Q. By bunking with you, how many are in a room?
A. At that time, we -- we bunked upstairs. There was only a couple in the room. He bunked right next to me.
Q. Did you have conversations with Mr. Bucci?
A. Yes, I did.
Q. Was he doing anything or behaving in any form, unordinary?
A. Seemed very upset.
Q. Do you have personal knowledge what he was upset about?
A. Yes, I do.
Q. What was he upset about?
A. He couldn't get no privileges.
Q. Was he upset about anything else?
A. Yes, he --
MR. MORFORD: Your Honor, I object if this is in any way based on what he was told, based upon things

that he knows through firsthand knowledge.
Q. Do you have firsthand knowledge that his behavior dealt with anything else other than just getting privileges?
A. Yeah.
Q. What was it?
A. He was mad because your office would not do anything for him.
MR. MORFORD: Objection as to how he knows that unless it was something he was told.
THE COURT: What they're trying to do is to limit your answers to things that you know yourself, rather than what somebody told you. So if you know that only because he told you or someone else told you, then you can't testify.
Q. Dominic, did you hear Mr. Bucci make telephone calls personally with your own ears?
A. Yes, I did.
Q. Whom did he call?
MR. MORFORD: Objection. That's still hearsay.
THE COURT: Yeah, it's still hearsay.
BY MR. TRAFICANT:
Q. Did Mr. Bucci ask you for any advice?
A. Yes, he did.

Q. What, if any, advice did you give him?
A. I told him to have a family member contact your office to try and help him.
Q. Why did you tell him to have a family member call my office?
A. Because that's what I had to do.
Q. Now, before you got into the halfway house, did you attempt to get in on your own?
A. Yes, I did.
Q. Did you get in?
A. No, I didn't.
Q. After your father called, did you get in?
A. Yes, I did.
Q. Do you personally know if Mr. Bucci called someone in his family?
MR. MORFORD: Objection. How would he know that other than hearsay, your Honor?
THE COURT: If he personally knows other than from listening to him.
Q. Do you have personal knowledge?
A. I -- I heard the call.
Q. Did you hear him call somebody on the phone?
A. Yes.
Q. Were you standing next to him?
MR. MORFORD: Objection. This is all

hearsay.

THE COURT: It is hearsay, Congressman, but you -- if you rephrase these questions, you could probably get around the hearsay.

Q. You were standing next to Mr. Bucci?

A. Yes, I was.

Q. And what, if anything, did he do?

A. He made a phone call.

Q. To whom did he make a phone call?

A. His brother, Dan.

MR. MORFORD: Objection. This is hearsay again.

MR. TRAFICANT: Your Honor, he said he heard him make the call.

THE COURT: Yeah, I know. Congressman, you have to -- hearsay is not --

MR. TRAFICANT: How is hearsay someone's personal knowledge, your Honor?

THE COURT: Well, there's no problem with the questions up to that one.

MR. TRAFICANT: Okay.

Q. Mr. Paolone, how close were you to Mr. Bucci?

A. We bunked together; we overslept.

Q. When he made that call, how close were you standing to him?

A. 15 inches, two feet away maybe, if that.
Q. Did he ask for anybody on the telephone?
MR. MORFORD: Objection, again. That's hearsay, your Honor.
THE COURT: Okay. Let me see if I can simplify this by reading this again.
Let's see if this will help. A hearsay statement is a statement made outside the courtroom, in other words, a statement made by a person who is not under oath and who is not subject to cross-examination. Does that help?
MR. TRAFICANT: Doesn't satisfy me.
THE COURT: Well, it may not, but --
MR. TRAFICANT: If he had personally heard with his own ears Mr. Bucci asked for his brother, that's not hearsay, your Honor. And I object.
THE COURT: Mr. Bucci could testify, but he can't testify to that. Mr. Bucci could.
BY MR. TRAFICANT:
Q. Did you see -- did you see Mr. Bucci make a phone call?
A. Yes, I did.
Q. Was he able to get his privileges before he made that phone call?
A. No.
Q. After he made that phone call, were his privileges

restored?
A. Yes.
Q. Was he treated any differently than you were treated?
A. No.
Q. Did you associate with Mr. Bucci after you left?
A. No, I didn't.
Q. Did you trust Mr. Bucci?
A. No, I didn't.
Q. After his first call, he had no help; is that correct?
A. Right.
Q. And after his second call, his privileges were restored?
A. Yes.
Q. Is that your testimony?
A. Yes, it is.
Q. Did you advise him of how to go about effecting a contact with my office?
A. Yes, I did.
Q. And what, if anything, did you tell him?
A. I told him to have a family member contact your office.
Q. Now, before you gave him that advice, did he get his privileges restored?
A. Before I gave him that --

Q. Yeah?
A. No.
Q. After you gave him that advice, did his privileges get restored?
A. Yes.
Q. Are you worried about being up here in front of all these people?
A. No.
Q. Was 1989 your last arrest?
A. Yes, it was.
Q. Do you have any liens or legal problems or litigation facing you?
A. Not that I really know of. I have -- I have property that I have a problem with.
Q. Do you have any criminal problems, or have you had any criminal problems since 1989?
A. No, I haven't.
Q. Do you still report to a parole officer?
A. No.
Q. For how many years after you were released from the halfway house did you have to report to an officer?
MR. MORFORD: Objection as to relevance.
THE COURT: You can answer. You can answer.
THE WITNESS: I had five years supervised release.

Q. How did we come to get together relative to your testimony through this trial?
A. I called you.
Q. And where did we meet?
A. At your office in Canfield, Ohio.
Q. And what was the purpose of that meeting?
A. I read the article in the paper about what Mr. Bucci said, and I knew that wasn't true, and I came forward.
Q. Did Mr. Bucci have a reputation as being a liar?
A. Yeah.
Q. Did you ever work at my farm?
A. No, I didn't.
Q. Do people fear me back home?
A. No.
Q. Have you seen me embrace people?
A. As a gesture. I do it with my culture. It's a gesture, the only time.
Q. Whom, if ever, have you ever seen me hug, for example?
A. Friends.
Q. Have you ever observed me in an audience with a number of people?
A. Yeah.
Q. What, if anything, do I do with the people.
A. (Nodding negatively.) Everybody's hands, socializing,

hugging some people.

Q. Do people come up to me to be hugged?

A. Yeah, I've seen it.

Q. You own your own home now?

A. No, I don't.

Q. Married?

A. No, divorced.

Q. You're starting to put your life back together, Dominic?

A. Yes, I am, trying.

MR. TRAFICANT: No more questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF DOMINIC PAOLONE

BY MR. MORFORD:

Q. Sir, you testified that you contacted Congressman Traficant after you read some things in the paper that Tony Bucci said that were not truthful being correct?

A. That's correct.

Q. You weren't here in the courtroom, were you?

A. No. First time I been here.

Q. You didn't hear Tony Bucci's full testimony, did you, sir?

A. No. First time I've been in the courtroom.

Q. And so if there were things he said in this courtroom

that didn't make the paper, you wouldn't know anything about that, would you?

A. No, probably not.

Q. When you brought this to Congressman Traficant's attention, did he tell you that Tony Bucci had testified here in this courtroom that he had his brother contact Congressman Traficant's office when he had the problem at the halfway house?

A. I didn't quite understand that question.

Q. When you brought this to the attention of the Congressman Traficant, did he say, well, in this very courtroom, Tony Bucci testified that he had his brother contact my office when he got in with a problem with the halfway house, did he tell you that?

A. I don't remember.

Q. Well, if, in fact, that happened, that wouldn't be inconsistent then, would it, sir?

A. I'm not sure.

Q. Let me show you an exhibit, if I could. This is Government's Exhibit 2-30, which is a joint exhibit.

MR. TRAFICANT: May I --

MR. MORFORD: You have it, Congressman.

Q. It's a facsimile dated March 22, 1993, facsimile on the letterhead of Congress of the United States, Congressman James A. Traficant, Junior, to Robert Bucci,

for Anthony from Jackie Bobby. Take a look at this if you would. You see that?

A. Um-hum.

Q. On the other side of it is a letter, and it's a letter from Congressman Traficant to Rick Billak. Do you know who Rick Billak is?

A. Yes, I do.

Q. He's the head of the CCA, correct?

A. That's correct.

Q. And it says from Congressman Traficant, Dear Rick, pursuant to our conversation today, thank you for the information and your willingness to mitigate the problem. This is the very problem that you were testifying about that Tony Bucci had in the halfway house, correct?

A. Yeah. He was trying to get -- he was trying to call himself, and they directed him to his family member had to call.

Q. Right. And so when you told Congressman Traficant this, and he had you come up here and testify that Tony Bucci lied, did he bother to show you this exhibit, sir?

A. No.

Q. To show it was admitted into court that Robert Bucci was the one that contacted him on behalf of Anthony?

A. No.

MR. MORFORD: I have no further questions.

REDIRECT EXAMINATION OF DOMINIC PAOLONE

BY MR. TRAFICANT:

Q. Anthony -- I mean, Dominic, am I in town during the week?

A. During the week?

Q. When the House isn't scheduled?

A. At this time, with this going on or prior to this?

Q. When I was in Congress during the week and the House was wasn't scheduled, was I back in the district?

A. On the weekends, I thought you were in Washington a lot.

Q. When Mr. Bucci first made the call, did he get any help?

A. When he made the call?

Q. Yes.

MR. MORFORD: Objection. This is beyond the scope of cross and repetition of direct.

THE COURT: We've already been through this, Congressman.

Q. Now, when he showed you this document, isn't it a fact that there were several communications involved in the process?

A. Yes.

Q. And you are were -- and you did advise him what to do, did you not?

THE COURT: Don't tell him what to say; ask him questions. You'll have -- the testimony comes from this gentleman.

Q. After you talked with him with --

A. I told him what I experienced and what I was told and how to go about getting things done.

Q. And after you did that?

A. I took it that he took my advice and did it because after that, he got his privileges.

Q. Now, you talked about your own case. How many times did you try and make contact on yourself?

MR. MORFORD: Objection. This is again beyond the scope of cross-examination.

THE COURT: It's not relevant. His case is not relevant to this trial.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: No further questions.

THE COURT: Sir, thank you very much.

MR. TRAFICANT: Your Honor, I have another witness. You excused two of my witnesses, and --

THE COURT: Well --

MR. TRAFICANT: I have no witnesses.

THE COURT: What about -- what about the welder, do you know what the status is --

MR. TRAFICANT: I have to find out the status of that. It's on the way up. That's all I heard.

THE COURT: That was yesterday as well, and it started up again today.

MR. TRAFICANT: Yes. And we have not had contact. I don't know what has happened.

THE COURT: Okay.

MR. TRAFICANT: But that welder will be here, and it may well be here. And I would like to check.

THE COURT: Okay. Why don't we take a break, and you check? This will be a break long enough for you to check. This is not like an afternoon break.

MR. TRAFICANT: How many minutes?

THE COURT: Ten.

(Thereupon a recess was taken.)

(Proceedings out of the presence of the jury:)

MR. TRAFICANT: It is Good Friday on Friday, your Honor. I would make a brief motion that Friday is known as Good Friday to Christians, and that we do not have Court on this Friday.

THE COURT: Please respond. Do you want to make any response to that?

MR. MORFORD: We wouldn't have objection, and to meet only for three hours and some of these jurors are driving a long way, I think it is a holiday for more than

just Christians.

MR. TRAFICANT: For many.

THE COURT: Friday is a religious holiday. So that's a good suggestion. If you both agree to that, then that's for us to arrange.

Let me go onto a few other matters here.

I haven't heard your response to the issue of the truck and the --

MR. TRAFICANT: I have no knowledge of where it is or what has happened, but there is a welder coming, and you are going to get it.

THE COURT: There is a welder coming, but we don't know when.

MR. TRAFICANT: No.

THE COURT: Then this would be a good time for us to bring in Mr. Terlecky and go through your questions of the him, that you would ask him but which you feel the hearsay -- your hearsay exceptions are for or --

MR. TRAFICANT: If he hasn't left I'd be willing to get him.

THE COURT: Let's see if you can find him, bring him down, and we will do that voir dire.

MR. TRAFICANT: I want to bring back Mr. Marchese on the matter of photographs.

We can go through the photograph issue, but

first let's see if Mr. Terlecky is available, if Mr. Terlecky is available to come in now so we can test.

(At this time, Mr. Terlecky resumes the witness stand, and the following proceedings were held:)

THE COURT: I would just like to go over a couple of things. Mr. Terlecky, just come up and have a seat. I've heard you mention, Congressman, some of the rules regarding exceptions to hearsay, and I just want to review some things about this so that we are all working on the same base so to speak.

MR. TRAFICANT: Can I first stand and make an objection to the voir dire process that we are now undertaking relative to this witness?

THE COURT: Yes, yes.

MR. TRAFICANT: Fine.

THE COURT: You have to begin with a basic notion of what a hearsay statement is, and I just went over that a few moments ago, but in the shortest way of talking about it, it is a statement that's made outside the courtroom, which means that it is a statement by a person who is not subject to cross-examination but also has not been given an oath or affirmation. So it is not subject to the usual penalties.

Under the law, limiting testimony to statements made under oath and subject to cross-examination is a very

important and honored way of ensuring that the jury can determine if the statement is reliable or trustworthy, and that's where all of this comes from.

When a witness testifies to what someone said outside the courtroom, the person who made the out-of-court statement is not under oath. The jury can't observe them. They can't observe their demeanor as they make the statement or are being cross-examined to test what it is that they said.

And this affects reliability and trustworthiness, but there are exceptions, and I think that's what-- that's the area that you are asking the Court to focus on in regard to something which you want to admit here.

These exceptions are recognized in the law in which an out-of-court statement of a person may be admitted into evidence because the law recognizes that the circumstances surrounding the making of a particular statement demonstrate that it is more likely to be reliable.

But still before a hearsay statement could be admitted into evidence under this kind of exception, the person who is asking that be admitted, whether it is a lawyer or the Defendant, has to demonstrate to the Court that the circumstances under which the statement was made meet the requirements of the exception.

And this is exactly the kind of legal question that

we do not burden a jury with because it is my province to do that, not the jury's province to do that, and so we always do this at jury breaks or lunch or after they leave for the day.

Now, as I repeatedly explained, unavailability is not itself an exception to the hearsay rule, and I think you now understand that and are proceeding under another part of the rule, although I'm not sure which one but where unavailability is a prerequisite to certain exceptions of the hearsay rule.

So I don't know if you are offering these statements by this witness under Rule 803 or Rule 804 or which provision of it, but I need to know that before you start asking questions.

MR. TRAFICANT: I have to set the foundation, since you have the witness here --

And he is under oath.

MR. TRAFICANT: -- I would like to state for the record I received on discovery a 302 signed by Mr. Pikunas. Now, yesterday, I had a witness who had personally seen this document, received it from Mr. O'Nesti, and you did not allow this witness to confirm it.

Ms. Sandy Ferrante, you have a motion before you where Mr. Morford, United States Attorney, does not contend or alleged in any filing to the Court that Mr. O'Nesti is a

member of the Pittsburgh LCN or any other crime family.

THE COURT: This had to do with another witness.

MR. TRAFICANT: That was Ms. Ferrante who put on her glasses and had a copy given to her and failed to let me have her identify it.

THE COURT: I think she was allowed to say--

MR. TRAFICANT: No, she wasn't.

THE COURT: You can read the transcript. She was not allowed to read from it.

MR. TRAFICANT: You said to handle it later.

THE COURT: She is not here today, Congressman. Let's move on.

MR. TRAFICANT: You didn't allow me to go forward with photographs that were taken--

THE COURT: Not by this witness. This is your chance to give us the hearsay exception.

MR. TRAFICANT: And I am going to do that, and here is my argument. You either allow me to examine under cross Mr. Pikunas, or you allow my witnesses to testify under the following.

THE COURT: I don't know what kind of a bargain -- excuse me -- I don't know what kind of bargain you are setting up here, but the reason we are here is because you brought a witness on the stand today. You want

to introduce something -- I don't know what -- and we would like you to lay the foundation for it being an exception to the hearsay rules and go ahead and have him testify.

MR. TRAFICANT: I am setting the foundation. I am going to cite the law if you'd allow me.

THE COURT: Yeah.

MR. TRAFICANT: The bottom line is that Mr. O'Nesti, you've allowed in hearsay on Mr. O'Nesti because you said he made a statement against interest. Mr. O'Nesti clearly eleven days before he died, Mr. Pikunas in his -- in a 302 states loudly in a room so Chuck could hear him, didn't want the U. S. Attorneys to hear him because they might send him to a military facility, they try to get him to sign an affidavit. He wouldn't sign the affidavit. You've allowed them to testify.

THE COURT: None of that has been allowed in this case, Congressman.

MR. TRAFICANT: No. You've allowed hearsay exceptions for the Government on O'Nesti.

THE COURT: Right. But not the ones you are talking about, and by the way, you said it so many times out there in the press but never said in front of this jury because it has not been offered in front of this jury, because it is hearsay, and there is no exception for it, sir.

MR. TRAFICANT: Let me offer my evidence in hearsay. I cite the fact that Mr. O'Nesti was not-- he was under pressure. He wasn't under any statement against interest. Mr. O'Nesti didn't want to be separated from his family the last two weeks of his life.

THE COURT: You are talking about a different statement.

MR. TRAFICANT: This witness.

THE COURT: Okay.

MR. TRAFICANT: I am citing 804(b)(5) where it says unless corroborating circumstances clearly indicate the trustworthiness of the statement. Mr. O'Nesti was under no pressure at the time. Mr. O'Nesti--

THE COURT: What time?

MR. TRAFICANT: At the time he was with my witness.

THE COURT: Which was what time?

MR. TRAFICANT: I was going to ask the witness.

THE COURT: Good.

MR. TRAFICANT: When was it?

THE WITNESS: It would have been late summer. I think he passed away in Ohio it was summer time.

MR. TRAFICANT: And where was it.

THE COURT: Which year?

THE WITNESS: 2000, last year.
MR. TRAFICANT: Was it the year before he died the best you remember?
THE WITNESS: Same year. The November of the year he died.
MR. TRAFICANT: That's beside the point. The point is was he sick when you saw him?
THE WITNESS: He appeared real sick.
MR. TRAFICANT: Did you have to get close to hear him?
THE WITNESS: At first I did, yeah.
MR. TRAFICANT: Yeah. And --
THE COURT: Sir, this was in August?
THE WITNESS: I'd say August, your Honor, but I couldn't swear to it.
THE COURT: Can you tell me what year?
THE WITNESS: What I heard?
THE COURT: No, which year.
THE WITNESS: August--
THE COURT: August --
THE WITNESS: Oh, oh, I'm sorry.
2000, 2001.
MR. TRAFICANT: Was it the year-- shortly before he died?
THE WITNESS: Yes, the summer of 2000. I'm

confused. I am thinking this is 2000.

MR. MORFORD: He died February 29th of 2000.

MR. TRAFICANT: And you saw him the summer before he died?

THE WITNESS: Yes. It was the summer time. I know that. It was the end of the summer, I know that.

THE COURT: Of the summer of -- you state the year, not the Congressman.

THE WITNESS: That was the year.

THE COURT: Which was the year.

THE WITNESS: It was 2000. It would have to be 2000, right?

MR. MORFORD: He died February 29th.

MR. TRAFICANT: Would you let me voir dire my witness?

THE COURT: Uh-huh.

MR. TRAFICANT: Did you see him in a sickly condition within months, five, six months of his death?

THE WITNESS: Yes. Yes, I did.

MR. TRAFICANT: Do you know what year it was?

THE WITNESS: No.

MR. TRAFICANT: Where did you see him?

THE WITNESS: Beaver Township, North Lima at a Speedway gas station in a pickup truck.

MR. TRAFICANT: And did you say hello?

THE WITNESS: I didn't even recognize him until he yelled my name. Then I walked over to the truck.

MR. TRAFICANT: Did he stay in the truck or get out of the truck?

THE WITNESS: He got out of the truck.

MR. TRAFICANT: What, if anything, did the two of you do?

THE WITNESS: Well, he had a picture-- I pulled up to the curb. He pulled up next to me in a curb. I was coming out of the Speedway gas station. He was sitting in the passenger side.

He said, hey, Beef. Like I said, I looked, and he was so skin skinny and didn't know who he was until I walked up to the truck. He got out to say hi and started talking about himself. I felt bad for him. There was a newspaper box or picture like you can see in front of the vehicles. He walked towards the paper-- do you want me to tell you exactly what happened?

THE COURT: Yeah.

THE WITNESS: He looked at me. We made a few remarks, and there was a picture of you in the front page. He made a statement, who they intimating now, and went up and bought a newspaper; took out a paper and walked back. He started to explain to me -- exact words I don't remember -- I just remember him saying he did not kickback nothing

to Jim Traficant.

He went on to say you borrowed money off him, but he did say you paid him back and made a statement you were kind of slow on doing it, but you did pay him back. I tried to change the subject to be honest with you because it caught me off guard, and there were tears in his eyes.

You have to realize our relationship. He always tried to explain things. Why, I don't know. Probably because of my father. He was a fire chief in Youngstown, and my dad was a Youngstown policeman. Even when the Congressman was running for congressman , I didn't support him and supported the opposition. All my friends did, too.

Naturally, Mr. O'Nesti was with him. And that was probably-- I was probably one of the few people he'd talk to me and tried to explain things to me, like he owed it to me.

MR. TRAFICANT: Were you close with Chuck O'Nesti?

THE WITNESS: You know, I don't -- at the time, people -- yes, I was.

Q. Did you?

MR. TRAFICANT: Did you ask him for information or did he offer it.

THE WITNESS: No. I tried to change the subject. He told me to look at him -- every time he

started talking, I asked him how are you feeling? I tried to change the subject every single time. He insisted to explain to me that you did nothing wrong. He insisted. I kept trying-- I could care less.

MR. TRAFICANT: Beef, did you come to me, or did I call you about this?

THE WITNESS: You never asked me-- you never asked me. I told you. We were having a conversation about something else when I brought it up.

MR. TRAFICANT: Yes. Did you tell me that you feared some agency?

THE WITNESS: Yes.

MR. TRAFICANT: What agency do you fear?

THE WITNESS: Not that I am guilty of nothing, but I feared the Internal Revenue because of what they did to me.

MR. TRAFICANT: Do you fear being up here and testifying?

THE WITNESS: I -- yes, yes. I feel -- if there isn't, there will be a target on my back, I'm sure.

MR. TRAFICANT: Did you know Lenny Strollo?

THE WITNESS: Yes.

MR. TRAFICANT: Have you contacted me regarding your case?

THE WITNESS: Yes.

MR. TRAFICANT: What, if anything, have you asked me to do?

THE WITNESS: I asked your help in a presidential pardon.

MR. TRAFICANT: How long ago was that?

THE WITNESS: I think this June would be three years, and that was under President Clinton and still pending. In other words, I talked to the pardon attorney, and he was kind of confused himself. He said it was not turned down. It was not granted but not turned down.

MR. TRAFICANT: Now, let me ask you this: Isn't it a fact that Mr. Strollo said on the stand he did not give you the $5,000 after you had plea bargained?

THE COURT: This is a totally different case.

THE WITNESS: It probably is relevant, your Honor -- well, I don't know.

MR. TRAFICANT: Did you ever see Mr. Strollo and Mr. O'Nesti together?

THE WITNESS: Yes.

MR. TRAFICANT: What, if anything, did you learn from Mr. O'Nesti meeting with Mr. Strollo?

THE WITNESS: He didn't want you to know about it.

MR. TRAFICANT: He didn't want who to know about it?

THE WITNESS: You, Congressman. He didn't want you to know that he was at the Stardust Motel every time I was there, and he was about leaving -- I won't swear every time, probably every time I was there -- he was leaving or in the vicinity and made me promise not to say that he was there, and there was something else.

MR. TRAFICANT: Did he have a reputation for being a mobster?

THE COURT: Who are we talking about?

MR. TRAFICANT: Mr. O'Nesti.

THE WITNESS: There were accusations later.

MR. TRAFICANT: Was he your friend?

THE WITNESS: We didn't go out eating and drinking together, but, yes, he was my friend. But he wasn't -- he wasn't a relative or anything like that. I mean, it was kind of like out of respect, I guess, for somebody older than me and somebody that always held a high office in Youngstown. We had our differences, I mean.

MR. TRAFICANT: Was his statement to you about the kickbacks unsolicited?

THE WITNESS: Yes, absolutely, absolutely. I didn't even -- at the beginning, I didn't even know what he was talking about until he tried to explain it to me. I tried to change the subject; talking about his health, how are you doing. I felt bad for the guy. I started crying

when he was talking about you. I have no reason to lie. Well --

MR. TRAFICANT: Do you have immunity?

THE WITNESS: No, absolutely not.

MR. TRAFICANT: Your Honor under 804(b)(5) and the circumstances under which the Government pressured a dying man with a fruit basket ploy as evidenced by Mr. Pikunas, if you do not allow me to ask witnesses that have had conversations unsolicited with Mr. O'Nesti now that he is unavailable, then you must allow me to call Government witnesses, and the prosecution can have time could coach him.

THE COURT: You are proceeding under a section of the rule that no longer is there.

MR. TRAFICANT: I am citing 804(b)(5), and I am citing the very last two lines.

THE COURT: 804(b)(5) has been turned into 807.

MR. SMITH: Yes, your Honor, 807.

MR. TRAFICANT: It is possible 807. They are certainly better at paper than I am, but whatever it is, the bottom line is the trustworthiness of this unsolicited statement, is much more worthy than the pressured comments of a man on his death bed --

THE COURT: These comments you refer to

inside and outside about this death bed scene with the basket and all that are not part of the evidence in this case.

MR. TRAFICANT: Well, let me call Pikunas. Why can't I call Mr. Pikunas? They put Hassman on the stand. They put an FBI agent on the stand.

THE COURT: What does this have to do with this gentleman on the stand?

MR. TRAFICANT: Pikunas can speak to, in fact, what happened that night. This man was given a statement unsolicited that was trustworthy.

THE COURT: We now have his statement, and that's a good thing.

MR. TRAFICANT: For what? The jury is not here.

THE COURT: That's right. We may be able to get the thing resolved. They haven't had an opportunity to respond to it, and I think you are dealing with -- do you want to read me the text of what you are dealing with since it doesn't appear in the rule book any more?

I think it has been moved over to 807. Do you have the text of what you are referring to?

MR. TRAFICANT: I must have maybe an older copy, but I'm not necessarily an attorney, even if I was F. Lee Bailey and supposed to know the law. You know the law

and know how it should be applied, and you should be applying it fairly. And I am under no requirement to even cite the law. I stated the facts and circumstances upon discovery of the fruit basket given to me by Mr. Morford, Mr. Smith and Mr. Kall of a dying men who was threatened to go to a medical facility if he didn't sign an affidavit. They used that as a hearsay exception --

THE COURT: They did not use that. That's where you completely misrepresent everything that has happened in this case. They didn't use that. You are the only person who ever talks about that.

MR. TRAFICANT: Well, then, what law did they cite to bring in Mr. O'Nesti's testimony? Tell me the law they cited.

THE COURT: 804, statement against interest. You were right.

MR. TRAFICANT: How could that be against interest? That was a statement for his interest. They let --

THE COURT: This is a statement for his interest.

MR. TRAFICANT: No, no. I say that theirs was a statement for interest because he wanted to die at home.

THE COURT: Let's let the Government respond

to the voir dire that just occurred here.

MR. TRAFICANT: Give me the rule numbers you cited, your Honor. And which --

THE COURT: They went forward under a section of the rule which is under 804.

MR. TRAFICANT: Yes, tell me.

THE COURT: (B)(4).

MR. TRAFICANT: (B)(4).

MR. MORFORD: (B)(3).

THE COURT: Excuse me, (b)(3), statement against interest. First, they established unavailability which nobody had trouble doing.

MR. TRAFICANT: We have a death certificate.

THE COURT: Right. But that doesn't have anything to do with whether or not hearsay can come in. You then go to another section of this rule.

MR. TRAFICANT: What's the other section of the rule, your Honor?

THE COURT: What they went to is statement against interest.

MR. TRAFICANT: Okay. Let's talk about that.

THE COURT: We have already decided that. That has already been decided.

MR. TRAFICANT: I know, but I want it on the record now since you voir dired one of my witnesses and

listened to the testimony he would give without the jury present. Mr. O'Nesti did not make a statement against interest. Mr. O'Nesti made a statement so he could die at home with his family. He made a statement in favor of his own interest.

MR. SMITH: Correct. That's why it was not admissible. The Government never offered it because we acknowledged --

THE COURT: We never received it in.

MR. TRAFICANT: Grace Kavulic and Jackie Bobby, you let them perjure themselves.

THE COURT: They were saying --

MR. TRAFICANT: They were saying he made a statement against interest.

THE COURT: He did to each of them.

MR. TRAFICANT: Yeah, because he was going to go to a medical facility. The man did not want to die in a medical facility.

MR. MORFORD: Wasn't even sick at that time.

THE COURT: It was not that statement.

MR. TRAFICANT: You mean to tell me that you weren't there with an affidavit to get him to sign before he died? Is that your testimony to me?

MR. MORFORD: Your Honor, I'm not testifying and has nothing to do with what he is talking about.

THE COURT: Congressman, you are making assertions that the record would never support in this case because the two statements that were admitted through two witnesses that relate to Mr. O'Nesti were admitted under this section, which has to do with statements against interest, and those statements had nothing to do with the statement you keep putting out there.

MR. TRAFICANT: Then what was the statement against interest Mr. O'Nesti made, and when did he make it?

MR. MORFORD: We briefed this extensively. Congressman Traficant can read it extensively.

THE COURT: Let's talk about these statements.

MR. MORFORD: Rule 807 and its predecessor 804(b)(5) and can you stand over there?

MR. TRAFICANT: I want to see what's happening.

THE COURT: Just go over, sir, and let him speak.

MR. TRAFICANT: Are you nervous with me around?

THE COURT: Congressman.

MR. MORFORD: Anyway, your Honor, under that rule, the Congressman has to show.

THE COURT: Now --

MR. TRAFICANT: I object right now.

THE COURT: Now having objected --

MR. TRAFICANT: Object to you even speaking about my witness, and I object to you ordering me to sit down.

THE COURT: Go ahead.

MR. MORFORD: Under Rule 807 and its predecessor 804(b), the Congressman has to show that the statement itself and the circumstances surrounding the statement carry circumstantial guarantees of trustworthiness, such that the person wouldn't have made that statement to that person at that time unless it were true.

The testimony of Mr. Terlecky just doesn't meet that standard. First, it was a self-serving statement by Mr. O'Nesti. He said that Mr. Terlecky said that Mr. O'Nesti made that statement some time in the summer of 1999. Mr. O'Nesti was never even asked whether he had kicked back money to Congressman Traficant until January of 2000, even if that issue was relevant -- which it is not.

But, at the time that Mr. Terlecky had this supposed conversation with Mr. O'Nesti --

MR. TRAFICANT: I object.

MR. MORFORD: -- it was not against Mr. O'Nesti's interest but very much in his interests to tell a

close associate of his --

THE WITNESS: Wait a minute. I was not a close associate.

THE COURT: You are not part of this conversation.

THE WITNESS: Sorry.

THE COURT: Thank you.

MR. MORFORD: Close associate of Congressman Traficant and Lenny Strollo that he was not kicking back. There is nothing about that statement that in any way was against interest. It was simply a self-serving statement.

Second, it was made to a friend.

Third, it was made to exculpate his boss, who you've already heard testimony in this case, Mr. O'Nesti was very close to, but the most important thing is all of that has absolutely nothing to do with the statements that have been admitted, which were statements that Mr. O'Nesti made contemporaneously during the time he was working for Congressman Traficant to other employees; and, therefore, it should not be admitted.

MR. TRAFICANT: Your Honor, it is other employees he did not get along with.

THE COURT: That issue has been decided in this case, and you can take that to the Court of Appeals. That has been decided a long time ago. We are way down the

road.

MR. TRAFICANT: You mean to tell me you are not going to allow an unsolicited statement made while not under pressure --

THE COURT: I haven't ruled; net yet.

MR. TRAFICANT: And the Government asked every witness in 1998, you heard about Jim Traficant's investigations and allegations. Now, they are saying close to Mr. O'Nesti's death, there was no talk about kickbacks. Is that your statement?

MR. MORFORD: Not in 1999.

MR. TRAFICANT: He made a statement. It is on the record. I say there were allegations of O'Nesti making kickbacks, and they had pressured him on his death bed to get him to sign an affidavit. The Court now should voir dire Mr. Pikunas. If you want to make a right, just decision --

THE COURT: Do you have any further questions of this witness?

MR. TRAFICANT: Was he trustworthy when he told you something, Beef?

THE WITNESS: Yes, sir.

MR. TRAFICANT: Did you ask him anything about this?

THE WITNESS: No, sir.

MR. TRAFICANT: Was he looking at a newspaper when he told you this?

THE WITNESS: He had it in his hand. If he was actually looking at it when he said it, I don't remember, but he was holding it when he was talking to me. I don't remember if he was actually looking at it, but he was holding it.

MR. TRAFICANT: I am going to say this to the Court right now: I will release every one of my tapes regarding the matter of kickbacks, and I will do that under my First Amendment rights, and I may do it tonight. Make your decision.

THE COURT: Thank you.

If you are coming in under a statement against interest, then the statement, the specific statement that you want to get in has to be the statement against interest, and the statement that this witness has talked about is not against the interest of the person who made the statement. If you want to bring this in under another section, which we now call the residual sections of the hearsay rules, then you have not met those, and we will not permit this testimony to go before this jury.

MR. TRAFICANT: Until I meet the requirements of the residual law.

THE COURT: That's the law that you cited to

me that you were relying on.

MR. TRAFICANT: Well, the residual, under 807 --

THE COURT: Yeah --

MR. TRAFICANT: -- does speak to those elements. And the bottom line is the Judge, having known full well of that fruit basket ploy before he died, does change the scope and dynamics of the hearsay law and can't be in order. And to ignore it is to deny me the right to examine witnesses who know truthful information.

THE COURT: We have a few more things to go over here. We can let this witness step down. Thank you very much.

MR. TRAFICANT: Are you going to allow him to testify on that issue?

THE COURT: No. You didn't show any -- a section that would permit that.

MR. TRAFICANT: I ask leave of the Court to allow me to revisit this by Monday.

THE COURT: We have a lot of other things that we have to get -- we still have a jury back there. While we are here, there was a motion filed by the Government for sanctions. I haven't gotten a response from you, and I will need that.

MR. TRAFICANT: I think you got it today, and

I told them to shove the sanctions up their subpoena. There is no justification for it, and I believe that they have played their press more than I have, and now I'm going to play the same game, folks. And I am going to release tapes. If you are not going to allow the witnesses to testify --

THE COURT: I haven't ruled on the tapes, although you do have a motion in front of me, and it is ready for ruling on, and you've submitted three tapes to me. And I will be able to get that ruling out. You have not ever submitted transcripts of any other tapes. Which ones -- you said --

MR. TRAFICANT: I don't know which ones I'm going to submit. I want to see what you will do with these three.

THE COURT: We will deal with these three.

MR. TRAFICANT: It is my defense.

THE COURT: All right. I think there is --

MR. TRAFICANT: No now, I want to bring up two issues for the Court for the record. Mrs. Ferrante--

THE COURT: Oh, yeah, the photographs.

MR. TRAFICANT: Before that, Ms. Ferrante identified this document, and you did not allow me to let her identify it. And so it can be identified as an exhibit.

THE COURT: There may be someone who can do something with it.

MR. TRAFICANT: She was able to.

THE COURT: She did not write the letter, and you can't just put a witness, any witness on the stand, hand them any piece of paper and make it evidence. There is someone who wrote that letter. Call them in here. They can put the letter on. They wrote it. You saw how that worked.

MR. TRAFICANT: This woman was given a copy of the letter by Mr. O'Nesti, who gave it to everybody, who bragged he was not an LCN member and --

THE COURT: Bring in the person that wrote the letter.

MR. TRAFICANT: You are forcing me to jump through hoops where you don't need to do that. This woman had knowledge of this letter. That should have been enough to suffice.

THE COURT: That's not enough. Okay. Let's talk about the photographs.

MR. MORFORD: I will hand them to you, your Honor, because I don't believe you've seen this.

MR. TRAFICANT: I want to explain the photographs.

MR. MORFORD: It is my motion, Congressman.

So why don't you just wait.

MR. TRAFICANT: I will take my instructions from the bench, Mr. Morford.

THE COURT: I don't have to give them every time. If you will sit down, you know it will allow him to talk the way he should. And if you have an objection, just stand.

MR. TRAFICANT: Well, just keep helping him.

None of the pictures that I have in my hands here have anything to do with the testimony that this gentleman gave me. These are all --

MR. TRAFICANT: These are Mr. Marchese, and I am not going to voir dire any more. You are not pulling in another witness and listening to testimony from them.

THE COURT: Are you trying to offer --

MR. TRAFICANT: Mr. Marchese took these photographs. The photographs speak to the testimony of Mr. Sinclair, who stated he purchased the house after he left my employ. These are photographs of the house he used to own, photographs of the house he now owns, photograph of his building that he made major improvements on, and shows two neighborhood homes that show the quality and high caliber, expensive neighborhood in which he now lives.

THE COURT: So he can come in and testify if he took these pictures. The question is how will the

pictures be used. I don't know when he took them, if he took them.

MR. TRAFICANT: That's why I want to bring him in.

THE COURT: Okay.

MR. MORFORD: My objection, your Honor, if they are not admissible in the first place, they shouldn't be brought in, have this witness talk about them, put up on the overhead. I have no problem with picture 602 of Overhill. We would stipulate to that. As to the other pictures, 500 is Allen Sinclair's prior house. 601 and 600 are pictures of his new house. 604 and 603 are pictures of houses in the neighborhood, and it should be inadmissible, extrinsic evidence. Allen Sinclair is not on trial, and he was asked on cross-examination if he used to have a house in Youngstown, if he sold that house, and if he bought a new house, and he testified about the amount he paid for the house. But, anything beyond that would be inadmissible, extrinsic, irrelevant under both rules --

MR. TRAFICANT: And having said that --

MR. MORFORD: -- Rules 403(a) and (b), and we feel that's not admissible.

MR. TRAFICANT: I would like to respond.

THE COURT: I don't think you will need to. Four of these pictures are certainly pictures he can

identify that he took and that could be useful to the jury because of the prior testimony they had. So I don't have any problem with those --

MR. TRAFICANT: I have no problem with the other two. If you want to throw them out, you can throw them out.

THE COURT: -- and are inadmissible, and these might be useful to the jury. Is he here? He can testify to them.

MR. TRAFICANT: I will call him now.

MR. MORFORD: Your Honor, rather than call the witness back and waste time with that, we will stipulate they are pictures of Allen Sinclair's current home, past home, and --

THE COURT: You will have to meet with your colleague and tell him that.

We will bring in the jury.

(Proceedings held in the presence of the jury:)

BY MR. TRAFICANT:

Q. Dominic, do you recall my questions when I asked -- you were asked did you take any other photographs?

A. Yes.

Q. And did you take other photographs?

A. Yes, I did.

Q. What photographs, in fact, did you take?

A. I took a photograph of the 11 Overhill Drive, the former office. I took a photograph --

MR. MORFORD: Your Honor, I'm going to object to anything, except the documents that have actually been ruled on.

THE COURT: Okay. Okay.

MR. MORFORD: More specific photos.

THE COURT: Maybe if you'd hand him the photographs.

Q. I am going to ask you, four photographs, and I will ask you if you, in fact, made these photographs and took them?

A. Yes, I took each of these.

MR. TRAFICANT: Can I put them on the screen, your Honor?

THE COURT: Yes. Say the numbers as you put them up.

BY MR. TRAFICANT:

Q. Do you remember the office at Overhill before 1998?

A. Yes, I do.

Q. Did you take this picture?

A. Yes, I did.

Q. Have there been improvements made to that building?

A. Appeared to be all landscaping. That whole front is now shrubbery and different mulches, and used to be able to

drive right off the road in there.
Q. That is AS-602.
I'm now going to put on the board a picture of AS-500. Did you take that picture?
A. Yes, I did.
Q. And what is that a picture of?
A. My understanding, a former home of Mr. Sinclair.
Q. Can you identify this picture, AS-600?
A. That would be the side and rear view of the new home.
Q. And do you know where that's located?
A. Newport Drive, I believe.
Q. Is that an exclusive neighborhood?
A. Very nice homes, yes.
Q. And would you identify AS-601?
A. That would be the front of the home on Newport Drive.
Q. Dominic, do you recall what day you had taken these photographs?
A. Yes. It was February 26th.
Q. Did you keep diaries of your activities while you were a member of my staff, Dominic?
A. I just kept desk notes of times and dates.
Q. I would just like for you to look at that. Does that have an identification number on it?
A. Exhibit DOM-700.
Q. Is this, in fact -- did you bring with you all of

your diaries that you've had, and is this the way you memorialized your work as my staff representative?

A. Those are my desk notes that I log, every telephone, what time, who comes in, what it is about. If I didn't, I wouldn't be able to keep up with what I'm doing for individuals.

Q. I want you now to address yourself to the date 6-26 -- I mean 2-26, February 26th on there. What does it say?

A. 2-26, 8:30 A.M., called in for a half day vacation.

Q. What is your next -- when is your next report? When do you report in?

A. 1:00, and it is noted that I'm in.

Q. You are in where?

A. I'm in the office at 1:00.

Q. Okay. Follow 6-26 all the way down through your last entry?

A. 1:15, returned call from Richard Houk.

Q. Not every one. Go to the last date and notation you have on February 26th?

A. 6:05, I have received a call from a certain number, and no one answered. So I checked it on Star 69. The next page on this copy --

Q. Yes?

A. -- does show a part of the word that says out, but it doesn't show the time that I was out.

Q. Would it be out after 6:05 at least?
A. Oh, yeah. I would say it was around 7:00, but we should have one that was copied that has it in it. This is a copy.
Q. All right. Let me ask you, under law, are you familiar with how many hours a federal employee is required to work a week?
A. I was told 30 hours when I started.
Q. Do you work 30 hours a week?
A. I always work more than that.
Q. How many hours a week do you average?
A. Probably 39.
Q. Why would you say 39?
A. Because I stay a lot of evenings working on cases, and there are a lot of times I go to meetings at night that I didn't get home until 9:30 or 10:00, agriculture or DAV Services, and I count those. I don't think I have ever just worked 30 hours. In fact, that's the notes of every day since the day I started. Every day is on there and would show hours worked, if you want to go through those.
Q. Are these all your notes here?
A. Yeah.
Q. Do you work evenings for the Congressman?
A. Say again.
Q. Do you work evenings for the Congressman?

A. Yes, if we have to go to things.
Q. Do you represent me at events and speak for me at events?
A. Yes, I do.
Q. Do you log even those on here?
A. Yes, I do.
Q. Do you always put down the exact amount of time you spent?
A. Yes.
Q. Did anyone ever require you to do this?
A. No, but when I started, I couldn't keep up with the number of people coming in and calls, and I had -- now, these are just notes. We have cases for each one of these individuals that we work on. They are in the manila folders. They are a case file. I have a few of them with me today, but I don't have them up here.
Q. Do you have the original? Is this your original two pages? Look at the first and second page. I think I rewrote the original on it.
A. Okay. 7:02 P.M. on 2-26, I left.
Q. 7:02 P.M. on the original?
A. Yes. And I was in at 1:00. I didn't go to lunch either because I already had something; so whatever amount of hours that was that day.
Q. And these are your personal handwritten notes?

A. Yeah.
Q. You can hold that.
MR. TRAFICANT: No further questions at this time.
MR. MORFORD: Nothing, your Honor.
THE COURT: Thank you. You can step down.
MR. TRAFICANT: Your Honor, having no more witnesses here and waiting on a welder that will be here tomorrow, I want to announce to you that I have no witnesses since two were not able to testify. And, thus, I have no one else now to call, unless you want me to recall Mr. Terlecky, who is still available.
THE COURT: No. But, we will begin again tomorrow at 9:00, and I would expect that you ought to be able to give us a report on the truck --
MR. TRAFICANT: I will do that.
THE COURT: -- and what's happening with the welder. But, please bring enough witnesses tomorrow to the court.
MR. TRAFICANT: Your Honor, I did have enough witnesses today. Two of my witnesses would have taken an extensive amount of time if they would have been allowed to testify.
THE COURT: I will ask you guys to set that aside. I really have good news for you. These gentlemen

have all decided together, and I agree with that, that because this is a week that contains Passover and Good Friday in it, that we should allow this case to be in recess on Friday and not require you to come in, which will give you a good weekend back in your other lives. We do have to come in tomorrow, though, and Thursday. Okay? Be safe going home. We will see you, and remember your admonitions.

(Proceedings out of the presence of the jury.)

THE COURT: But for the lawyers and anyone else that wants to be here, we will allow Mr. Saadey to make his statements before the jury comes in.

MR. MORFORD: Again, I request that Congressman Traficant be specifically instructed not to do again what he just did in front of the jury now about his witnesses that weren't allowed to testify. He knows that's improper. And we have been over this before.

Number two, I would like to ask that some time tomorrow, preferably in the morning, that the jury be given some instruction to disregard the little bit of testimony they heard about Mr. Terlecky.

THE COURT: I understand that you asked for that, and I have to read the transcript, which I don't have, and I will read the transcript tonight. And I will also make an effort to get some rulings out on the issue of

sanctions that you put before the Court, and I understand you filed a response. I was not aware of that.

MR. TRAFICANT: I filed it with the clerk and handed your assistant a copy.

THE COURT: Good.

MR. TRAFICANT: This morning.

THE COURT: And I will be able to deal with it. Thank you.

MR. TRAFICANT: But I object to Mr. Morford's statement of requiring sanctions.

THE COURT: That's a motion, Congressman. I will consider it and rule.

MR. MORFORD: One more thing for purposes of the record, your Honor, I don't think the Court noted on the record the two photographs that were excluded by number, just that there be an accurate record of this.

THE COURT: I didn't do that, but if you can tell me the numbers and put them on for George.

MR. MORFORD: They were Defendant's Exhibit AS-603 and Defendant's Exhibit AS-604.

MR. TRAFICANT: Your Honor --

THE COURT: Thank you.

MR. TRAFICANT: -- your Honor, for the purposes of offering this evidence, I want to offer AS-601, which is the front photograph of the Sinclair home.

THE COURT: Right. I think you can do those as a group if you just give us the numbers.

MR. TRAFICANT: AS-601, which is the front view of the Sinclair home, AS-600, which is the side view from the rear of his new home; AS-500, picture of his older home on Atlanta Drive, and AS-602 with the improvements made to the office on --

THE COURT: Any other exhibits, Congressman?

MR. TRAFICANT: Yes, and I know SBF-1, a photograph of the Horse and the -- Ms. Ferrante.

THE COURT: Okay. Very well. Any objections?

MR. MORFORD: No.

THE COURT: They will all be admitted, and now we want to let the jury out. They are all ready to go.

(Pause.)

MR. TRAFICANT: Your Honor, I would also like to offer in evidence Defendant's Exhibit DOM-700, the diary notes of Dominic Marchese relative to the four pictures.

THE COURT: I don't know that those are relative to the four pictures.

MR. MORFORD: I object on grounds of relevance.

MR. TRAFICANT: That he had to take a vacation day to take those pictures under federal threats

he might receive later, and C-8 I would offer, and it says -- it is showing the garage remains of his burned home where he testified had burned down where the generator had been stored.

THE COURT: All right.

MR. MORFORD: I have no objection to the picture of the burned down garage, but the other exhibit, that that is not charged in this case, and it really doesn't have any bearing on this case and not relevant.

THE COURT: It is not relevant and won't be admitted.

MR. TRAFICANT: What is not?

THE COURT: The diary that you just talked about.

MR. TRAFICANT: You will admit the --

THE COURT: The photograph will be admitted.

MR. TRAFICANT: But the diary is not.

THE COURT: Is that it?

MR. TRAFICANT: No, it is not.

THE COURT: No, it is not?

MR. TRAFICANT: I will have other admissions for tomorrow, and I am going to stay here tonight. And if I have any news, I might have to ask of the Court, if necessary --

THE COURT: I don't know what you are talking

about.

MR. TRAFICANT: On this welder. We might have to have the Government make a trip and certify to the Court that it has never, in fact, been used if I can't get it up here. I am trying to get it up here and running a trailer, and I haven't been able to be in contact with him, and I am a little upset myself.

THE COURT: This comes up every day, but eventually your case will come to a conclusion, and we have it or we don't. But we wouldn't require the Government to send someone somewhere else to look at it. That's something you could have worked out a long time ago. We are in the middle of your presentation of evidence.

So if it comes and it can be shown to the jury, we still have to see whether it will get in the courthouse and so forth, but we will certainly arrange for the jury to see it if it passes all those tests.

MR. MORFORD: Your Honor, I also move that Congressman Traficant advise the Court and counsel as to who is coming tomorrow because this is the second day in a row we have wasted juror time because of this kind of thing.

THE COURT: Just tell us who is lined up for tomorrow.

MR. TRAFICANT: Mr. Saadey will be here

first. Mr. Johnson will be here. Mr. Hooker is scheduled to be here, and that -- I don't know right now.

MR. MORFORD: What is Mr. Hooker's first name?

MR. TRAFICANT: Pardon?

MR. MORFORD: What is Mr. Hooker's first name?

MR. TRAFICANT: George.

MR. MORFORD: Your Honor, as to Mr. Johnson, that will require a voir dire.

THE COURT: That's right. The Congressman knows that. Maybe we can fit him in --

MR. TRAFICANT: Why would Mr. Hooker require a voir dire?

THE COURT: He said Johnson.

MR. TRAFICANT: Yes. He has been here five days, and his wife had to go the the doctor. He is remarried and pregnant.

THE COURT: We don't need the jury for him. We need Saadey first to see what he is going to do. We don't know if he is going to take the Fifth Amendment or if so on what, and then we need Johnson. Can you have Johnson here at 8:30, too?

MR. TRAFICANT: Well, I have had Mr. Johnson here for five days in a row.

MR. MORFORD: In fact, he was not here on Friday when you asked him to be here.

MR. TRAFICANT: Because I had Terlecky here, and I thought Terlecky and he had basically the same testimony, and you wanted to voir dire someone with that testimony.

THE COURT: Well, he came here Thursday --

MR. TRAFICANT: I will have Mr. Johnson here tomorrow at 8:30, but I ask that Mr. Saadey go first since he will be making a statement against interest if he testifies.

THE COURT: Okay. Following that you have one other witness. If you have more witnesses, you should get them down here for tomorrow.

MR. TRAFICANT: I will be on the phone, and hopefully, we would have time, and I am hoping to have that welder here.

THE COURT: Right.

MR. TRAFICANT: Today yet.

THE COURT: Okay. But the welder is just a viewing. So we will need more witnesses to fill up the day.

MR. MORFORD: I do have one last continuing request. I have requested on numerous occasions that we be provided with discovery prior to the time the Congressman

walks up to a witness. It now turns out that those last four photographs were taken in February of this year, and he never provided them to us.

I will again ask if he has physical evidence, just as we gave him all our evidence months before trial, he was supposed to do the same, and we not be constantly handed documents, exhibits, photographs two seconds before he hands them to a witness.

MR. TRAFICANT: I would like to reply. With Mr. Marchese, he didn't think he would be on until the afternoon. He didn't get around to identifying the other ones. This is first the time I saw them. They got them as soon as I got them.

THE COURT: Let's talk about three witnesses you have named. If you have any documents or papers that relate to them, you have to turn that over to the Government.

MR. TRAFICANT: All I have, and these individuals are the 302s.

MR. MORFORD: There is no other physical evidence; is that right?

MR. TRAFICANT: I have a tape.

THE COURT: Okay. Which one? One I've seen?

MR. TRAFICANT: No. You have not seen the tape on Saadey.

THE COURT: I need the transcript.

MR. TRAFICANT: I want to see what he does, and I have a right to do that.

MR. MORFORD: He has a responsibility under discovery to give us any physical evidence, which he never has.

MR. TRAFICANT: I may not introduce the tape.

THE COURT: You are going to have to --

MR. TRAFICANT: If I decide to introduce that tape, then they will get it when I decide to introduce it, and I am under no requirement under -- and this is the Jencks Act we are working with here, fellows.

THE COURT: No. No, it is not the Jencks Act.

MR. TRAFICANT: Yes, it is. I'm not sure I will have this witness, and I don't know if I want that tape admitted to the Court.

MR. MORFORD: I would like it on the record when the Congressman received the tape, and based on that, I may move to exclude it as a violation of discovery. He has been given notice time and time again that he cannot do do this.

THE COURT: When did you receive the tape, sir?

MR. TRAFICANT: I don't know. I would have to look back at the dates. I have to look at the date.

THE COURT: Is this one of the nine or ten that you talked about before, or is this a different one?

MR. TRAFICANT: Your Honor, I don't know how many tapes I have, but I find it strange that there is not one tape on me without no corroborative testimony, and I taped every one of their witnesses.

THE COURT: It has nothing to do with this.

MR. TRAFICANT: Well, I will let the Court know. I may not give them to the Court because I don't believe the Court will let them in, frankly, and I want to state that for the record, but if I decide to use them --

THE COURT: We don't know what the tape is.

MR. TRAFICANT: I will present them if I decide to use them.

THE COURT: Who is on the tape, sir?

MR. TRAFICANT: I am on the tape.

THE COURT: And who else?

MR. TRAFICANT: Mr. Saadey relative to his brother-in-law James Sabatine.

THE COURT: And when was the tape made?

MR. TRAFICANT: I don't know. I would have to look back. I don't have it with me.

THE COURT: Was it made within the last month?

MR. TRAFICANT: I would have to look.

THE COURT: You don't remember? Is it a telephone tape?

MR. TRAFICANT: No, it wasn't.

THE COURT: Okay. Is it more than a week ago that you made it?

MR. TRAFICANT: I have to look back at the date.

THE COURT: You can't remember.

MR. TRAFICANT: I can't remember at this point the exact date, and I will not be held to an exact date.

THE COURT: I was asking you a zone, not an exact date.

MR. TRAFICANT: No. And I don't think I am compelled to tell the exact date.

THE COURT: He doesn't have to tell me, but --

MR. TRAFICANT: If I decide to use it, I want to see what Mr. Saadey's actions are tomorrow. If he takes the stand, I may not, may not use that tape, but if he takes the takes the stand, I want it to be known he has been convicted and the same law you allowed for the prosecution against interest since he is subject to being sentenced in a criminal matter.

THE COUR: He is coming in tomorrow because he

is subject to being sentenced in a criminal matter, but you do it at your own risk. There is a whole section of the Rules of Criminal Procedure that deal with your responsibility to disclose, and I will refer you to them so you can look at them. It is Rule 16. Read it tonight.

MR. TRAFICANT: I will try and read it, but I will say this to you, and I wish you the happiest of holidays this weekend and nothing personal, but I don't believe you will leave in any of my tapes or examine any witnesses, and I am probably going to end up waiting for this trial to be over to play the tapes, and I may not introduce the tape. But I may play the tapes before the trial.

THE COURT: But you know --

MR. TRAFICANT: I have a First Amendment right. I am not an attorney, and I will not be bound by the oath these three fellows are. I haven't been able to examine witnesses, gotten technicality after technicality. And no matter whom the attorney is, there are many incompetents that can't face a RICO trial. I think one or two beat them and wanted to get the other guy's name. Having defeated the Justice Department in a RICO case and the only pro se Defendant to have done so, I have decided that you are completely with the prosecution because that's the only way you can be removed from office, retirement or

death, and I feel bad about that, and I feel you are a nice person, but for the record I will play my tapes for the public.

THE COURT: Tonight I will consider their motion and see how we go forward in the morning.

MR. TRAFICANT: See you in the morning, your Honor.

THE COURT: I will see you tomorrow morning.

MR. TRAFICANT: Your Honor, they weren't required to give me Sandy Ferrante's material.

MR. MORFORD: That's your witness, Congressman Traficant.

THE COURT: They didn't call her.

MR. TRAFICANT: They did under the Jencks Act.

THE COURT: You should read that act, also.

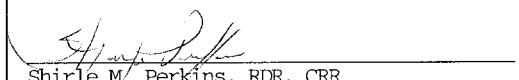
MR. TRAFICANT: I will tell you the truth, I haven't read anything in this case. I will continue as I have been in the case and feel quite comfortable, your Honor. You are denying my rights. And even Bernard Smith knows it. Look at the look on his face.

(Proceedings adjourned.)

DIRECT EXAMINATION OF JOHN INNELLA..... 4790
CROSS-EXAMINATION OF JOHN INNELLA..... 4804
DIRECT EXAMINATION OF DOMINIC MARCHESE..... 4812
CROSS-EXAMINATION OF DOMINIC MARCHESE..... 4839
REDIRECT EXAMINATION OF DOMINIC MARCHESE..... 4862
DIRECT EXAMINATION OF MICHAEL TERLECKY.....4875
DIRECT EXAMINATION OF DOMINIC PAOLONE..... 4901
CROSS-EXAMINATION OF DOMINIC PAOLONE..... 4913
REDIRECT EXAMINATION OF DOMINIC PAOLONE..... 4916
VOIR DIRE EXAMINATION OF MICHAEL TERLECKY.....4925
DIRECT EXAMINATION CONTINUED OF MICHAEL TERLECKY.....4948

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 27, 2002

Jury Trial

Volume 27

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: George J. Staiduhar, FCRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 575-1727

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

MORNING SESSION, WEDNESDAY, MARCH 27, 2002 8:50 A.M.

(Proceedings had out of the presence of the Jury:)

THE COURT: Thank you. Be seated.

Congressman?

MR. TRAFICANT: I call attorney Brian Kopp for Russell Champ Saadey.

THE COURT: Mr. Kopp, if you would like to say something you can. We were going to have a voir dire at 8:30 of your client on an issue. So perhaps you can enlighten us.

MR. KOPP: It is obvious I am here and my client is not. I did receive a call this morning at about 7:00 clock. I did not get a return call. I left Youngstown. Mr. Saadey and I were to meet around 7:00 o'clock and drive up.

I did get a call and informed the Congressman about 20 minutes ago. Mr. Saadey claimed to be ill. I told him that was not a sufficient excuse to a subpoena. He is en route, which is my understanding.

I want to apologize. I made a representation to this Court that I would be here with my client promptly at 8:30 because we requested you excuse us the other day. I did speak to the Congressman and made that representation to him that I would have my client here at 8:30.

THE COURT: So as far as you know, he is on his way here.

MR. KOPP: That's correct. I told him from yesterday, it seemed like we took a break at 10:30, and he had no choice but to be here before 10:30.

THE COURT: Wc take a morning break, and we can do that maybe then.

MR. KOPP: It came to my attention there may have been a tape of my client, and I heard that only through the media last night. I did address that with the Congressman today. Obviously, my concern was to counsel him on Fifth Amendment issues whether or not that tape was going to come into evidence.

That tape, there were questions asked, I believe, in regards to things that are subject to gag order out of Judge O'Malley's Court. I do not believe my client answered any of those questions. The Congressman has assured me that is not going to be an issue, that the tape has been destroyed and is not something he plans to use in evidence in any way.

THE COURT: What tape has been destroyed?

MR. KOPP: I guess there was a tape conversation with my client.

THE COURT: We can inquire of that, but you have been assured there is no such tape.

MR. KOPP: That's correct.

THE COURT: Okay. I'm glad you have your client under a responsibility to be here, and we will be able to do that voir dire later. But, if in fact there is some sort of tape, then the Congressman needs to allow you, an attorney, as his lawyer to have access to that.

Congressman?

MR. TRAFICANT: I have stated that. I had asked counsel, if necessary, to have the Marshals produce his client.

THE COURT: Well, that doesn't sound like it is necessary, and generally I'm the one who tells the Marshals --

MR. TRAFICANT: No. But I was misrepresented. I want that on the record.

THE COURT: Okay.

MR. TRAFICANT: Second of all, that there were no violations by his client, but there were elements of questioning regarding --

THE COURT: I don't know what you are talking about, Congressman.

MR. TRAFICANT: And I have destroyed the tape.

THE COURT: Well, we have never seen the tape. The tape hasn't been admitted into evidence. I don't

know anything about that tape except you made representations here in Court regarding it, I think yesterday.

MR. TRAFICANT: I've informed counsel of same.

MR. MORFORD: Your Honor, if he is planning to call Champ Saadey, then he is telling the Court he destroyed Jencks material he never gave to the Government.

THE COURT: Well, we will have to deal with that separately. Okay? I want to move to a couple of different issues.

MR. TRAFICANT: I have never moved any evidence and have just subpoenaed Mr. Saadey, and Mr. Saadey has become a recent issue.

THE COURT: Okay. Well, in any event, Mr. Saadey is going to be here sometime this morning, and we will make inquiry at the appropriate times about anything that may, in fact, happen as opposed to what everybody thinks may have happened. Okay?

But thank you, sir. I'm glad, Mr. Kopp, that you came.

Now let me move on to a couple of other issues.

We were given a flurry of new motions by you, Congressman, this morning. I haven't had a chance even to read what they are, but I want to know whether they were

served on the Government.

MR. MORFORD: Yes, they were, your Honor, about five minutes ago.

THE COURT: Okay. Congressman, who do you have here today for witnesses?

MR. TRAFICANT: I have Denny Johnson. Now with the Saadey thing that I thought would be very lengthy, I have Dennis Johnson here --

THE COURT: We can do a voir dire of him right now.

MR. TRAFICANT: We can do him right now.

THE COURT: Okay. That will be a good idea. Bring him down.

MR. MORFORD: Can we know who else, Your Honor?

THE COURT: Yes. We do need to know your witnesses.

MR. TRAFICANT: I am sorry. I have a Robert Barlow, a Linda Kavulic, Anthony Traficanti, and a Mr. George Hooker, plus I have Mr. Johnson present and was to have Mr. Saadey present.

THE COURT: I can hand down an order I just journalized regarding the Defendant's motion regarding hearsay, and that will give you a chance to look it over while we wait for Mr. Johnson to come down.

MR. TRAFICANT: I would request to address these after this witness since my motions concern proffers concerning your orders.

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

DENNY JOHNSON,

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

THE COURT: Thank you, sir. Have a seat. I mean, just sit down.

Congressman, this ruling that I just handed out, I just want you to be aware of it, and it was issued before whatever your motions are that you filed this morning came to my attention. So I haven't had a chance to read your motions. I was just given them before I walked out on the bench.

MR. TRAFICANT: Okay. I just --

THE COURT: You don't need to talk about them. We will give the Government an opportunity to respond, as we always do, before we rule on them, and we will go forward as we normally do.

How are you this morning?

THE WITNESS: Fine, Your Honor.

THE COURT: Okay. This is a limited inquiry.

The judges refer to these sometimes as dry runs. What they do is allow us to explore further issues that are legal issues out of the hearing of the jury so that the Court can make proper determinations under the rules of evidence about whether or not further testimony may or may not be admitted.

MR. TRAFICANT: I object to this process.

THE COURT: I understand. The Congressman objects to this process. Nonetheless, we follow it in any case where we have these issues.

So there are several ways we can do it. There were a couple of objections during your direct examination that were made by the United States to questions that were asked of you.

THE WITNESS: Yes, ma'am.

THE COURT: And when those questions were put, there is a transcript of that that is developed, and I am reading out of the transcript of that day's testimony. And unless somebody has something else they want to do, I will just go to the particular questions. I will identify where they are in the transcript. I will ask the questions, and this time we will get the answers from you, and then I will have an opportunity to evaluate those. Okay?

MR. TRAFICANT: Before you read the transcript, Your Honor, I would like the opportunity to

direct examine this witness.

THE COURT: You had him on direct.

MR. TRAFICANT: Yes, and you stopped the examination.

THE COURT: Right. Well, I think what may happen -- we didn't really stop the examination.

MR. TRAFICANT: Yes. You discontinued it, and you removed the jury and said we'd take it up later.

THE COURT: Okay. We are going to those areas of the transcript.

MR. TRAFICANT: I would like to do the examination of the witness.

THE COURT: All right. Fine. You can begin.

VOIR DIRE DIRECT EXAMINATION OF DENNY JOHNSON

BY MR. TRAFICANT:

Q. Good morning, Denny.

A. Good morning, sir.

Q. The Friday that you did not attend, was it your fault?

A. No, sir.

Q. What were you told?

A. Not to come on Friday.

Q. Were you told anything else?

A. Just not to attend, sir.

THE COURT: Sir, who told you that?

THE WITNESS: The Congressman, Ma'am.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Did you know if I had anybody else that day for the process?

A. You said you had Mr. Terlecky coming.

Q. Now, we had gone through an awful lot of conversation. And isn't it a fact that you have admitted that you have known both John J. Cafaro and Chuck O'Nesti?

A. Yes, sir.

Q. Did you have occasion to meet with Mr. Cafaro?

A. Yes, sir.

Q. What was your purpose of seeking meetings with Mr. Cafaro?

A. You requested that I get a hold of Mr. Cafaro to make arrangements to pick up titles of cars that you purchased from him.

Q. Did you have occasion to be with Billy Coleman at a north side restaurant?

A. Yes, I did.

Q. What restaurant was it?

A. Crystal Lounge on Mahoning Avenue, sir.

Q. Did you have occasion to see or meet with Mr. Cafaro that day?

A. Yes, I did.
Q. And how did it occur?
A. Mr. Cafaro came in with a group of his associates and sat at a big round table, and Mr. Coleman and I and some friends were sitting at the far end of the restaurant, and Mr. Cafaro got up eventually, and he walked over towards the group I was with and asked me if he could speak to me for a minute.
Q. And did he speak to you there?
A. No, he didn't. He said "Come with me," so I got up and walked with him to the cash register.
Q. And what, if anything, did you do at the cash register?
A. Well, I just kind of looked, and then he wanted to go outside. So we walked out the front door in the alley that goes along the restaurant.
Q. Were you in front of Mr. Cafaro or was he in front of you?
A. No. He was walking in front of me.
Q. Where did the conversation take place?
A. In the driveway right alongside the restaurant where you pull in to park in the back.
Q. Did you initiate the conversation?
A. No, I did not.
Q. What, if anything, happened?

A. When he was walking, he stopped real quick, and he turned around and looked at me and he said, "Tell Jimbo there was nothing he or I ever done that was illegal, and I am having a little problem with the Chance situation," and he stopped, and he looked at me. And I said, "Mr. Cafaro, that's not why I called you."

Q. What at that time was the look or demeanor of Mr. Cafaro?

A. Well, when I told him that's not why I called him, he kind of looked at me funny. I kind of stopped him and I told him, "That's not why I called you," and he kind of looked at me for a second.

Q. How many times did you call him, his office?

A. At least three to four times.

Q. And did he ever return any of those calls?

A. No, sir.

Q. So when he had this befuddled look on his face, was it your impression that he thought you were going to talk about something else?

A. He gave me the impression that it surprised him when I told him that's not why I called him, but he didn't elaborate but kind of looked at me kind of funny.

Q. Was there any further conversation?

A. Yes, sir.

Q. What did you do? What did you say?

A. I told him the only reason I was trying to call him to talk to him was that you requested that I get the titles of the cars that you had purchased.
Q. And what, if anything, did he say?
A. He just looked at me. He said, "That has been a long time ago." He said, "I don't even think I know where the titles are," and he stopped and he said, "I think I know a guy that does know," and he said, "I will get back with you."
Q. Did he ever get back to you?
A. No, no.
Q. Did you report that to me?
A. Yes, I did.
Q. Were you instructed to contact Mr. Cafaro by me relative to my case?
A. No, I wasn't.
Q. How many days have you traveled to Cleveland involving this trial?
A. This will be the sixth day, sir.
Q. Now, were you asked to be here yesterday?
A. Yes. You did say to me you wanted me up here.
Q. What was the reason you were not up here yesterday?
A. I requested a week ago when we discussed it, my wife had a doctor's appointment that was crucial to us, and she wanted me to attend, and you said that would be fine.

Q. Have you been remarried?
A. Yes, I have.
Q. What was the purpose of your doctor's meeting?
A. My wife is pregnant, and we went to the baby doctor, Congressman.
Q. Did you know Chuck O'Nesti?
A. Yes, I did.
Q. Did you know Chuck very well?
A. I knew him when he was running for councilman and by talking and socializing. I knew Chuck fairly well.
Q. Did he help you with fund-raisers?
A. Yes, he did.
Q. Did you consider him a friend?
A. Yes, I did.
Q. Were you familiar with his representation?
A. Yes, I was.
Q. Now, over a period of years, how many times would you say you had ever met with Mr. O'Nesti?
A. Over a period of when, sir?
Q. Over a period of years that you worked, when you became part of this -- did your district become part of the new 17th District?
A. Yes, it did.
Q. And who was your Congressman?
A. You was.

Q. And during that period of time did you have occasion to meet with Mr. O'Nesti many times?
A. I met with Mr. O'Nesti at functions, and things of that nature, yes.
Q. Did you have occasion to meet with him shortly before he became very bedridden?
A. Yes, I did.
Q. Could you explain where you met him?
A. I was at the Open Hearth Tavern on Steel Street in Youngstown, Ohio.
Q. Who were you with?
A. I was with Mr. Coleman.
Q. Is that the same fellow you were with at the other restaurant when Mr. Cafaro came in?
A. Yes, I was.
Q. And what is Mr. Coleman's past employment history?
A. Well, Mr. Coleman last was the chief bailiff of the Seventh District Court of Appeals.
Q. Did that cover your county?
A. Yes, it did.
Q. Was he a close personal friend?
A. Probably my best.
Q. Did he witness both of these meetings?
A. Yes, he did.
Q. I'm not talking about the conversations you had; I'm

talking about the approach of these respective people to you.

A. Yes. He was both sitting right next to me.

Q. Now, when you were sitting with Mr. Coleman, what, if anything, did you see happen?

A. Well, when we were sitting at the bar, sir, and people come in and out, and every time the door opens I look. I looked at this gentleman, and I paid no attention to him when he walked in and continued our conversation, but when he approached me there was something about the voice, and I kind of leaned back and I looked when he approached us, and I kept looking at him, and after awhile I realized it was Chuck O'Nesti. But he looked very sick, very thin, talked very low, and he moved very slowly.

Q. Did you arrange to meet with Mr. O'Nesti that day?

A. No, I did not.

Q. Did you come to find out how Mr. O'Nesti found you?

A. No. He just indicated he found out I was going to be there, and he come down to meet with me.

Q. Did you meet with him in the presence of Mr. Coleman?

A. No, I didn't.

Q. Where did you go when you left Mr. Coleman's presence?

A. We -- he asked to talk, and we got up and walked and sat at the table in the back of the room, the main room,

but clear at the far end of it.
Q. Was there anybody else back there?
A. No, sir.
Q. Could Mr. Coleman see you from where you were seated?
A. Yes, he could.
Q. You think he could?
A. Yes, sir. I know he could. He could see us where we were sitting.
Q. Who initiated the conversation?
A. Chuck O'Nesti did, sir.
Q. Describe his voice and his behavior.
A. Well, as I said, he talked very low, and it is not usually like Chuck, but he was talking very quiet and still, had that kind of ruffled voice that I recognized, and his hair was falling out. He had a ball cap on. And he just walked real slow and looked very thin. And when I saw him he surprised me.
Q. Did you initiate the conversation or did he?
A. He did, sir.
Q. And what was the purpose of him coming to meet with you?
A. When we sat down, he said, "Jim will not return my phone calls."
Q. Okay.
A. And I am concerned that somebody is not giving him

the messages that I am calling him. He said, "I need to talk to Jim. Please have Jim call me."

Q. What, if anything, did you tell him?

A. I told him I would get ahold of you and have you call him, sir.

Q. And did you get ahold of me?

A. Yes, I did.

Q. Now, did Mr. O'Nesti proceed to say anything else?

A. When he sat there he looked at me after he kept wanting to know why you hadn't called him and if I would guarantee I would get in touch with you, and he looked at me and said, "Denny, Jim did nothing wrong. They want me to say some things that is not true, and they are going to send me to the Army."

Q. They were going to send him to the Army?

A. Yes, sir.

Q. Did you cut him off when he started talking about the Army?

A. Your Honor, about eight months ago -- prior to that my wife died from brain cancer, and I knew it was close to what Chuck had. I told Chuck, "Come on, I am just going to get you home." I said, "You should be home." I promised him I would get you to call him.

I got him up, walked him back to where Billy and I was sitting. He walked down at the other end of the bar and

met an individual, and he said hi, and he left.
Q. Did you see him leave?
A. I saw him walking out the door, yes, sir.
Q. Do you believe he was close to or near death?
A. Yes, I do.
Q. Were you surprised he was even walking around at that time?
A. Well, I can just tell you he looked very -- he was a very sick man, Congressman.
Q. Now, when you said your wife died of brain cancer did you see and recognize certain similarities in their actions and behavior?
A. Yes, I did.
Q. Did you relate that message to me?
A. Yes, I did.
Q. Did I ever ask you to do anything illegal?
A. No, sir, you haven't.
Q. Did I speak at your fund-raisers?
A. Yes, you have.
Q. Did you pay me for speaking at your fund-raisers?
A. No, I didn't.
Q. Did you give me expense money for speaking at your fund-raisers?
A. No, I haven't.
Q. Are you and I good friends, Denny?

A. I think we are, sir.
Q. What is your status with General Motors?
A. I am a production supervisor at General Motors, and I am right now on a political leave of absence.
Q. And you are on my staff?
A. Yes, sir.
Q. Now, with the new redistricting due to the census, is your county, Columbiana County, in the new 17th District of Ohio?
A. No, it isn't.
Q. Do you live in the 17th District of Ohio?
A. No, I do not.
Q. Are you politically active throughout the 17th District of Ohio?
A. Yes, I am.
Q. Were you the campaign chairman for Mr. Birch for governor?
A. For the primary, yes, sir.
Q. Do you help me with my campaigns?
A. Not really, sir, unless you come down to my county in the evenings; then I do, yes, sir.

MR. TRAFICANT: That's all the questions I have of this witness.

THE COURT: Thank you.

VOIR DIRE CROSS-EXAMINATION OF DENNY JOHNSON

BY MR. MORFORD:

Q. Mr. Johnson, I don't believe you gave us any time frames whatsoever. What was the date you met with Mr. Cafaro?

A. I want to say it was early March 2000.

Q. And what makes you think it was early March?

A. Because it was cold, and that was, the best of my knowledge, was somewhere right in around March.

Q. Sir, it is cold in December, January, February, March. What makes you pick March?

A. Because that was the best time I could come up that I was close to it, sir.

Q. Based on what?

A. Just when I can remember approximately when it was.

Q. Well, sir, you worked for Congressman Traficant, correct?

A. Correct.

Q. And you have supported him politically over the years correct?

A. Correct.

Q. And isn't it true you considered it a bombshell when Mr. Cafaro made this statement to you, sir?

A. I didn't take it as a bombshell, sir.

Q. You didn't take it as very significant given the fact that in March of 2000 the newspapers were reporting that

Congressman Traficant was under investigation for illegal contact and conduct with USAG, and now the head of USAG is telling you that he lied about Congressman Traficant, and you didn't think it was a bombshell?

A. Well, being honest with you --

Q. That's what I want you to do.

A. I didn't think he was doing anything wrong, to start with, and I didn't want to know, and I didn't know who that company was to start with.

Q. Do you mean to tell this Court that you hadn't been reading the papers about your boss, Congressman Traficant, being accused of taking bribes and gratuities from USAG? You had no idea about that?

A. Mr. Morford, I heard more stories going on than you can shake a stick on.

Q. Were you following this case in the papers, sir?

A. I was reading it like everyone else, yes, sir.

Q. And isn't it true that in late February in the papers there were numerous reports about alleged illegal conduct between J.J. Cafaro and Congressman Traficant?

A. I don't know, sir.

Q. You don't know?

A. I don't. No, I don't.

Q. You don't remember that?

A. No, I don't.

Q. Might it refresh your recollection if I were to show you a couple of those articles, sir?

MR. TRAFICANT: Objection. He says he doesn't know.

THE COURT: That can lay a foundation for him to refresh his recollection.

Q. So is your testimony, sir, that the time that J.J. Cafaro made this statement to you -- and I want to see again -- why don't you tell me again exactly what he said to you.

A. He just turned around and said, "Tell Jimbo there is nothing I can say to him, and there was nothing I ever did was illegal."

Q. "Tell Jimbo" -- I am sorry?

A. Nothing I can say, that anything him and I ever done was illegal.

Q. And isn't it true, sir, that at that very time that he told you that you had already read in the papers allegations about improper gratuities, allegations about improper gratuities --

MR. TRAFICANT: Objection. Asked and answered.

Q. -- that Mr. Cafaro was giving to Congressman Traficant. You knew about that, correct?

A. Mr. Morford, I can't say I did not know about it. I

am just saying there was so much in the paper. You are asking me specifics. I didn't pay that much attention to every day what was going on.

Q. Well, sir, let me ask you this: How many years have you been involved in politics?

A. Total?

Q. Yes.

A. Probably 20 years.

Q. And how many years were you the head of the Democratic party in Columbiana County?

A. Approximately ten.

Q. And as the chairman, how many campaigns have you helped run, sir?

A. Quite a few.

Q. How many, ballpark?

A. They change every year, sometimes two, sometimes three. I don't know, 15, 20, 25. I don't know, sir.

Q. And isn't it true in March of 2000 your boss, Congressman Traficant, was in one of the most contested primary campaigns he had ever been in, sir?

A. Yes, sir.

Q. And isn't it true that these allegations of misconduct, including the gratuities he was allegedly receiving from USAG, were becoming a significant issue in that primary, sir?

A. Mr. Morford, you are hitting me -- I don't recall that. Really, I'm serious.
Q. You don't recall that being an issue in the primary campaign, sir?
MR. TRAFICANT: Objection. It is the third time he said he can't recall.
A. Like I said, there were so many stories coming out every day. I do not recall that or I would tell you.
Q. There were so many stories you can't recall, but you can recall what Mr. Cafaro told you, right?
MR. TRAFICANT: Objection. Fourth time. How many times are you going to let him question him? He is badgering my witness.
THE COURT: I am going to let him cross-examine your witness.
MR. TRAFICANT: You don't let me do that.
THE COURT: Come on, Congressman.
MR. TRAFICANT: Objection. If the witness can't recall, he can't recall. He said it four times. For the record, I object.
THE COURT: Now will you please sit down, having made your objection.
MR. TRAFICANT: I will sit down.
THE COURT: Thank you.
BY MR. MORFORD:

Q. How long after this conversation took place did you call Congressman Traficant and tell him about it?
A. Next time I talked to him about it, which would have been the same night or next day.
Q. And did you ever write down or memorize what Cafaro told you?
A. No.
Q. You didn't think it was important?
A. It was important for me to tell him.
Q. Wasn't it important for you to write it down?
A. No, sir.
Q. You didn't think it was very important at that time, sir?
A. All he asked me to do was check. I checked, and I reported back to the Congressman what Mr. Cafaro said, sir.
Q. All he asked you to do was check?
A. On the titles.
Q. I am talking about this statement that you claim that Mr. Cafaro made to you --
A. Okay.
Q. -- to tell Jimbo that there is nothing I can say that anything him and I did was illegal.
A. Correct.
Q. You didn't think that was important enough to memorize it?

A. No, sir, I did not.
Q. Wouldn't that be a good thing to do with a statement like that?
MR. TRAFICANT: Objection. That's speculation.
THE COURT: He can answer.
A. What was important, the important thing for me to do was get a hold of the Congressman and confer our conversation, which I did.
Q. Are you aware when law enforcement officers when they receive information like that they memorialize it?
A. They could.
MR. TRAFICANT: Objection.
Q. You are not a law enforcement officer?
A. No, sir.
MR. TRAFICANT: I had objected to that question. It was irrelevant.
Q. Now, sir --
THE COURT: It is not irrelevant. The objection is overruled.
Q. You testified that when you first saw J.J. Cafaro he looked a little surprised or nervous because you had been calling him and he hadn't been returning your calls?
A. When he got up from the group of people, walked over to me and looked at the TV and kind of said "hi" and looked

around, kind looked at me and said, "Can I talk to you, Mr. Johnson?"

Q. Now, this was all prior to the time that Mr. Cafaro was actually charged, correct, to the best of your knowledge?

A. Best of my knowledge.

Q. And from what you have told us, Mr. Cafaro knew that you had been calling him on several occasions but didn't know why you had been calling him, correct?

A. Correct.

Q. And you and Mr. Cafaro had been involved politically over the years, correct?

A. Yes, sir.

Q. And he supported your party with contributions down in Columbiana County?

A. Yes, he has.

Q. And you knew he has been close with Congressman Traficant over the years, correct?

A. I knew that they communicated, yes.

Q. Wasn't it true, sir, you knew they were close?

A. Well, I know one time they weren't even speaking.

Q. I am not talking in the early years, I am talking in the three years prior to the conversation you just testified about.

A. Yes.

Q. They were quite close?
A. They were close, yes, sir.
Q. They worked on a number of projects together, correct?
A. Yes, sir.
Q. And isn't it true it is your impression when J.J. Cafaro ran into you he seemed to think you had been calling him to find out whether or not he was cooperating against Congressman Traficant? Wasn't that your impression, sir, based on the way he immediately said, "Hey, look, look"?
A. Yes, sir. The way he turned, yes, sir.
Q. And he knew at that time that you were a close associate of Congressman Traficant, correct?
A. That's correct, sir.
Q. He knew you were working for Congressman Traficant, correct?
A. Yes.
Q. And talking to you, he was talking to an agent of Congressman Traficant, correct?
A. Yes, sir.
Q. And isn't it true, to the extent such statement even was made, it was only made because he was trying to let Congressman Traficant know through you that he was okay?
A. Well, again, I am going to say this, Mr. Prosecutor.
Q. Your impression: You were there.

A. Are you referring to that one incident about that aerospace? I was not really aware of that.
Q. No, sir. I am just asking you as the person that was there that day, wasn't it true that was your impression?
A. I got that impression, yes, sir.
Q. Now, with respect to Mr. O'Nesti and the alleged statement by Mr. O'Nesti, isn't it true, sir, that Mr. O'Nesti just thought the world of Congressman Traficant?
A. Yes, he did.
Q. Almost worshipped Congressman Traficant, correct?
A. Yes, he did.
Q. And Mr. O'Nesti at the time that he talked to you knew you were quite close to Congressman Traficant, correct?
A. Yes, sir.
Q. And again, it was your impression that in talking to you it was as though he was talking to an agent for Congressman Traficant, to get the word back to Congressman Traficant, correct?
A. That's correct, sir.
Q. And isn't it true at the time he made this alleged statement to you his primary purpose was he was trying to get Congressman Traficant to call him and couldn't get Congressman Traficant to return his calls?
A. That's correct, sir.

Q. Did he tell you why he wanted Congressman Traficant to call him?
A. No, he didn't.
MR. MORFORD: May I have a moment, Your Honor?
(Pause.)
VOIR DIRE REDIRECT EXAMINATION OF DENNY JOHNSON
BY MR. TRAFICANT:
Q. Denny, when you met with Mr. Cafaro, did you know he had anything to do with U.S. Aerospace?
A. I did not know that. I didn't know about any laser. I didn't know about that. I didn't pay attention. And maybe I should have, but I didn't.
Q. Were we involved in the only significant campaign that I ever had since my first race?
A. Basically, yes, sir.
Q. When you were on work hours did you do any campaigning?
A. No, sir. People came up and talked to me, but going out, no, sir.
Q. After work did you help campaign for me?
A. Yes, I did.
Q. Was that the most pressing thing on your mind and the minds of our campaign staff, that election?
A. Well, I'm not saying we didn't want to get you

elected, because we should, but your Youngstown District Office were to take care of the people and help the people.

Q. But I mean was our campaign and the people involved with it very focused on that campaign because of the dynamics of that campaign?

A. Yes, sir.

Q. Did you ever witness a more brutal campaign in your life?

A. No. That's probably the best one I saw.

Q. Did you ever hear me say anything bad about anybody?

A. No, sir.

MR. MORFORD: Objection, Your Honor, as to what this has to do with the motion in limine.

THE COURT: That's okay. We will take the answer.

Q. Did you ever hear me say anything bad about any of my opponents?

A. No, sir.

Q. Did you ever hear my opponents say anything bad about me?

A. Yes, sir.

Q. Do you know if I beat the hell out of him -- them in that election?

A. Yes, you did, sir.

Q. Do people back home fear me?

A. No, sir.
Q. Do people on my staff fear me?
A. No, sir.
Q. Did I ever threaten anybody on the staff?
A. Not that I'm aware of, sir.
Q. Did you work over all three counties?
A. Yes, I did, sir.
Q. Did you play a key role when the money was brought to Columbiana County, the federal monies?
A. I hope I did, sir, yes, sir.
Q. Did you participate on behalf of Columbiana County in projects?
A. Continuously.
Q. When I was a congressman --
THE COURT: Congressman, I don't understand what this has to do with the case.
MR. TRAFICANT: Setting a foundation.
THE COURT: For what?
MR. TRAFICANT: For his involvement with Mr. O'Nesti and the campaign.
THE COURT: Well, then, let's ask questions directly toward that involvement.
MR. TRAFICANT: I am getting to that.
THE COURT: Okay. It would be good to go now to that. We have a jury waiting.

BY MR. TRAFICANT:

Q. Did you communicate to me directly about some of these projects?

A. Yes, I did.

Q. Who else did you communicate with?

A. Claire Maluso, Charlie Strawbush in Washington, D.C., mostly directly to you, and following up with them people.

MR. TRAFICANT: No further questions.

THE COURT: Thank you. Do you have anything further?

MR. MORFORD: Nothing further.

THE COURT: Okay. Sir, you can step down. We are going to permit you, Congressman, to present whatever arguments you want to make about whether or not there is some exception to hearsay here, but we will do that at 4:30 today after the jury has gone home. The jury is sitting back there. We got started late this morning, and we need to bring them out. So if you would get your first witness ready and go forward with the jury, and we will deal with this issue at one of the breaks. If we decide to do it earlier, we might do it at an earlier break.

MR. MORFORD: Your Honor I would like the Court to inquire before the jury is in the box whether Congressman Traficant is going to attempt to elicit any

out-of-court statements from Mr. Barlow so we don't get into it and don't have to have the jury leave again.

MR. TRAFICANT: To the best of my knowledge, no.

THE COURT: Okay.

(Proceedings held in the presence of the jury.)

THE COURT: Thank you. Be seated, please. Sir, if you will stand and raise your right hand.

ROBERT BARLOW,

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

DIRECT EXAMINATION OF ROBERT BARLOW

BY MR. TRAFICANT:

Q. Good morning, Bob.

A. Good morning.

Q. Would you give your full name -- and sit up closer to the microphone, there is water there for you -- and give your full name and spell your last name for the Court?

A. My name is Robert Barlow, B A R L O W.

Q. And where do you reside?

A. I reside in Boardman, Ohio.

Q. What is your work background, employment history?

A. My work background is -- I worked for General Motors, which I am retired from, and I work for you,

Congressman, part of your staff.

Q. How long did you work for General Motors?

A. Twenty five years.

Q. Did you have any position at General Motors?

A. I had a position with the union.

Q. What was your position with the union?

A. I was chairman of the political arm for the UAW.

Q. And what is the UAW union?

A. United Auto Workers of America.

Q. Were you born in America?

A. No.

Q. Where were you born?

A. England.

Q. What age did you come to America?

A. I was around twenty eight.

Q. You were twenty eight years old --

A. Yes.

Q. -- when you came to America.

Do you still have a little bit of an accent?

A. I assume so.

Q. Now, what is your position on my staff?

A. I am the labor liaison.

Q. In how many counties do you work?

A. Excuse me?

Q. In how many of the counties do you work?

A. I work three counties.
Q. What are the three counties you work in?
A. Columbiana, Mahoning, and Trumbull.
Q. As a labor liaison, what did you do?
A. I assisted you with labor problems. I assisted some of the retired pensioners from labor unions, and I assisted you in resolving strikes.
Q. Who else assisted us in resolving strikes?
A. You did.
Q. Was there any other member of the staff that helped us?
A. Yeah. Henry DiBlasio.
Q. Where were you located, in what office?
A. I was located at the Overhill office.
Q. What time in the morning would you arrive?
A. Approximately 6:00 o'clock in the morning.
Q. Would you meet with anybody in the morning?
A. Yes. I used to meet with Henry DiBlasio.
Q. Were you there before Mr. DiBlasio or was Mr. DiBlasio there before you?
A. He was usually there before I arrived.
Q. Where was I usually during the week?
A. In Washington, D.C.
Q. Did you see me in the office on the weekends?
A. Yes.

Q. Who was all located at that time in the Overhill office?

MR. MORFORD: Your Honor, he says "that time," we are not given a year. We don't know what time that is.

THE COURT: Just give us a time.

Q. At the time Mr. DiBlasio was administrative assistant, who all was on our staff?

A. Are you talking prior to the staff moving into the federal building?

Q. Yeah. After the staff moved into the federal building, what became of the Overhill building?

A. Henry DiBlasio was stationed there, Allen Sinclair, myself.

Q. And who else?

A. You.

Q. Did you see me and Henry together quite often?

A. Yes.

Q. Were you with us when we met?

A. Yes.

Q. Now, after Henry DiBlasio retired, do you know whom, if anybody, was hired as a legal counsel to the staff?

A. Yes.

Q. Who was that?

A. Allen Sinclair.

Q. Did you ever see me with Mr. Sinclair?
A. Yes.
Q. Where was your office located in the building?
A. My office?
Q. Your office?
A. My office was located -- excuse me -- downstairs in the lower level.
Q. You can get some water there. Now, after Mr. DiBlasio left, where was my office?
A. Your office was where Henry DiBlasio had his office originally.
Q. Whose office was right across the hall?
A. Allen Sinclair's.
Q. Did you see me with Mr. Sinclair?
A. Yes.
Q. Did you see me often with Mr. Sinclair?
A. Yes.
Q. Where would you see me with Mr. Sinclair?
A. You'd be sat across from his desk, back to the wall, near the door, the entrance door to his office.
Q. What kind of a desk did Mr. Sinclair have?
A. He had an L-shaped desk.
Q. Could you get around the desk from both sides?
A. No.
Q. What side did you have to get around Mr. Sinclair's

desk from?
A. The right-hand side, facing on the right-hand side.
Q. Did you ever see me talking with Mr. Sinclair at any other place in the building?
A. Yeah, in what used to be the conference room there.
Q. And what was it then?
A. It was part kitchen and part conference room.
Q. And did you come up on occasions and join us?
A. Yes.
Q. Did Mr. Sinclair ever show any fear towards me?
A. No.
Q. Did any of my staff fear me?
A. No.
Q. Do you know of anybody that fears me back home?
A. No.
Q. Do I hug people?
A. Yes. You hug some people.
Q. Who do I hug?
A. People that you know, people that you like.
Q. Would you say these people were my friends?
A. Yes.
Q. Were you on occasions with me in public at public events?
A. Yes.
Q. How would I react to people at public events?

A. You would shake hands with them if you weren't acquainted with them. If you were their friends you hugged them. Some came up and hugged you.
Q. Did you know a Mrs. Jackie Bobby?
A. Yes.
Q. Do you know if she held a position in the campaign?
A. Yes.
Q. What was her position?
A. She was the treasurer.
Q. Was there a time when Mrs. Bobby left the staff?
A. Yes.
Q. Do you know why Mrs. Bobby left the staff?
A. Yes.
Q. Why did she leave the staff?
A. Because you hired Claire Maluso, and she didn't like her.
Q. Do you hold a position now in the campaign?
A. Yes.
Q. What is that position?
A. Treasurer.
Q. Did you ask Mrs. Bobby for the records?
A. Yes.
Q. Did Mrs. Bobby give you the records?
A. She left some of the records in a box. She didn't give them to me. She brought them into the office and

dropped them on the floor in a box.
Q. Did you have to sort those records out?
A. Yes.
Q. Did you like Jackie Bobby?
A. No.
Q. Did you attempt to contact her about matters concerning the campaign --
A. Yes.
Q. -- records?
A. Yes.
Q. What, if anything, happened?
A. I got a notification from the FEC, Federal Elections Commission, saying we had not filed a 48-notice on time, and I was unaware of that, because I hadn't -- I wasn't the treasurer at the time that it occurred. So I called Jackie Bobby to ask her about it, and she didn't respond.
Q. Did she leave you hanging, learning the ropes on your own?
A. Yeah.
Q. Did you know a Mrs. Grace Yavorsky?
A. Yes.
Q. Where did she work?
A. She worked in the federal building office.
Q. Where did Mrs. Bobby work?
A. In the federal building office.

Q. Do you have knowledge that they were close friends?
A. As far as I know, they were not close friends, no.
Q. Did Henry DiBlasio work hard?
A. Yes, yes.
Q. What kind of public persona did he have? How was he in the public?
A. He was kind of a low key but conscientious person at his job.
Q. Did he ever fail to do anything you requested of him?
A. No.
Q. When you discussed labor issues with him, did he assist you?
A. Yes.
Q. Did there come a time when the federal courthouse office had a Christmas party over on Overhill Road?
A. Yes.
Q. Do you have any idea when that was?
A. I have an idea. I'm not sure of the exact date. I think it was in 1999.
Q. You are not sure of the year?
A. No. I am not absolutely sure.
Q. Without saying what you heard, did I say something that day to the staff?
A. Yeah.
Q. What did I say?

MR. MORFORD: Objection. Hearsay.

THE COURT: Yes.

BY MR. TRAFICANT:

Q. Do you have knowledge of what I was referring to, to the staff?

A. Yeah. You were referring to --

MR. MORFORD: Objection.

THE COURT: Whoa, whoa. You can't testify as to what he said, because he could do that. Somebody can testify to a statement if they want to, but we can't take it to other people.

BY MR. TRAFICANT:

Q. Did I make a statement to the staff that day?

A. Yes.

Q. As a result of my having made that statement, what did you observe?

A. I observed Chuck O'Nesti leave the room.

Q. Did he leave the room or the building?

A. The building.

Q. When is the next time you saw Mr. O'Nesti?

A. Approximately five or ten minutes later.

Q. When you looked at Mr. O'Nesti, how did he appear?

A. He was crying.

Q. How many years have you been my campaign treasurer?

A. Since 1998.

Q. Have you ever worked on my farm?
A. No.
Q. Have you ever been to my farm?
A. Yes.
Q. How many times have you been to my farm?
A. Several times.
Q. Did you ever do anything that wasn't office related at my farm?
A. Excuse me?
Q. Did you ever do anything that wasn't office related at my farm?
A. Yes.
Q. Explain that.
A. I was considered a mechanic because of my trade. I was a tool and die maker. I removed cylinders from a high lift tractor.
Q. When did you do it?
A. It was on a Saturday.
Q. How long did it take you to do it?
A. About 15, 20 minutes to remove it.
Q. After you removed it, did you take it anywhere, or did you leave it?
A. No. I took it to a repair shop.
Q. Did you pay for it?
A. I don't recollect now.

Q. Have you ever paid for anything for me?
A. Yes.
Q. Were you repaid?
A. Yes.
Q. How were you repaid?
A. By check.
Q. As campaign treasurer, did you ever give me any money?
A. No.
Q. Have I ever asked you for any money?
A. No.
Q. Now, do you know a Mr. John J. Cafaro, known as J.J.?
A. Yeah.
Q. What is his reputation?
A. Not very good.
Q. On what do you base that reputation?
A. I base it on a situation I had with him as the treasurer of the campaign. I was running a golf fund-raiser.

MR. MORFORD: Objection, Your Honor. This violates the rule against specific instances of conduct. He can testify to general reputation.

MR. TRAFICANT: Let me rephrase the question.

THE COURT: That would be good.

BY MR. TRAFICANT:

Q. When you said that his reputation was not very good, was it based on personal knowledge you had, dealings with Mr. Cafaro?

A. Yes.

Q. What dealings did you have with Mr. Cafaro?

MR. MORFORD: Objection.

THE COURT: That will be the same objection. You can get into his general reputation.

BY MR. TRAFICANT:

Q. Did Mr. Cafaro attend our fund-raisers?

A. Yes.

Q. What, in fact, would he contribute to the fund-raisers?

MR. MORFORD: Objection.

THE COURT: You can answer that, if you know what he would contribute to the fund-raisers. Is that the question?

MR. TRAFICANT: Yes.

Q. What would he contribute to the fund-raisers?

A. He would contribute money to the fund-raiser. We had a system of raising the money. We had a green fee, posted a sign with his name on it to advertise it. We also allowed him to put golfers into the golf game, and --

MR. MORFORD: Objection. There is no question, Your Honor.

THE COURT: He is answering the question.

MR. TRAFICANT: He is answering the question. I object to these objections.

THE COURT: All right. Then let's just let him answer, counsel.

THE WITNESS: Can I continue, Judge?

THE COURT: Yeah, as to this answer of what did he contribute to the fund-raiser.

Q. Did he pay for the team and for his commercials as he had alleged to do?

A. No.

Q. Did you send him an invoice?

A. He told me to send him an invoice. I sent three invoices.

Q. Did he ever pay?

A. No. He never paid.

Q. Was his name widely spread around the golf course?

A. Yes.

Q. Had he made some contributions to the campaign over the years?

A. Yes.

Q. Is that when you developed that he had a bad reputation, because he lied to you about paying for this green fees and the team on the golf outing?

A. Yes.

Q. Did Mr. Cafaro tell you personally he would pay?
A. He did.
Q. Now, having made contributions, did you expect him to keep his word?
A. Yes.
Q. And he did make some contributions, had he not?
A. Prior to that, yes.
Q. Is that the first time he gave us the shaft?
A. Yeah.
Q. Do you know approximately what year that might have been?
A. It was probably in 1999, around that area. I'm not sure of the date, no.
Q. It could have been earlier? Are you sure of the exact date?
A. It couldn't have been earlier than 1998 because that's when I took over as treasurer.
Q. Now, where was the golf outing held?
A. It was held at Avalon South in Warren.
Q. Do you know if he showed up?
A. Yes, he was there.
MR. MORFORD: Objection, Your Honor. Again, this goes back to the earlier objection.
THE COURT: I think he can testify to this, and there is a different reason than the objection you are

posing. I think this may relate back to testimony that Cafaro made while he was on the stand, so I'm going to let you continue, but I don't want to go over the same ground, Congressman. You can continue with this as to this golf outing if you have some new information to release.

Q. When Mr. Cafaro showed up did he present you with a check for what he owed you?

A. No.

Q. Well, were Jackie Bobby and Grace Yavorsky good friends?

A. No.

Q. Do you know if Jackie Bobby and Grace Yavorsky were fired?

A. If they were what?

Q. Fired?

A. No, they weren't fired.

Q. What, if anything, did they do?

A. They resigned, or they left. I don't know what their official reason was, but they just walked out.

Q. Did Jackie walk out first?

A. Yes.

Q. Did Grace then walk out later sometime?

A. About a month later, yes.

Q. Was it common knowledge why they left?

A. Yes.

Q. And what was that reason?
A. Because of the hiring of Claire Maluso.
MR. TRAFICANT: No further questions at this time.
THE COURT: Thank you. Cross-examination. You may have to speak a little louder this time. I think it is hard to hear your voice way back.
THE WITNESS: You want me to get closer to the mike?
THE COURT: Well, I think that will help. Okay. Very well.
CROSS-EXAMINATION OF ROBERT BARLOW
BY MR. MORFORD:
Q. Good morning, Mr. Barlow.
A. Good morning.
Q. Mr. Barlow, would it be fair to say that you don't come into this Court as an unbiased witness in this case, do you, sir?
A. Yes.
Q. Well, sir, isn't it true that you are a very close personal friend of Congressman Traficant?
A. Yes. I am a very close friend.
Q. And, in fact, you are one of his closest, if not most trusted staff members, correct?
A. I believe I enjoy that position.

Q. And, in fact, you are the one that goes and gets him up many mornings at the office. Is that correct?
A. Gets him up?
Q. Does he sometimes sleep at the office, sir?
A. Yeah.
Q. And aren't there days that you go there and get him up and make the coffee, and the two of you have coffee?
A. I make the coffee. He is always up when I get there.
Q. But you are usually the first person to see him in the morning, correct?
A. Yes.
Q. And you have worked for the Congressman for what, about eleven years now?
A. Eleven years.
Q. And it was the Congressman who hired you in 1991, correct?
A. That's correct.
Q. And it is the Congressman who sets your salary, correct?
A. That's correct.
Q. What is your current salary?
A. My current salary is $47,000 per year.
Q. $47,000 per year?
A. That's right.
Q. And how many hours do you have to work a week under

office policy to earn your $47,000 a year?
A. I believe the official hours that I have to work are 30 hours per week.
Q. 30 hours per week?
A. Yeah.
Q. And how many hours do you actually work per week?
A. 40, 50.
Q. Sometimes less, sometimes more?
A. Not less, never less.
Q. Well, let me ask you this, sir:
During the week there is really nobody there to supervise you, correct?
A. That's correct.
Q. You kind of work on your own. Is that correct?
A. Not entirely on my own, no.
Q. Who is your direct supervisor?
A. My direct supervisor is the Congressman.
Q. He is your only boss, correct?
A. Yeah.
Q. And on Mondays he would generally drive to Washington, D.C., correct?
A. That's correct.
Q. And he would be there Tuesday through Thursday, correct?
A. Usually.

Q. And then he would drive back on Fridays?
A. Yes.
Q. And isn't it true on the weekends he is spending a fair amount of time out at his farm?
A. Yes.
Q. He does a lot of work out at the farm, doesn't he, sir?
A. In the summer he does.
Q. Well, also in the spring and fall?
A. I don't know what he does during the spring or fall. I only know he does a lot during the summer because it is hay time.
Q. And, sir, the Congressman can actually fire you at will without cause at any time if he so chooses, correct?
A. I believe so.
Q. Now, in addition to being an employee of the Congressman, you are also a long time political crony of the Congressman, correct?
MR. TRAFICANT: Objection to the word "crony."
THE COURT: Okay. You can phrase that in another way.
Q. You are a long time political supporter and -- well, let's just go with supporter. You are a long time political supporter of the Congressman?

A. Yes.
Q. And during the time you were the head of the political arm of the UAW you were a strong supporter of the Congressman?
A. Yes.
Q. And the last four years, you not only worked for him on his Congressional staff but helped run his campaigns, correct?
A. That's correct.
Q. Do you get paid to be his campaign treasurer?
A. No.
Q. Now, you are not allowed to do any of your campaign treasurer duties on official office time. Is that true?
A. That's correct.
Q. But there is no one there to supervise you. Is there any procedure set up to keep you from doing that, or checks and balances to make sure you are not doing that?
A. My integrity.
Q. But beyond that, there is no other checks and balances, correct?
A. No.
Q. Now, you served as the treasurer in this past campaign, in 2000, correct?
A. Right.
Q. And you worked very hard to try to get him elected to

keep him in Congress, correct?
A. Yes.
Q. Now, when did you and Congressman Traficant first begin discussing the possibility of you testifying as a witness for him in this case, how long ago?
A. Maybe a couple months ago.
Q. Now, as someone who's very close with Congressman Traficant, probably as close as anyone, and who meets almost every morning with coffee, there were times you discussed this case with him, correct?
A. Not the trial, no.
Q. You never discussed the trial with Congressman Traficant prior to coming in here to testify today?
A. No, only what I read in the papers, that's all, only what's public news.
Q. Do you meet with him every day?
A. No.
Q. How about prior to trial, were you meeting with him every day prior to trial?
A. Prior to trial.
Q. Yes.
A. No.
Q. How often do you meet with him?
A. The weekends.
Q. And during the times you met with him during the

weekends, it is your testimony that you never discussed anything with him about this trial?
A. Yeah. I'm sure we did.
Q. So you did talk about the trial with him?
A. Yeah.
Q. How many times have you and Congressman Traficant discussed your potential testimony here today?
A. I haven't.
Q. Prior to coming in here today he never went over with you what areas he was going to ask you about?
A. He told me basically what I'd be testifying to.
Q. So then you did talk to him about your testimony today before you testified, correct?
A. Yes, the information he gave me, what would happen.
Q. And isn't it true that during the time he talked with you he told you he was going to ask you about Henry DiBlasio, correct?
A. Yes.
Q. And didn't he tell you he would need you to say that Henry DiBlasio worked hard?
A. No. Everything he has ever said to me concerning the trial was to tell the truth.
Q. But in addition to that, when he was telling you the areas he would talk to you about, isn't it true that he suggested he would need to have you talk about how hard

Henry DiBlasio worked?
A. I didn't need to be told that.
Q. You are saying he didn't discuss that fact with you?
A. No.
Q. Not at all?
A. No.
Q. Now, isn't it true that Congressman Traficant requested and received an order from this Court ordering the potential witnesses were not allowed to watch or listen to any part of this trial before they testified?
A. I believe it was, yes.
Q. And isn't it true that despite that order that Congressman Traficant requested that you actually went downstairs and watched portions of this trial?
A. No. I didn't go downstairs and watch it on my own volition.
Q. That's not my question. Weren't you sitting in the room downstairs?
A. I was sitting in the room downstairs.
Q. And you watched Allen Sinclair testify, correct?
A. No. I didn't watch Allen Sinclair.
Q. Who did you watch testify?
A. I didn't watch anybody testify.
Q. Well, you were in the room, sir?
A. I was in the room. I was on the right-hand side of

the room where the screen was turned off. The screen wasn't on. When I got into that room, the left-hand side of the room where the screen was was all occupied by the press and other people.

Q. And isn't it true that the press and the other people were watching the proceedings in that room, sir?

A. Yeah, they were.

Q. And you were there with them while they were watching the proceedings, correct?

A. Not until some people left, and I moved over to where I could see the screen.

Q. Well, sir, you were in the room where the screen, where the trial was on, correct?

A. Yeah.

Q. But it is your testimony you weren't watching it?

A. No. I couldn't see.

Q. What were you doing in the room in the first place?

A. I was -- I was inadvertently led to that room.

Q. Well, when you got to the room you realized that was the trial on the TV screen, correct?

A. Yes.

Q. And you knew because you talked to Congressman --

A. No. I did not know that the witnesses were prohibited from being -- having access to what was going on at the trial. I did not know that until after I had come

out of the room.
Q. You mean to say that Congressman Traficant, who had talked to you about being a witness in this case, hadn't bothered to tell you that he had an order from the Court that all witnesses were to be excluded from watching these proceedings, sir?
A. I was never informed of that.
Q. Congressman Traficant didn't bother to tell you that?
A. No.
Q. Okay.
A. As a matter of fact, I didn't learn it until I read it in the newspaper.
Q. So during the times he talked to you about testifying he never told you that?
A. No.
Q. Now, you were asked some questions by Congressman Traficant regarding strikes, whether Henry DiBlasio helped settle strikes. Settling of strikes was not a daily duty or occurrence for you guys, was it? That was not something you were doing every day?
A. No.
Q. Every week?
A. No.
Q. Every month?
A. No.

Q. It was actually fairly infrequent occasion, correct?
A. Infrequent, yeah.
Q. A couple strikes?
A. Three or four, yeah. Four.
Q. Over a period of eleven years we are talking three or four strikes?
A. Yeah.
Q. You were also asked some questions about the office setup. Isn't it true that during the time that the entire staff was at 11 Overhill Road before they opened up the federal courthouse there was actually a two-story setup; that all of the staff, except for Henry DiBlasio and Congressman Traficant, were downstairs?
A. Yes.
Q. And then Henry DiBlasio had his law office upstairs, correct?
A. Right.
Q. And then Congressman Traficant had like a little studio apartment, correct?
A. Yes.
Q. And he sometimes slept in that studio apartment, correct?
A. I don't know.
Q. You don't know that?
A. I can't testify to that.

Q. Well, you worked there for eleven years, did you not, sir?
A. Yes.
Q. Have you ever been in that apartment?
A. Not until after he moved into the office -- not until they went -- I had never been in that office upstairs until after the staff moved to the federal building.
Q. What year did you start, 1991?
A. 1991, yes.
Q. And what year did they move to the federal building?
A. I'm not sure what year.
Q. Approximately? How many years after you started?
A. About '95.
Q. So you worked there for about four years before you moved to the federal building?
A. Yes.
Q. And it is your testimony you worked for the Congressman for four years, and you never stepped foot in his office?
A. Yes.
Q. After they moved to the federal building, there were times that you were inside that apartment, correct?
A. Yes.
Q. And isn't it true it was more of a studio apartment

than an office?
A. It was set up like an office.
Q. Was it also set up like a studio apartment?
A. No.
Q. Were there clothes?
A. There were clothes, yeah.
Q. Is that an ordinary thing to see in a working office?
A. It is in Congressman Traficant's office.
Q. Was there a little kitchenette?
A. I'm not sure of that.
Q. How many times were you in his office, sir?
A. Probably in there several times.
Q. You don't know if there was a kitchenette?
A. No. I don't know if there was a kitchenette.
Q. Were you ever in the office at Raccoon Road, the office he moved to after he left Overhill?
A. Yeah.
Q. Describe to me the layout of that office, if you would.
A. Pardon?
Q. Describe the layout of that office, if you would.
A. The office consists of three rooms.
Q. All on one floor?
A. All on one floor.
Q. And what are those three rooms?

A. There is the main room that you walk into when you go in the office, there is the Congressman's office off the main room, and there is a back office, which is my office, and there is a closet.
Q. Is there also an apartment upstairs?
A. Yes.
Q. And who has the apartment upstairs?
A. The Congressman.
Q. Is that paid for with Congressional funds, to your knowledge?
A. Not to my knowledge.
Q. You work there in the building, do you not, sir?
A. Yeah, I work in the building.
Q. And what's your understanding, that's something he rents apart from the Congressional space?
A. I don't have anything to do with the financial part of paying for that office.
Q. So you have no idea whether that's part of the overall rental office by Congress?
A. No. I don't know what the agreement is on that.
Q. And he sleeps in that apartment, correct?
A. No.
Q. Aren't there times that you go there and he slept in that apartment, sir?
A. No.

Q. Have you ever been up in that apartment?
A. Yeah. I've been up in that apartment.
Q. Does he have clothes up in that apartment?
A. Yeah, he has clothes.
Q. What else is up in that apartment?
A. A kitchen and a bathroom.
Q. Is there any kind of a bed?
A. No.
Q. Couch?
A. No.
Q. Nothing, just a big empty room?
A. He has a big table up there.
Q. Anything else?
A. And a chair.
Q. No couch, no bed, nothing?
A. No.
Q. Is there anyplace anyone could sleep up there?
A. Anyplace --
Q. That anyone could sleep up there?
A. If they wanted to sleep in the chair, yeah.
Q. It is your testimony you are never aware of him having slept up in that office?
A. No, I'm not.
Q. What's that used for, that apartment?
A. Just storage.

Q. Now, you testified on direct examination about farm work, and you said that you'd never done work out at the farm. Is that correct?
A. Yes.
Q. And then you came back and said there was one time when you went out and helped fix the machine?
A. Yeah, but I -- let me clarify that. When you asked if I worked at the farm, I assumed I was asked if I was doing farm work. That was not farm work. I considered farm work working in the fields, working in the stables.
Q. How about fixing farm equipment, you don't consider that farm work?
A. No.
Q. In response to his question you said there was one time you were out there to fix machines. Isn't it true there were several times you went out there to fix farm equipment, not just one?
A. Twice I went out there to fix farm equipment.
Q. Just twice?
A. I put a grease nip on a rake in a matter of 15 minutes.
Q. So it is your testimony you had just been out there doing that on two occasions?
A. Yeah.
Q. When you did go out to the farm, it was at

Congressman Traficant's direction, correct?
A. Not necessarily, not necessarily.
Q. At whose direction did you go out there?
A. My own.
Q. Do you recall being asked these questions when you testified before the grand jury on October 10th, 2000:
"Question: On how many occasions have you been sent out to the farm?
"Answer: I was not sent out. We went out.
"Question: Went out. Okay. On how many occasions have you gone out?
"Answer: About four."
Do you recall that?
A. No.
Q. Was there an occasion where you went out with another staffer named Denny Johnson to do work at the farm?
A. The night that I told you I put a grease nip on, yeah, Denny Johnson was with me. He brought me a pair of vice grips with me.
Q. At the times you have been out there to fix equipment you have never been paid. Is that correct?
A. That's correct.
Q. You were asked some questions about Henry DiBlasio's duties. Isn't it true in addition to whatever Congressional duties Henry DiBlasio was doing that he had a full-time law

practice that he was engaged in?
A. I believe so.
Q. Well, you worked there, sir. I'm not asking what you believe. Isn't it true he had a full-time law practice?
A. No. I didn't -- I worked there, but I worked downstairs, and I didn't know what Henry DiBlasio was doing during the day.
Q. So you didn't know what Henry DiBlasio did during the day?
A. No. I only know what he was doing when I was with him in the mornings.
Q. And you were not with him very much during the day, correct?
A. Not during the day.
Q. You would meet with him for coffee in the mornings?
A. In the mornings, yes.
Q. And for the rest of the day you had no idea what he was doing, did you?
A. No.
Q. So whether he was doing Congressional work or law work, you have no way of knowing that, do you?
A. The only way I have of knowing is what he told me.
Q. Apart from what he would tell you he was doing, if he was sitting up in his office working on law work and telling you he is doing Congressional work, you have no way

of knowing that, do you, firsthand knowledge?
A. No.
Q. You did know this, sir: Isn't it true that some of the other staff employees complained to you at times they felt Henry DiBlasio was not doing Congressional work to the extent he was supposed to?
A. Can you be more specific about who complained?
Q. I want to ask you, do you ever recall any of the other staff members coming to you and complaining that Henry DiBlasio was not doing the amount of work he should be doing?
A. No. Nobody would complain to me. That wasn't my position.
Q. Well, do you recall testifying again before the grand jury on October 10th, 2000, being asked these questions and giving these answers:
"Question: Have you ever heard or had anyone ever suggested that anyone that was employed" -- excuse me, wrong question.
"Were you aware that there were several employees who were dissatisfied with the fact that Henry DiBlasio in their opinion was doing very little work but getting the most pay? Did you ever hear people complain about that type of thing?
"Answer: Yeah. I heard that.

"Question: Who were the people that made those comments?

"Answer: Jackie Bobby, Grace Yavorsky."

Wasn't that your testimony before the grand jury, sir?

A. Yeah. But you asked if they complained to me. They weren't complaining to me.

Q. Who were they complaining to?

A. They were complaining amongst themselves, Grace and Jackie.

Q. So you were aware that employees were complaining about the fact that Henry DiBlasio --

A. You asked me if they complained to me. No, they did not complain to me.

Q. But you are aware that there were people making that --

A. I was --

MR. TRAFICANT: Objection. Asked and answered.

THE COURT: You can answer, sir.

A. I can answer. Would you repeat the question, please?

Q. But you were aware that employees were complaining about the fact that Henry DiBlasio was making the most money and doing the least amount of work, correct?

A. There was animosity, yeah. There was animosity

amongst two members of the staff.
Q. And you yourself had no idea how much Congressional work Henry DiBlasio was doing, correct?
A. No.
Q. Now, you were asked some questions about J.J. Cafaro agreeing to underwrite something for the golf outing and failing to do it. Do you recall that?
A. Yes.
Q. Now, you and Congressman Traficant talked about that before you came in here today, correct?
A. Yes.
Q. And you are the campaign treasurer, correct?
A. That's correct.
Q. And all you had to do was pick up the report and look at it to look and see whether J.J. Cafaro wrote a check or didn't write a check, correct?
A. Yes. I could have done that, yes.
Q. Did you bother doing that?
A. No.
Q. So when you testified it might have been 1998 that J.J. Cafaro stiffed the campaign, you have no idea whether that's true or not?
A. Yeah. I'm talking from memory.
Q. But you could have looked at the report, sir, correct?

A. I could have looked at the report.
Q. Is that what you are --
A. I could have looked at the report. First of all, I am not exactly sure of which year it was, but I'm absolutely sure that the last time that he attended our golf outing that he did not pay for what he committed to.
Q. But as far as the year, whether it was 1998 or 1999, I would like to show you what I'm going to mark as Government Exhibit -- make this 8-100.
MR. MORFORD: Your Honor, may I put this up on the screen?
MR. TRAFICANT: I would like to see a copy of it --
THE COURT: All right.
MR. TRAFICANT: -- before he puts it on the screen. I ask it be made a Joint Exhibit.
THE COURT: It can be a Joint Exhibit, but it is 8-100.
MR. MORFORD: 8-100.
THE COURT: Do you want to say something about what it is?
BY MR. MORFORD:
Q. Mr. Barlow, I'm going to hand this to you for a minute before I put it on the screen and have you identify it.

Do you recognize this document, sir?
A. Yeah, I recognize it.
Q. Is that your signature at the bottom?
A. It is my signature.
Q. Would you tell the jury what this is?
A. This is a report of the receipts and disbursements for the year 1998.
Q. And this is a report that you have to file with whom?
A. The FEC, Federal Election Commission.
Q. And this is, in fact, a report you did file with the Federal Election Commission, right?
A. That's right.
Q. I'd like to turn your attention to what is marked at the top here as Page 3 of 4, particularly down here, there is an item that says "full name and mailing address, John J. Cafaro."
A. Yeah.
Q. "Name of employer, Cafaro Company"?
A. Yeah.
Q. "Date; month, day, year; August 5th, 1998, $900." Do you see that?
A. Yeah.
Q. And that related to the golf outing, correct?
A. Yes.
Q. So as far as you not being able to remember what year

it is, the year that you weren't paid would have been 1999, not August of 1998, correct?

A. I don't know what year it was.

Q. Well, you know you were paid in 1998 because you reported it?

A. Yeah. I was paid in 1998.

Q. Okay. And you said you were not the campaign treasurer prior to 1998, correct?

A. Yes, I was not.

Q. So it would have had to have been some year after that?

A. Yes.

Q. And you don't know whether it was 1999 or 2000?

A. No.

Q. But one of those two years?

A. One of those, yeah.

Q. Now, I want to ask you a little bit more, Congressman Traficant had asked you about your duties as campaign treasurer and asked you whether or not you had ever given him cash from a campaign. Was that the question?

A. Yes.

Q. And you said no, correct?

A. Right.

Q. Now, there is a system in which you allow him to receive funds from the campaign to pay for his meals,

correct?
A. Yes.
Q. And why don't you go ahead and explain to the jury how that works.
A. He submits -- he submits bills to me for travel and food. He gives me the receipts.
Q. Now, as the rules are set up, he is only allowed to give you receipts for meals that are directly related to the campaign, and you are only allowed to reimburse those to the extent they are directly related to the campaign, correct?
A. Yes.
Q. But the truth is, you don't have any meaningful procedure set up to in any way determine whether or not when he gives you a receipt for meals it is actually related to the campaign or not, correct?
A. No, I don't witness it, if that's what you mean.
Q. You don't have a form he signs, correct?
A. No.
Q. You don't have anything where he has to list out who he took and what the political purpose was, correct?
A. No. The only form I do are the ones the FEC requires.
Q. If he comes to you and gives you a restaurant receipt, you write him a check based entirely on his word,

correct?
A. Yes.
Q. And whether it is personal or political, you have no way of knowing other than by what he told you, correct?
A. Right.
Q. And isn't it true, in one year alone there were $15,000 worth of meals that you gave him checks for?
A. I don't know that. I don't know that I gave him that much.
Q. Well, how much is the largest amount you recall giving him in a year?
A. I don't recall any amounts. I'd have to look through the records.
Q. Do you recall a time when a newspaper ran an article criticizing your campaign because the meal expenses were so high compared to other local congressmen?
A. Yes.
Q. And isn't it true they requested from you the backup documentation as to those meal expenses?
A. Yes.
Q. And isn't it true that you told them that you could not give it to them because Congressman Traficant said he would not provide that information?
A. No. I told them I would not give it to them.
Q. And if they said that you told them the Congressman

wouldn't, that was a misquote?
A. If they said that, yes.
Q. Okay.
A. I distinctly said I would not give it to them, and they asked me why. I said there is ten reasons why.
Q. Why wouldn't you give them the backup?
A. The ten reasons for the way they treated Congressman Traficant during an election, and I was not obligated to give it to them. So the way they treated us, I treated them likewise.
Q. And isn't it true, sir, that you have no backup?
A. That I have no --
Q. You have no backup to show that these were political versus personal expenditures, correct?
A. I have all the receipts.
Q. But apart from all the receipts from a restaurant, that doesn't show whether it is political or personal?
A. No.
Q. So you have no backup to show whether it is personal or political?
A. The only backup I could have is if I was there at the time.
Q. And the reason you have no backup is because you take Congressman Traficant at his word, correct?
A. Correct.

MR. MORFORD: May I have a moment, Your Honor?

THE COURT: Yes.

(Pause.)

MR. MORFORD: I have nothing further.

THE COURT: Congressman?

MR. TRAFICANT: Your Honor, it is 10:35. If you want me to continue, I will continue. If you want to take a break, we can take a break.

THE COURT: Then what we will do is give the jury their break. It will be 30 minutes, because in the interim we will do voir dire on break, some more things the Court has to do with the lawyers, but you still get a 30-minute break. Okay.

MR. TRAFICANT: Your Honor, I will need five minutes.

THE COURT: Okay. We will take a five-minute break for the rest of the people who have to be here so we can get organized to go into this next session of this.

(Thereupon, a recess was had.)

(Proceedings in the presence of the Jury:)

THE COURT: Thank you, sir. You are still under oath, and we need you to speak into that microphone. Thank you.

REDIRECT EXAMINATION OF ROBERT BARLOW

BY MR. TRAFICANT

Q. Do you have immunity, Bob?

A. No.

Q. Did you ever meet with the FBI or the IRS?

A. No.

Q. Are we good friends?

A. Yes.

Q. Were you recommended by someone when you got the job?

A. Yes.

Q. Who recommended you for that job?

A. My predecessor, Jack O'Connell.

Q. Were you and I associates or friends before then?

A. Yes.

Q. Were we very close friends before you got hired?

A. Yes.

Q. Now, you recall a number of questions by the prosecutor. Was J.J. Cafaro good for his word?

A. No.

Q. Now, when you were asked about Henry DiBlasio, did he ever fail to report back to you on any issue or any problem that you related to him?

A. No.

Q. Now, when you were asked about the newspaper wanting information about expenses, you said you gave them ten

reasons. Why did you give them those ten reasons?
A. Those ten reasons was they were notifying the public that they should not vote for you; that you weren't a responsible Congressman.
Q. In other words, the newspaper -- your testimony is the newspaper gave ten reasons why they should vote against Jim Traficant?
A. Yes.
Q. And you said no?
THE COURT: That's a good example of the testimony coming from the person asking the question, and I will ask you to disregard that last question that had to do with the newspaper.
BY MR. TRAFICANT:
Q. Is the reason why you gave the answer ten reasons --
MR. MORFORD: Objection.
Q. -- anything to do with the newspaper column?
THE COURT: It is the same problem.
Q. Were the FEC reports available to the public record?
A. Yes.
Q. Is there any place to sleep in the storage room out in Canfield?
A. No.
Q. Is there a large table/desk in that room?
A. Yes.

Q. What, if anything, is it used for?
A. You use it for your paperwork.
Q. What else is that facility used for upstairs?
A. Storage.
Q. Where do I sleep in Canfield?
A. Downstairs in your office.
Q. What, if anything, is in my office downstairs?
A. Would you repeat that, please?
Q. What is in my office downstairs?
A. Oh, your desk and your couch, TV, clothes.
Q. Now, they showed you a '98 report. Is that correct?
A. Yes.
Q. Did J.J. Cafaro pay for the last golf outing?
A. No.
Q. Did you ever visit the farm in office clothes?
A. Yes.
Q. How many times?
A. A few times.
Q. Did we have a campaign strategy?
A. Yes.
Q. Was I very well known throughout my district?
A. Very well known.
Q. And what was one of those campaign strategies?
A. That you would circulate around restaurants and meet with people. It was part of our campaign strategy to keep

us in the eye of the public. It was the cheapest way that we could campaign. We didn't have a lot of money to campaign, so we used it to the best of our advantage.

Q. In the campaign that was the most heated, was I the incumbent?

A. Yes.

Q. Did my two opponents raise more money than I raised in that race?

A. Yes.

Q. What did we have in the bank?

A. Now?

Q. No. What do we have in the bank now?

A. $40,000.

Q. What's the normal amount of money that a Congressional campaign raises?

THE COURT: Your campaign? Excuse me. Your campaign?

BY MR. TRAFICANT:

Q. What's the normal amount of money that we raise, Bob?

THE COURT: Thank you.

A. The normal amount of money that we raise is in the range of $150,000.

Q. Now, did we have a carryover over many years?

A. Yes.

Q. If we did not have that carryover would we be able to

compete in that prime -- that campaign?
A. No.
Q. Do you know if I am a candidate for office this year?
A. Yes.
Q. Do you know on what party I am seeking election?
A. Independent.
MR. MORFORD: Objection. This is way beyond the scope of cross.
THE COURT: You can answer.
Q. Do you know what party I am seeking reelection as?
A. As an independent.
Q. What have I always been elected as?
A. As a Democrat.
MR. TRAFICANT: No further questions.
THE COURT: Thank you.
MR. MORFORD: Nothing, Your Honor.
THE COURT: Thank you, sir. Now you are excused.
THE WITNESS: Now I'm excused?
THE COURT: Yes, sir. Thank you.
THE WITNESS: Thank you.
MR. TRAFICANT: Your Honor, I call Mr. George Hooker.
THE WITNESS: Judge, can I ask you a question?

THE COURT: Not right now, sir, sorry, because we are in the middle of a hearing. Okay? Maybe my staff can help you if you have a question, someone right there in the hall. There is a door on the left. Ring the doorbell.

THE COURT: Good morning, sir. Come around and up these steps. Okay. Would you please raise your right hand?

GEORGE HOOKER,

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

THE COURT: Thank you, sir. Have a seat. You have to speak up in this room. It is a very big room, and they need to hear you all the way in the back. There is a microphone. If you want to do that and talk into it, you can do that.

DIRECT EXAMINATION OF GEORGE HOOKER

BY MR. TRAFICANT:

Q. George, give us your full name, and spell your last name for the record.

A. George Hooker.

Q. And how do you spell that?

A. H O O K E R.

Q. And where do you reside?

A. Uhrichsville, Ohio.
Q. Were you scheduled to be here yesterday?
A. Yes, I was.
Q. Was there a reason why you couldn't be here yesterday?
A. Yeah. I was sick yesterday.
Q. Did you notify me of that?
A. Yes. I called you.
Q. What is your current employment?
A. I am self-employed.
Q. And what, if anything, do you -- what is your pursuit of business?
A. I am in the trucking business.
Q. And how many years?
A. Oh, over 50.
Q. Did you ever work at my farm?
A. No.
Q. Did an agent of the Federal Bureau of Investigation come to visit you?
A. Yes.
Q. Approximately when?
A. Maybe seven or eight months ago.
Q. What was the purpose of his visit?
A. He questioned me about a horse that I had sold to you.

Q. When did you sell me that horse?
A. In 1985.
Q. 1985?
A. Yes.
Q. Do you remember the name of that horse?
A. Peter Wolf.
Q. Was he a registered horse?
A. Yes, he was.
Q. What breed?
A. American Saddlebred.
Q. Did I buy that horse?
A. Yes, you did.
Q. What were the terms of the sale?
A. $3,500.
Q. Was that the total paid for the horse?
A. Yes.
Q. Did you require a deposit?
A. Yes, I did, $500.
Q. Did you know if I had $500 on me?
A. Well, you came up with it, the $500, yes.
Q. Was there anybody with me?
A. Yes, your trainer.
Q. Who was that?
A. Sandy Ferrante.
Q. What do you know about Sandy Ferrante?

A. Well, I only know her through the horse shows and breeding of horses. I know her for 30 or 40 years.
Q. Did anyone in your family show horses?
A. Yes, my son showed.
Q. Was Sandy a reliable person?
A. What was that question?
Q. Was Sandy a reliable person?
A. Well, I found her to be, so, yes.
Q. Do you know her mother?
A. Yes, I did know her mother.
Q. What was her nickname?
A. I believe it was Turnpike. I'm not sure about that, but I think it was.
Q. George, who delivered the horse?
A. I did.
Q. And where did you deliver the horse to?
A. To your farm.
Q. Do you know where that was?
A. I can't tell you exactly. It was up at Boardman someplace, but I'm not exactly sure where.
Q. Did you get paid, and did you receive money when you delivered that horse?
A. Yes. I had a $500 deposit, and I got a check for $3,000.
Q. Was that the total amount of money that that horse

sold for?
A. Yes.
Q. Did you once offer to sell me another horse?
A. Yeah. I offered to sell you another horse.
Q. Do you remember how much you offered to sell me the horse for?
A. Which horse are you referring to?
Q. Did you have occasion to show me a horse behind the barn with a low back?
A. The low back, yes, I remember that.
Q. And how much did you offer to sell me that horse for?
A. I believe it was $1,500.
Q. Did I buy the horse?
A. No.
Q. Did you end up selling the horse?
A. Yes.
Q. How much did the horse bring?
A. $45,000.
Q. Do you ever know what happened to Peter Wolf?
A. Yeah. I heard what happened to him, yes.
Q. What, if anything, happened to Peter Wolf?
MR. KALL: Objection, Your Honor. This calls for hearsay.
THE COURT: You can answer if you know what happened to Peter Wolf.

THE WITNESS: Yeah. I know what happened to him.

BY MR. TRAFICANT:

Q. What happened to him?

THE COURT: Ask him how he knows, and then we will get there.

Q. How did you know about it?

A. I ran into -- I think you traded him first to Dr. Roberts, and Dr. Roberts told me --

THE COURT: Okay. That's hearsay, and you have to disregard what Dr. Roberts said. Okay.

BY MR. TRAFICANT:

Q. To the best of your knowledge, did Peter Wolf become a great show horse?

A. He became a carriage horse, and he did well as a carriage horse.

Q. Would that be considered a major or minor class?

A. I would say major.

MR. TRAFICANT: No further questions.

THE COURT: Thank you. Any questions?

MR. KALL: No questions, Your Honor.

THE COURT: Sir, you are released. You can step down. Be careful of the steps.

THE COURT: Who's next?

MR. TRAFICANT: Anthony Traficanti.

THE COURT: Sir, good morning.

THE WITNESS: Good morning, Judge.

THE COURT: Would you put up your right hand up, please?

ANTHONY T. TRAFICANTI,

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

THE COURT: Thank you, sir. Have a seat, and use the microphone if you need to, but make your voice is heard throughout.

THE WITNESS: Okay. May I have some water?

THE COURT: Yes. Go ahead and pour it. That's what it is there for.

THE WITNESS: Thank you.

DIRECT EXAMINATION OF ANTHONY T. TRAFICANTI

BY MR. TRAFICANT:

Q. Good morning, Anthony. Can you hear me?

A. Yes, sir. Good morning to you.

Q. Would you give your complete name and spell your last name for the jury?

A. My complete name is Anthony Todd Traficanti. It is T R A F I C A N T I.

Q. And where do you reside?

A. 2817 Poland Village Boulevard, Poland, Ohio.

Q. And where are you currently employed?
A. With the Congressional office by Congressman James A. Traficant, Jr., Youngstown, Ohio.
Q. What position do you hold?
A. Title of regional director.
Q. What office do you work out of?
A. The Youngstown office, federal courthouse building.
Q. Now, as regional director, how many counties do you have?
A. Mahoning and Columbiana County.
Q. Do you have any other employment?
A. Yes.
Q. What other employment do you have?
A. I am a part-time instructor at Youngstown State University, and I also have my own trucking business.
Q. What do you teach at Youngstown State University?
A. I am in the sociology department.
Q. What courses?
A. Intro level courses, political sociology, intro, those types of courses, deviants, those types of classes.
Q. Are you in your trucking business affiliated with any company?
A. I don't understand your question.
Q. Is your trucking business associated with any other trucking firm?

A. No, sir.
Q. Is it located at any other trucking firm?
A. No, sir.
Q. Is your father involved in the trucking business?
A. Yes.
Q. And in what company is he involved?
A. B&T Express.
Q. What is your total annual income from all of these sources?
A. This is only an estimate, and I can't be exact, but probably somewhere about $300,000.
Q. A year?
A. Yes. But I'm just giving you an estimation.
Q. How long have you worked for me?
A. It will be eleven years.
Q. How did we first come to meet relative to employment?
A. You have been a lifelong friend of my family, and I have known you since I believe I have been in the seventh grade. My dad introduced me to you.
Q. What, if anything, did you request of me?
A. I asked you for a job.
Q. Did you ask for a job with me or for a job?
A. Help getting a job.
Q. Did you get a job?
A. With you I did.

Q. Were you able to get a job with anybody else?
A. No, sir.
Q. Did you ever explain to me why you had a rough time getting a job anywhere else?
A. Yeah. The discussion ensued concerning my dad's involvement in your first trial.
Q. Do you know what the status of your father was in my first trial?
A. My best recollection, I think he was a campaign worker. I can't really recall. That was almost, I believe, 20 years ago.
Q. Do you know if he was mentioned in the indictment?
A. Which indictment?
Q. In my first trial?
A. Yes.
Q. Do you know how he was related, called, or termed in the first trial?
A. I couldn't hear that.
MR. MORFORD: Objection.
THE COURT: You will need to show how this connects back into something we are talking with this witness about now.
Q. Do you have any knowledge of to what your father's involvement was in the first trial?
A. Over the years I came to know it to be that he was

the unindicted co- --

MR. MORFORD: Objection. If it is coming from over the years, Your Honor. It is hearsay.

THE COURT: Okay. We can't do it that way, Congressman.

BY MR. TRAFICANT:

Q. Do you have knowledge of what your father had to do in the first trial?

MR. MORFORD: Your Honor, I'm going to object unless he can show firsthand knowledge.

THE COURT: Well, right. Let's see whether or not he can. You said it was twenty years ago. Do you have some personal knowledge about it or is it all something someone else told you?

THE WITNESS: I now know what he was involved with, what he was --

THE COURT: But do you know it because you had a way of being involved in it, or is it something that you have been told?

THE WITNESS: I have been told.

THE COURT: Okay. That's the problem.

MR. TRAFICANT: Pardon?

THE COURT: That's the problem. Whoever told him you can bring in, if you want to, put him on the stand under oath so they can be cross-examined.

BY MR. TRAFICANT:

Q. Do you know if I was acquitted?

A. Yes.

Q. When you came to me for employment were you a college graduate?

A. Yes.

Q. Where did you graduate from?

A. Youngstown State University.

Q. Have you received any additional education?

A. Yes.

Q. What is it?

A. Master's of science degree in education from Youngstown State University, and I am also a licensed social worker in the State of Ohio.

Q. What duties do you perform in my one regional office?

A. I am in charge of the managerial aspects of the office. I coordinate all staff activity in relation to constituent services, helping people fill their calls, a litany of things. Reading mail, writing letters, and so forth.

Q. Did at some point the FBI send evidence relative to this case? Do you have knowledge that the Government sent documents to the Youngstown federal courthouse relative to this case?

A. Yes.

Q. And who, in fact, took possession of them?
A. I accepted them on your behalf.
Q. Where are they now?
A. They are locked in your office in the downtown federal building.
Q. Have I looked at them?
MR. MORFORD: Objection.
THE COURT: You can testify to that but he can't testify whether you looked at them.
Q. To the best of your knowledge, have I ever come down there to look at the documents?
A. No, sir.
Q. Did you become concerned about that?
A. Yes.
MR. MORFORD: Objection as to relevance of this.
THE COURT: You can answer.
A. Yes.
Q. Did you send partial things up to me in my administrative office?
A. Yes.
Q. Do you have any knowledge that I looked at those?
A. I would assume you would have.
THE COURT: Well, we have to talk --
A. -- but I have no knowledge that you did.

THE COURT: That's fine.

Q. Did you have any knowledge that I looked at it?

A. I would assume that you did. I would hope you did.

Q. Did you have knowledge that I did?

THE COURT: He has already testified three times.

MR. TRAFICANT: He said he assumed.

THE COURT: Well, and then he said he hoped you would.

MR. TRAFICANT: He assumed, he hoped.

Q. I'm asking, did you have knowledge, did you see me look at any of the evidence?

A. I can't answer that. I wasn't -- I assume you did. You told me that you did, but I don't know. I sent it to you as you requested that I do.

Q. How much of it did you send?

A. A couple envelopes. I couldn't recall the exact pages, but there were certain specifications and items that you asked for that I sent up there. I don't recall.

Q. Is a lot of this stuff still down at the courthouse?

A. Yes.

Q. Do you have immunity, Anthony?

A. No, sir.

Q. Do you know what immunity is?

THE COURT: We are going to instruct the

jury on that. I do that, not you, Congressman, not through a witness. You remember that, right? We have been over that four, maybe five times.

Q. Do you instruct course work relative to any criminal activities at the university?

A. I have taught an intro to criminal justice course at Youngstown State.

Q. Do you have personal knowledge of what immunity means?

MR. MORFORD: Objection.

A. Yes.

THE COURT: Congressman, stop it.

MR. TRAFICANT: I object for the record.

BY MR. TRAFICANT:

Q. Now, Anthony, when is the first time the FBI contacted you?

A. It was in June, I think June 6th of 2000, they came to my house. I could be wrong with the date, but to my best knowledge, I believe it was a Wednesday.

Q. Did you get any prior notice?

A. I received a phone call from a gentleman that advised me that he would be at my door within two minutes. The conversation went, they know who I am, I don't know who they are, but please be at your door in two minutes.

I was in a hurry that morning. I had to present a

flag for you at the Poland Library dedication, and it just happened so fast, and they'd come to my door in about two minutes. It was the FBI.

Q. Did they ring the buzzer, or how did they --

A. No. They hit the door pretty hard with their hand, with their fist. It scared me.

Q. What was that?

A. It scared me.

Q. Was there anybody in the home with you?

A. Yes.

Q. Who was home with you at the time?

A. My mother.

Q. Did they identify themselves?

A. When I came to the door, yes.

Q. Did your mother know who they were?

A. No. She woke up out of bed and was looking out of the window and was asking me what was wrong, who hit the door and who was there.

Q. And when you told her who was there, what was her reaction?

A. Well, she wasn't happy. She was kind of startled and concerned.

Q. What, if anything, did you tell -- how many agents came to your house?

A. Two.

Q. What, if anything, did they want?
A. They wanted to talk to me. They asked if they could come in, and they told me in relation to basically what the investigation was about, and I had advised the agents that I had a deadline to be at Poland Library down at the town hall. It was quarter to 9:00, and I had to present a flag for you and be there, and they insisted on staying. But I told them I had to go, and I would be more than happy to talk to them after, and they said, "Fine, we will follow you down there, and then when you are done presenting the flag on behalf of the Congressman, meet us in the second floor of -- the second floor of the village hall, town hall."
Q. Now, I would like to become specific, and I would like you to respond to me in brief terms. I want to make some points here.
Did you at the conclusion of presenting that flag go to the Poland City Hall?
MR. MORFORD: Objection, Your Honor. This is his witness, and there should not be leading questions with his witness.
THE COURT: Just ask --
Q. Did you go to the Poland Village Hall after you presented the flag?
A. Yes.

Q. Did you meet with the two agents?

MR. MORFORD: Objection as to who is testifying here.

THE COURT: There is a way to ask these questions so that he can provide the answers, because the jury can only consider the answers he provided. So it very much will help you along if you will ask them, and you know how to do it. Just take a minute and ask him.

BY MR. TRAFICANT:

Q. Did you go across the street to the Poland Village Hall and meet with the two agents as they requested?

A. Yes.

MR. MORFORD: Objection to the leading questions of his witness.

THE COURT: All right. Let's go back around, take a minute, and think about what it is you are trying to establish as evidence, and get it to come from the witness.

Q. Did you present the flag at the Poland Village Hall?

A. Yes.

MR. MORFORD: Objection. He is testifying. I object to leading questions.

Q. What, if anything, did you do after you left your house, Anthony?

A. I went to the event and I sat through the ceremony.

Q. What event?

A. The dedication of the unveiling of the new Poland Library. The architects and so forth were there.
Q. Then what did you do?
A. As I was told. I went up to the second story of the village hall. I call it the village hall, town hall, and the agents were there waiting for me.
Q. How many agents were in the room?
A. There were two.
Q. How big was the room?
A. Eight by ten, eight by eight, I don't know. Something. It was not that big.
Q. Did both agents question you?
A. No.
Q. Only one agent questioned you?
A. One agent did the questioning.
Q. What did the other agent do?
A. Just stared at me.
Q. Did you feel intimidated?
A. Yes. I was scared, nervous, sure.
Q. Did that second agent ever stop staring at you?
A. No.
Q. Did the FBI ever --
MR. MORFORD: Objection. He is doing the testifying, and he is saying yes or no. It is his witness.
THE COURT: You know the old journalistic

list of questions, who, what, when, where, how? You are trying to get testimony out of him, not you, because he can't consider what you say.

BY MR. TRAFICANT:

Q. Was it your knowledge that you were free to leave?

A. No, not when they were questioning me, absolutely not.

Q. Did they ever tell you you couldn't leave?

A. No.

Q. Did you answer their questions truthfully?

A. Yes.

Q. What, if anything, happened at that meeting?

A. It was a lot of questions. It was all about you.

Q. After that meeting, what did you do?

A. I left and went home, called my dad. I was very shook up.

Q. What, if anything, did you learn subject to that phone call?

A. That the FBI raided my father's business.

Q. How many times did you meet with the FBI, Anthony?

A. Twice.

Q. Were they the same two agents that came the first time?

A. Yes -- no. No, not the second meeting I had. The one agent was there, but the other agent wasn't. There was a

different agent. Mr. Denholm and Mr. Pikunas.
Q. Do you know who was at the first meeting?
A. Agent Pikunas and I believe Agent Wilson.
Q. Did you go to work that day?
A. Later that afternoon, yes.
Q. What was your status when you were first employed?
A. I was -- with you, Congressman?
Q. Yes.
A. Part-time, part-time faculty -- or case worker. I actually volunteered before I was on part time, but my employment history was you started me part time.
Q. Did you work with a man by the name of Richard Rovnak?
A. Yes.
Q. Did he come to the office?
A. Yes.
Q. Did he come to the office regularly?
A. I seen him there when I was there.
Q. Did you have knowledge of what his employment status was?
A. Case worker. He worked on cases and answered phones like I did.
Q. Do you know if he was full time or part time?
A. I believe he was part time, to the best of my knowledge.

Q. Did you work together with Mr. Rovnak?
A. Yes.
Q. Did you ever see him absent for weeks at a time?
A. Weeks at a time?
Q. Yeah.
A. No.
Q. Did you ever noticeably see him miss work?
A. No.
Q. Do you know if Mr. Rovnak was ever put on full time on the Congressman's staff?
A. I don't believe so. I don't think he was.
Q. Did you know Jackie Bobby?
A. Yes.
Q. Did you like Jackie Bobby?
A. Deep down, no.
Q. Did she ever ask you to escort her anywhere?
A. Yes.
Q. Where did she ask you to escort her to?
A. To the bank, get an ice cream cone.
Q. Did you go to the bank with her?
A. Yes.
Q. Did you ever make deposits at the bank?
A. Yes.
Q. Are these downtown banks you are talking about?
A. Downtown Youngstown and downtown Boardman. I worked

on Overhill, the Overhill Road office.
Q. Did you ever see her make any deposits when she worked at Overhill Road?
A. Yes.
Q. Did she make any cash deposits?
A. I believe once I witnessed her do that. She purchased bonds for her grandkids.
Q. Did you know Grace Yavorsky?
A. Yes. Excuse me, yes.
Q. Were Grace and Jackie friends?
A. No. Maybe on the surface, but not -- I wouldn't say they were, the information I had working with them, no.
Q. How would you describe their relationship?
A. Like I said, on the surface, they appeared to be friendly, but they were mainly -- they were adversaries.
Q. Adversaries over what?
A. Well, one would talk about the other, and they always complained about their salaries, you know. One felt one was more qualified than the other, and they used to complain a lot. Jackie said she should be making more money than Grace because she had a college degree, those types of things. There was a lot of ego, power struggles between the two.
Q. Did you know Chuck O'Nesti?
A. Yes.
Q. Was Chuck O'Nesti close friends with Jackie Bobby --

A. No.
Q. -- and Grace?
A. No.
Q. So you had once worked and were located on Overhill Road, correct?
A. Yes.
Q. And where was the Congressional office located?
A. Well, we eventually moved downtown into the federal courthouse building.
Q. When you were on Overhill Road, where was the service sector of the office located?
A. Youngstown.
Q. On Overhill Road, where was -- how many floors were there at Overhill Road?
A. Two.
Q. Where was the service section of the office located on Overhill Road?
A. First floor.
Q. And was there an upper floor?
A. Yes.
Q. And what was the upper floor used for?
A. Henry DiBlasio's offices was up there.
Q. Who else's offices were up there?
A. Yours.
Q. What was that office space known as?

A. Which one, Congressman?
Q. The upper floor?
A. Administrative office, your office.
Q. Did you meet with Mr. DiBlasio?
A. Yes.
Q. Did you go up there and talk with him?
A. I went up on occasions, but Henry always came downstairs and talked to me. Yeah, I talked to him.
Q. Were you a friend of Henry's?
A. Yes.
Q. What kind of matters did you refer to Henry DiBlasio?
A. Matters dealing with technicalities of law, economic development issues, those types of things.
Q. Did he ever fail to perform those duties?
A. No. Henry was pretty prompt if you asked him to do something or if he gave you something. He expected that you would answer him as he would you.
Q. What kind of an administrator was he?
A. Delegator, dedicated to his work, nice guy.
Q. Did Henry DiBlasio have a law practice there?
A. I believe he did.

THE COURT: Congressman, it is noon.

MR. TRAFICANT: I have more questions, Your Honor, and I ask that we take a break.

THE COURT: Very well. We are going to

recess for lunch. I'm going to ask the lawyers to stay here because we have to do some work. We will recess the jury until 1:30. You are on recess until 1:30. Thank you.

(Proceedings held out of the presence of the jury.)

THE COURT: The jury hasn't come out yet, so what we will do is give everybody five minutes. That will give the jury time to get out. We will just give you five minutes right now, the court reporters as well, and then come back in, and we will work along with you, Mr. Kopp, on this issue.

MR. TRAFICANT: We are free to leave now?

THE COURT: Well, you have five minutes because the jury is out.

(Recess had.)

THE COURT: Do we have everybody here right now?

MR. KOPP: Are you ready to have him now?

THE COURT: Yes.

MR. KOPP: Let me just tell him to come in.

THE COURT: Let's all be seated.

THE COURT: Hello, you can come right up to the witness stand, and your lawyer can come right with you.

THE WITNESS: Hi. Let me put you under oath.

RUSSELL SAADEY, JR.,

of lawful age, a witness called by the Defendant,

being first duly sworn, was examined
and testified as follows:

THE COURT: Have a seat. Mr. Kopp, you can sit where you wish. That seat is on casters, and don't go flying.

MR. KOPP: I will take my chances.

THE COURT: We need to put a little bit on the record here because we are in a different day, and this came up yesterday. So I just want to have you put your name on the record right now, if you will, sir and we will have your lawyer identify himself. And then I am going to make a few remarks about what this inquiry is about.

THE WITNESS: Russell Saadey, Jr.

THE COURT: Can you spell your last name?

THE WITNESS: S, like in Sam, A A D E Y.

THE COURT: Mr. Kopp?

MR. KOPP: Yes. I am Brian Kopp, B R I A N, K O P P, and I am the attorney for Russell Saadey.

THE COURT: Okay. And this all arose as a result, as I understand it, of a subpoena for you to appear as a witness for the Defendant, and your attorney was here in Court, and we arranged now for a time out of the hearing of the jury to accommodate what your attorney anticipated might occur in the event that you were to testify here regarding both direct and, I guess, cross-examination.

Is that correct, Mr. Kopp?

MR. KOPP: That is correct.

THE COURT: All right. Congressman?

VOIR DIRE DIRECT EXAMINATION OF RUSSELL SAADEY, JR.

BY MR. TRAFICANT:

Q. Do you have a nickname?

A. Yes, I do.

Q. And what is it?

A. Champ.

Q. Are you related to me?

A. Through marriage, yes.

THE COURT: Maybe you can -- if you want to hold that in your hand, make it easier for you.

THE WITNESS: I feel like a rock star.

THE COURT: Sure.

Q. Have you and I been friends?

A. Yes.

Q. Are you related to James Sabatine?

A. Yes, I am.

Q. How are you related to James Sabatine?

A. He is my brother-in-law. He is married to my sister Geri.

Q. Did you have occasion to meet with Mr. Sabatine shortly after a visit by the FBI?

A. Yes.

Q. How was he behaving? How did he look? What was his appearance?

A. Quite nervous.

MR. MORFORD: Your Honor, can we get a time frame on that?

THE COURT: I'm sorry. What?

MR. MORFORD: Can we get a time frame on that?

THE COURT: Well, the Congressman can ask him.

BY MR. TRAFICANT:

Q. Do you remember a rough time frame?

A. It was around the time that he met with the FBI. We are a very close family, so I see a lot of my family.

Q. Do you love Jimmy Sabatine?

A. Absolutely.

Q. Was he visibly shaking?

A. Yes.

THE COURT: Okay. Now, Congressman, there is an example of where if we had a jury here, the jury would have trouble sorting that out. You could ask him, you know, why do you think he was whatever he was testifying what he was, and let him describe what it was.

BY MR. TRAFICANT:

Q. Why did you testify he was very stressed out?

A. Why did I testify that he was very stressed out?
Q. Yes.
A. Because he was visibly upset.
Q. Was there any other mannerisms about him?
A. No. He was just upset.
Q. Did Mr. Sabatine make statements to you about why he was upset?
A. Yes, he did.
Q. Do you have knowledge of what Mr. Sabatine said specifically?
THE WITNESS: Can I talk to my lawyer for a minute, please?
THE COURT: Yes, okay.
MR. KOPP: Your Honor, he has a question.
If I may, are you asking him, Congressman, what he said after the interview?
BY MR. TRAFICANT:
Q. Shortly after the interview with the FBI, did he make a statement to you when he was stressed?
(Consulting with lawyer.)
A. Yes.
THE COURT: You should show the consulting with the lawyer. I know you are not used to doing that, but that should be in the transcript. Thank you.
BY MR. TRAFICANT:

Q. When he made the statement, was he still in a state of stress?
A. Yes, he was.
Q. What statement did he make to you?
A. He was nervous about -- he was forced to cooperate or he would lose everything he had.
Q. Was he still under stress when he made that statement and further statements?
A. Yes, he was.
Q. Did he make any further statements?
(Consulting with lawyer.)
A. Not off the top of my head, I don't remember. He was just upset that he had to -- he had to cooperate or he would lose everything that he had.
Q. Did he ever bring up the term bribes?
A. He had told me he never bribed you. He said he donated to your campaign.
Q. Was he still in a state of stress when he made that statement?
A. He has been pretty well stressed out for the last few months, sir, or since this began.
Q. Was he much more stressed out right after the FBI as he is now?
A. Oh, absolutely.
Q. Did you ever meet with the FBI relative to my case?

A. I have to exercise my Fifth Amendment rights on the advice of my attorney.
Q. Did the FBI ever make any representations to you that if you would cooperate with them they would help you in your problem?
^ (consulting with attorney.)
MR. KOPP: Your Honor, the way that is asked, we would once again raise our rights, but I don't know if he is getting into his interview in relation to Mr. Saadey's case --
THE COURT: You will just have to advise your client. The Congressman asks the questions.
BY MR. TRAFICANT:
Q. Did you meet with the FBI --
A. I'm sorry. Will you go ahead and ask the question again?
Q. When you met with the FBI, did they bring up my case?
(Witness conferring with his counsel.)
A. On the advice of my counsel, with that question I would have to raise my Fifth Amendment right.
Q. Have you been convicted by a jury for a felony offense?
A. As far as I know, a jury has found me guilty.
Q. Have you yet to be sentenced?
A. That is correct.

Q. Did the FBI ever make any representations to you regarding me?

(Witness conferring with his counsel.)

A. I was contacted by the FBI.

Q. And did they make any representations to you regarding me?

(Witness conferring with his counsel.)

A. I once again have to exercise my Fifth Amendment right on the advice of my attorney.

Q. Did the FBI ask questions of you concerning me?

(Witness conferring with his counsel.)

A. Yes, they did.

Q. What was the purposes of their questions asked of you concerning me?

THE COURT: Congressman -- don't answer that question. Congressman, the purpose of somebody else can't be answered by this witness.

BY MR. TRAFICANT:

Q. What did you say to the FBI when they, in fact --

A. I have to exercise my Fifth Amendment right on the advice of my counsel.

Q. Is there anything of that meeting with the FBI that you could testify to that would explain your state of mind at that time?

(Witness conferring with his counsel.)

A. It was my understanding if I cooperated I would be given consideration.
Q. Were the U. S. Attorneys ever mentioned in that conversation?
A. No.
MR. SMITH: Did he answer?
A. I said no. I'm sorry, Bernie, Mr. Smith.
Q. Now, when they said cooperation, did you make any statements to the FBI?
A. I need to exercise my Fifth Amendment right on the advice of my attorney.
Q. When they used the term cooperation, were they referring to anything, whether it was true or not?
MR. SMITH: Well, I would object if a jury were here, given what the FBI was thinking.
THE COURT: It is the same problem. He won't know what was in their minds. If you ask -- you may be able to ask the question --
BY MR. TRAFICANT:
Q. What was your impression when they used the term cooperation?
(Witness conferring with his counsel.)
MR. KOPP: Can we have the question read back?
THE COURT: Yes. Can you read it back?
(Question read by the reporter.)

(Witness conferring with his counsel.)
A. I was told by the FBI agent that I would be given consideration for testimony or information.
Q. What consideration did they discuss with you?
(Witness conferring with his counsel.)
(Question read by the reporter.)
(Witness continuing to confer with his counsel.)
A. Leniency or possibly immunity.
Q. When they discussed leniency or helping you, what was your impression of the information they wanted?
A. I have to exercise my Fifth Amendment.
Q. Was it your impression that these were promises made by the FBI?
A. I would have to say yes.
Q. Was it your impression that your statements needed to be truthful?
(Witness conferring with his counsel.)
A. Absolutely.
Q. Did you ever get the impression that if you weren't truthful you could have received the same consideration?
MR. KOPP: The question was impression?
(Question read by the reporter.)
(Witness continues to confer with his counsel.)
A. My impression was whatever consideration I can give would bring me -- whatever information I could give would

bring me consideration.

Q. Could you have at that time given them a lie and made a deal?

Was it your impression that at that time, if you gave them something false, you could make a deal?

MR. SMITH: Well, again, if a jury were here I would object on grounds of speculation.

THE COURT: Yeah, but there is no jury here.

MR. TRAFICANT: There is no jury here --

MR. SMITH: I don't want to waive my rights. I object.

THE COURT: Congressman --

MR. TRAFICANT: I object to his objection.

THE COURT: Do you want to have this inquiry, Congressman?

MR. TRAFICANT: Yes, I do.

THE COURT: Thank you. Would you allow us to go forward now?

MR. TRAFICANT: I'm trying to.

THE COURT: Thank you.

MR. KOPP: I would like to say something for the record because we are getting into some --

THE COURT: Okay, you can, but your main purpose is to advise your client during a voir dire, during which he has and may continue to on some questions invoke

the Fifth Amendment and on others not invoke the Fifth Amendment. So we are just trying to gather all of these up so they can be analyzed and handled in a proper way and handled outside the hearing of the jury.

A. I invoke my Fifth Amendment.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Was it your impression that they were attempting to have you make statements that were false?

(Witness conferring with his counsel.)

A. My impression was they were putting a lot of pressure on me, and what they wanted from me, I cannot say.

Q. You are under oath. You have the right to that the Fifth Amendment. I am going to ask you this question again: Did they care whether or not you made a truthful or untruthful statement to them at that time?

MR. SMITH: Objection. He has no knowledge what they were thinking.

THE COURT: He can't talk for what somebody else was doing, but you can rephrase the question.

BY MR. TRAFICANT:

Q. Was it your impression at that time that they didn't really care if what you said was true or false, that they just wanted a statement for your deal?

MR. SMITH: Same objection.

THE COURT: Well, it is a different situation. You can answer.

(Witness conferring with his counsel.)

A. I have to invoke my Fifth Amendment right.

Q. Champ, isn't it a fact that you would like to see some of the things that happened in your case as evidence in my case be stopped?

(Witness conferring with his counsel.)

A. My case is still pending. Any reference concerning my case, I am going to have to invoke my Fifth Amendment right.

Q. Isn't it your impression that things are going on in my case that you have personal knowledge of with Jim Sabatine you would like to see stopped?

(Witness conferring with his counsel.)

A. Yes.

Q. Why?

(Witness conferring with his counsel.)

A. In my opinion, pressure can put witnesses in tough positions.

Q. And is it your impression that putting witnesses in tough positions would imply that the FBI would accept a false statement?

MR. SMITH: Again, we will object on the basis of what the FBI was willing to accept. He doesn't

know.

THE COURT: Right.

MR. TRAFICANT: I'm asking his impression.

MR. SMITH: Well, that's just another way of asking the same thing.

THE COURT: It is another way of asking the same thing. There may be another question you can pose.

MR. TRAFICANT: Would you read the question and the witness' answer?

(Record read.)

THE COURT: If you can ask a different question to get at what you are trying to get at.

BY MR. TRAFICANT:

Q. When the FBI was talking to you at that time, were you in a stressful situation?

A. I exercise my Fifth Amendment right.

Q. When you said that witnesses are put under extreme pressure, did you feel that pressure was being levied on you to make a statement?

A. I have to exercise my Fifth Amendment right.

Q. Did the FBI ever say to you that if you gave them what they wanted you would walk?

(Witness conferring with his counsel.)

A. As I stated earlier, I was told if I cooperated that I would be given immunity or consideration.

Q. Yes. But you said your impression was that witnesses are under extreme pressure, and having said so --

THE COURT: I think he said a lot of pressure.

MR. TRAFICANT: Pardon?

THE COURT: I think he said a lot of pressure.

MR. TRAFICANT: Lot of pressure.

BY MR. TRAFICANT:

Q. You do agree there was pressure on or about the time that you were meeting with those FBI agents? Yes or no.

(Witness conferring with his counsel.)

THE COURT: Designate which case you are talking about so he knows --

MR. TRAFICANT: Mr. Saadey himself.

THE COURT: I know. But in his case or in your case?

MR. TRAFICANT: Relative to my case.

THE COURT: Okay. Thank you.

MR. TRAFICANT: Not relative to his case; relative to my case.

THE COURT: Okay.

MR. TRAFICANT: I want to stipulate for the record that I am not inquiring about Mr. Saadey's case, nor trying to involve his case. I simply want information he

has or has knowledge of concerning anything that was said by anyone relative to my case alone.

THE COURT: Thank you for that clarification.

BY MR. TRAFICANT:

Q. Now, relative to my case, was it your impression that the FBI was willing to accept any statement you would make for this cooperation?

THE COURT: He can't testify as to what the FBI was willing to do. You can get that maybe from somebody, but you can't get it from him

BY MR. TRAFICANT:

Q. Was it your impression --

MR. SMITH: Same objection, same question.

Q. -- as demonstrated by their behavior that they would accept any statement from you to secure a deal?

THE COURT: You can answer that, or you can consult with your lawyer about whether you want to answer that.

THE WITNESS: Thank you, Your Honor.

(Witness conferring with his counsel.)

A. It was my impression that if I cooperated I would be given leniency or immunity.

Q. Was it your impression that if you didn't, quote unquote, cooperate that you would face serious problems?

(Witness conferring with his counsel.)

MR. KOPP: Can I have the question back?

(Question read by the reporter.)

A. That's what the FBI told me.

Q. Then was it your impression that if you lied about Jim Traficant you would have no more problems?

(Witness conferring with his counsel.)

A. My impression was if I cooperated I would be given leniency or immunity.

Q. Under the circumstances, facing sentencing, are you concerned about being here?

A. Yes.

Q. Do you feel that you could jeopardize yourself and possibly get a harsher sentence if you were, in fact, to be a witness in this case?

A. I have to exercise my Fifth Amendment right on the advice of my counsel.

Q. How many times did you meet with the FBI?

A. I have to exercise my Fifth on the advice of my counsel.

Q. Did any FBI agent ever make a threat towards me through you?

(Witness conferring with his counsel.)

A. On the advice of my counsel, I must exercise the Fifth.

Q. I am going to ask a direct question one last time. Was it your impression that if you lied, all of your problems would go away?

MR. SMITH: I am going to object. Again, he can lead him all he wants. But he asked the question before, and it is the same question as we have already had.

THE COURT: You can answer this question if you want to after you listen to your counsel.

(Witness conferring with his counsel.)

A. On the advice of my counsel, I must take the Fifth.

Q. Did Mr. Sabatine -- do you want to confer some more?

MR. KOPP: No. We are okay.

BY MR. TRAFICANT:

Q. Did Mr. Sabatine willingly offer you this statement and declaration --

THE COURT: He can't testify as to Mr. Sabatine's willingness.

Q. Did Mr. Sabatine make this statement to you when your impression of him was he was --

THE COURT: Well, ask him what his impression was.

Q. What was your impression when he made the statement to you that he did not bribe me?

THE COURT: Thank you.

A. Can you repeat that, please? I am sorry.

THE COURT: Would you re-read the question for the witness?

(Question read by the reporter.)

A. My impression was he was doing whatever he had to do to save his ass.

Q. When he made that statement, he was doing what he had to do, did he say who, in fact, was responsible for making him make such a false statement?

MR. SMITH: Objection. There has been no testimony that Mr. Sabatine made a false statement, not from this witness, not from Sabatine.

THE COURT: Right.

BY MR. TRAFICANT:

Q. Did you not say earlier that Mr. Sabatine admitted under stress that he did not give me any bribes?

MR. SMITH: He is not charged with giving him bribes. He is charged with giving him gratuity.

Q. Did Mr. Sabatine ever say he gave a bribe or a gratuity to you?

A. Not a bribe, but contributions; not a bribe, campaign contribution.

Q. Did he say he gave it all at one time or over a period of years?

A. Well, every time you ran, I mean, fund-raisers.

Q. When Mr. Sabatine -- was it your impression that

Mr. Sabatine was in a stressful state throughout the entire time he made these statements to you.

(Witness conferring with his counsel.)

A. Yes.

Q. Do you have any personal knowledge that an Agent Anthony Speranza had raped one of my constituents?

MR. SMITH: Objection.

THE COURT: Sustained. Don't answer. We ordered you to leave that issue aside, and there are good reasons for it recited in prior orders of this Court. Congressman, you may not do that, even when the jury is not present.

MR. TRAFICANT: I have a couple more questions, Your Honor.

Q. Champ, did you try to avoid this subpoena today?

(Witness conferring with his counsel.)

A. On the advice of my counsel, I must exercise my Fifth Amendment right.

Q. Did you consult with your attorney as soon as you had been in receipt of said subpoena?

MR. KOPP: That's privileged, Your Honor.

THE COURT: Well, if you want to assert that you can, whatever.

(Witness conferring with his counsel.)

A. I'm not going to answer that question. That's

privileged.

Q. Do you understand that my examination of you in this trial would be only about the statements made by Mr. Sabatine relative to my case only?

A. That's what you have represented to me, yes.

MR. TRAFICANT: No further questions at this time.

MR. SMITH: Your Honor, under Rule 26.2, we ask the Congressman to produce the tape of the conversation he had with Mr. Saadey which he said yesterday existed. We ask that that be produced now.

MR. TRAFICANT: I have instructed, after having talked with counsel yesterday his concern was about the tape, and he can speak as to what he requested me to do.

MR. SMITH: I am asking for the tape.

THE COURT: We need the tape.

MR. TRAFICANT: I don't have the tape.

THE COURT: Where is it?

MR. TRAFICANT: I have destroyed the tape.

MR. KOPP: I feel the need to speak up here. I am an officer of this Court.

Okay. Cool it. We have too many people talking at one time. It is an important issue, and so what we will do, because the Government is about to have an

opportunity to ask cross-examination questions of this witness -- is that why you are asking this now?

MR. SMITH: There are two reasons. Number one, I do wish to cross-examine, but before that, the Government does have a motion to prevent any further testimony by this witness in this case based upon a violation of 26.2.

Do you wish me to make that motion now or later?

THE COURT: I think you can make that motion now, and then we will allow a response from the Congressman.

MR. SMITH: Yes, Your Honor. The Congressman has stated that he destroyed a tape that he made with Mr. Saadey. Obviously, that was a prior interview. We would refer the Court to 4962 and 4963 of yesterday's transcript in which the Government asked the Congressman to produce the tape under discovery, and in response to that, the Congressman himself referred to that tape as Jencks material.

Under Rule 26.2 of the Federal Rules of Criminal Procedure, Your Honor, Subsection F defines the word statement as including a recording of mechanical, electrical, or other recording of an oral statement. So the tape that the Congressman made with Mr. Saadey clearly comes within 26.2.

The Congressman has now destroyed that Jencks Act statement. We, therefore, ask this Court to impose the sanction called for by Rule 26.2(e), which states, quote, "If the other party elects not to comply with an order to deliver a statement to the moving party, the Court shall order that the testimony of the witness be stricken from the record and that the trial proceed," and then that's the end of the part of the rule I am quoting.

Since the Congressman stated yesterday that he had the tape, had not yet decided whether or not he was going to use it, that clearly demonstrates out of his own mouth that that tape existed yesterday. He deliberately destroyed it last night after we asked for it in discovery and after he referred to it as Jencks material. Therefore, we ask that you impose the sanction of 26.2(e)and bar any further testimony by this witness in any regard in this case.

MR. TRAFICANT: I would like to respond.

THE COURT: Fine.

MR. TRAFICANT: The tape is not an issue.

THE COURT: Well, it is an issue right now.

MR. TRAFICANT: I would like to respond. I would like to respond.

THE COURT: Respond to what he --

MR. TRAFICANT: I am going to respond, but I would respond to what my particular rule is and what my

attempts were to bring Mr. Saadey in as a witness.

Number one, I think it is inapplicable, since the tape --

THE COURT: What's inapplicable? What are you talking about now?

MR. TRAFICANT: His statements are inapplicable. I am not attempting to use a tape, nor had I intended to use a tape, and if Mr. Saadey has just been subpoenaed, I would not have been required to come with Jencks until I called him, like they did with me. I did not get Ms. Ferrante's testimony until the day that she came --

THE COURT: They didn't call her.

MR. TRAFICANT: But I want to cite 803.2 dealing with statements made immediately after a stressful situation by a declarant.

THE COURT: That's not responsive to the issue of the tape. We need you to respond on the issue of the tape because they are entitled to have that issue taken care of before they get into cross-examination.

MR. TRAFICANT: I had destroyed the tape to protect the interests of Mr. Saadey, period.

THE COURT: Tell us what the tape involved.

MR. TRAFICANT: The tape involved -- and I can only speak, and I will only speak because I am not under oath and I am not an attorney --

THE COURT: Well, yeah, is this another one of your telephone tapes?

MR. TRAFICANT: Did confirm the fact that Mr. Sabatine had, in fact, told his brother-in-law shortly after meeting with the FBI, in a stressful situation, that he did not bribe or give gratuities of any kind to the Congressman. He did what he had to do.

He further stated on that tape that he had millions to lose. This was your family, your own blood, and Mr. Saadey, Champ Saadey, as we know him, was very upset and did question him further about it. He was very upset, he was very emotional, and I bring in the fact that Mr. Sabatine's statements made to Mr. Saadey are now relevant.

Now, the counselor -- I am no attorney. I am John Q. Citizen. If counsel representing Mr. Saadey wants to make a statement about the tape now he may do so, but I will make no further statements.

THE COURT: At this time, that is the statement that the Defendant is willing to make. Anything else you want to say?

MR. SMITH: Yes, Your Honor. The Congressman has now acknowledged that that tape contained information which went to the heart, goes to the heart of what he intends to elicit as the subject matter of the direct

examination. Under the Jencks Act, and as applies to defendants under 26.2, that tape clearly is producible, whether he intended to put it into evidence or not. He did not do so. He destroyed it. This witness' testimony should be excluded.

MR. TRAFICANT: Now, I would like to respond to that. There were other elements of discussion on that tape that clearly, when the tape became known to the counsel of the Defendant, the counsel --

THE COURT: Counsel is here, and counsel is going to be able to speak about that himself.

MR. TRAFICANT: When he heard about the tape and what was on the tape, the counsel did have conversations with me, and he can speak for himself.

THE COURT: Yes, that's certainly true.

MR. TRAFICANT: I am just a son of a truck driver.

THE COURT: Excuse me. The jury is here, and we will let the jury in and stop the proceedings temporarily while we do that.

(Pause.)

THE COURT: Thank you. Mr. Kopp, if you want to make a statement, then this would be a good time to make it. And then I think everyone needs some lunch, so we will allow ourselves a brief lunch as well. But if there is

something you want to say in response to this --

MR. KOPP: I think it is only necessary that I say as an officer of this Court, I never requested the destruction of a tape or any other piece of evidence in this case. I was called last night by the U.S. Attorney's Office, which confirmed after I heard it on the news that there may be a tape in existence.

Quite simply, I asked if it was going to be used this morning and what the contents of it were, at which point in time I was told it was not going to be used and it no longer existed. That's the extent.

That being said, my interest in any Rule 26 sanction motions have no bearing on this case, but as an officer of this Court, I need to make clear that in no way did I request on behalf of myself or my client the destruction of any piece of evidence in this case.

THE COURT: Thank you very much.

What I suggest we do is, because you are still entitled to do cross-examination, and I really need to hear what it would be on a dry run so I know how we go to the next stage of this, this is more complicated than it may seem. I think we all understand we are talking about the Fifth Amendment, but on top of that, in this case we are also talking about a situation that has been presented by the Defendant calling someone who then asserts his Fifth

Amendment as to some testimony, not to all, and the Court needs to hear it so I can make the proper determinations about the impact of that, and some of that comes, depending on whether or not the Fifth Amendment is asserted during any cross-examination, so that's another part we have to do.

But we shouldn't do it bone dry and hungry. We should have a break. The jury is here. They take their next break at around are 3:00 o'clock, and so I suggest that we have to move this over and continue to discuss it or to do the cross-examination at 3:00. We know we have to be here at 4:30 today on some other issues, and so it may be that I can't analyze this until I have heard the other half of it.

It may be that this newest issue that is being presented to the Court about the destruction of the tape will also have to be handled at 4:30. However, I don't see how Mr. Kopp has anything to do with that one. And, therefore, we will try and have lunch and be back here at 1:30 so we can go forward with the jury.

And at 3:00 o'clock, sir, you will have to be here, and you will have to be here so we can go forward with cross-examination on this issue.

The case has a whole lot of issues in it.

MR. TRAFICANT: Your Honor, I had two witnesses that I'm waiting on, and I haven't been able to

get them here. I have only one remaining witness after Mr. Anthony Traficanti. I don't know how long they were going to take with him, and we do have this issue.

THE COURT: Right. And if you could update us on the issue of the welder.

MR. TRAFICANT: Yes. I'm trying to find that out myself.

THE COURT: That will be something maybe you can get someone to help you with over lunch, and I will decide how long the jury will be here. And we have our work cut out today, but I want to hear all the witnesses you have brought to the courthouse today.

MR. SMITH: What time do you want us back?

THE COURT: 1:30.

MR. TRAFICANT: Can we have 1:45?

MR. SMITH: Time to run up to the snack bar.

THE COURT: We will do it until 1:45. I need you to be ready to go at 1:45, and I need you to be ready at 3:00.

You, sir, can step down and go with your lawyer.

THE WITNESS: 3:00 o'clock, Your Honor?

THE COURT: Around 3:00.

MR. TRAFICANT: Your Honor, I don't know how long they are going to take with Mr. Traficanti, but I have one other witness after that.

THE COURT: Fine.

MR. TRAFICANT: And if that doesn't take us until 4:30 --

THE COURT: Then we will deal with wherever we are, but I want you to be sure that you keep your witnesses here.

MR. TRAFICANT: I am keeping what witnesses I do have.

THE COURT: Excellent. Okay.

(Luncheon recess taken.)

Wednesday Session, March 27, 2002, at 1:45 P.M.

THE COURT: Sir, you are still under oath.

DIRECT EXAMINATION OF ANTHONY TRAFICANTI

BY MR. TRAFICANT:

Q. Good afternoon, Anthony.

A. Good afternoon, Congressman.

Q. You always call me Congressman?

A. Sometimes. No.

Q. Going back to the beginning, we talked about a second meeting with the FBI. Where was that meeting again?

A. The meeting was held at the Boardman FBI office in Boardman, Ohio.

Q. That's their main office in our area?

A. I think, yes.

Q. Was there any unusual circumstances about the meeting regarding the time of the meeting?

A. Yes, it was scheduled -- the meeting was initially scheduled during regular business hours.

Q. What, if anything, do you know happened relative to that meeting time?

A. Well, I told you that I had to go, and you weren't very happy because it was during regular business hours. And you weren't very happy with that.

Q. What time did the meeting occur?

A. Well, eventually, it occurred about 5:00 to the best

of my knowledge.
Q. How many agents were there at that time?
A. Two agents.
Q. Did they make any requests of you at this particular meeting?
A. Yes.
Q. What request did they make of you?
A. They asked me to turn over my pay stubs from the checks, my congressional checks.
Q. Did you have those checks with you?
A. Not with me.
Q. Did you eventually comply with that request?
A. Yes.
Q. Did you feel that you were compelled to comply with that request?
A. Agent Denholm informed me that it was necessary for the Traficant investigation, and I turned those pay stubs over to him.
Q. Was there a court order or subpoena for those?
A. No, not to my knowledge. If there was, my attorney was present that day.
Q. Did you feel intimidated out there at the FBI office?
A. No.
Q. Was that after you agreed to comply with giving them the paychecks?

MR. MORFORD: Your Honor, again, I'm going to object to the suggested nature of the questions. This witness needs to testify, not the Congressman.

THE COURT: Right. The jury has to disregard what the Congressman is saying what he's answering.

Q. Did you ever do work at my farm, Anthony?

A. I lent you a hand on occasions, if you want to call it work.

Q. When did most of that work occur?

A. Can you be more specific?

Q. During the week, weekend?

A. Maybe on weekends, but on occasions, one or two days during the week, very sporadic, but I was usually helping you on weekends.

Q. What would you basically do?

A. Helped you bale hay, unload a wagon, things like that.

Q. Were you forced to do that?

A. No, sir.

Q. Why did you do it?

A. Did it to help you.

Q. Did you derive any benefit from it?

A. Shed some bounds. Shed some pounds, got some exercise, yeah, it was beneficial.

Q. Did you ever request to help bale hay?

A. I volunteered a few times to help you.
Q. Did I participate in that work?
A. Yes, sir.
Q. Did you ever clean any stalls?
A. No, sir.
Q. Did you ever see me clean stalls?
A. Yes, sir.
Q. Did there come a point when you no longer would help bale hay?
A. Yes.
Q. What was the reason for that?
A. I became very asthmatic. I had allergies.
Q. Well, how did you help in the first place?
A. I wore a mask on occasions.
Q. Are you familiar with George Buccella?
A. Yes.
Q. Were you ever out there with George Buccella?
A. Yes.
Q. Did you ever do anything other than farm work with Mr. Buccella?
A. Unloaded a hay wagon and went with him one time to haul sawdust.
Q. How well did you know Chuck O'Nesti?
A. He was a friend.
Q. Did you know of his reputation?

A. In what respect?
Q. The bad reputation.
A. Yeah, there was a lot of things people said about Chuck that wasn't kind and things in the paper about him, yeah.
MR. MORFORD: Your Honor, I'd like you to look at this, and maybe we can --
Q. Anthony --
THE COURT: Let me look at it first.
Q. Anthony, what is the address of your office?
THE COURT: Let me look at it before you show it to the witness.
MR. TRAFICANT: I'd like to know why I have to show it to you before I ask a question.
THE COURT: Well, you just showed it to the Government lawyers, and so --
MR. TRAFICANT: They didn't object. They asked to you look at it.
THE COURT: Well, and I need to look at it after they've looked at it. That's just the way we do it.
BY MR. TRAFICANT:
Q. Is my address 125 Market Street?
A. Yes.
Q. Am I located there at 125 Market Street?
A. The regional service office is.

Q. Where am I located?

MR. MORFORD: Your Honor, I'm going to object to the relevance regarding this document for reasons that we discussed in the past.

THE COURT: I don't know what's he's going to do with the document. Are you going to give it to this witness?

Q. Am I located at 125 Market Street?

A. No.

Q. I'm going to show you a document and ask you if you just could identify that document, and don't make any comments.

THE COURT: Thank you.

THE WITNESS: Um-hum.

Q. Do you remember that document?

A. Yes.

Q. Did you maintain a copy of this document?

A. Yes.

Q. Did you maintain it in your files on Market -- 125 Market Street?

A. Yes.

MR. TRAFICANT: Your Honor, can I put this on the screen?

MR. MORFORD: Objection, your Honor, based on relevance and hearsay.

THE COURT: Well, the hearsay issue that it relates to we have to address at the break, as you know. I don't know about relevance yet. But on the hearsay issue, you have to do it at this break, Congressman.

MR. TRAFICANT: Your Honor, this is the second witness who's testified -- seeing this document.

MR. MORFORD: I object to this in front of the jury. You instructed him before.

THE COURT: Yeah, you have to do it at a break. Let's do it at the break. You'll get a chance.

BY MR. TRAFICANT:

Q. Anthony, who handed you this document?

A. Chuck O'Nesti.

Q. Do you know if Mr. O'Nesti was passing this all around?

A. Yes, he did in the office.

Q. The times you came to the farm, what percentage of times would you have on office clothes versus farm work clothes?

A. 80 percent of the time I was mainly in a suit and tie.

Q. At some point in time, did you receive different -- different responsibility with the Congressman's office?

A. We -- I'm not clear on your question, Congressman. I'm sorry.

Q. Did you -- were you promoted to another position that took you out of Youngstown?
A. Yes.
Q. What was that position?
A. Congressional liaison.
Q. And as congressional liaison, what did you do?
A. I travelled back and forth to Washington, D.C. with you.
Q. And how did we travel back and forth?
A. By car. We drove back and forth.
Q. Was there any specific car that you remember that we had difficulty with?
A. Yes.
Q. Would you describe that car.
A. It was a black Avanti.
Q. What problems did we have with it, Anthony?
A. The car always would overheat. It heated up, the temperature gauge would rise, things of that nature.
Q. Were there any other problems with the car?
A. Outside of the overheating, we'd have to pull over.
Q. How often would we have to pull over?
A. Quite a bit, quite often, maybe five or six times.
Q. And how long would we have -- how long of a time period we have to wait for the car to be ready to be used again?

A. 20 minutes to half hour depending.
Q. Did it make the trip quite lengthy?
A. Yes.
Q. How many times approximately did we take that car to Washington?
A. More than once, but I don't -- I don't have the specific amount, but it was more than once.
Q. Were there any other difficulties with that car?
A. I remember one time I had to jump it by the Rayburn Building. Batteries were completely dead.
Q. You know if it was a new car or an old car?
A. I wouldn't have any idea. Looked new.
Q. Were there some plastics on the seats?
A. Yes.
Q. Do you know where that car is now?
A. Yes.
Q. Do you know how long that car has been there?
A. Every bit of ten years.
Q. And where is it?
A. It's a B & T Express.
Q. Any specific building?
A. Yes, it is.
Q. Whose building?
A. My father's.
Q. For most of the time it was in storage, could you

describe how it was stored?
A. It was at one point I remember it was on jack stands and covered with tarp, and then at some point the tires had to be put back in the car because it had to be moved and still in the same building but on the opposite side, and it's sitting there.
Q. Do you have any knowledge that the Government tried to seize that car?
MR. MORFORD: Objection, unless he has firsthand knowledge, your Honor.
THE COURT: Firsthand knowledge. What do you actually know yourself as opposed to what someone else may have told you because they can be brought in to testify.
MR. MORFORD: I would also object to the basis of the question.
THE COURT: Well, let's start first. You have any firsthand knowledge?
THE WITNESS: Yes.
THE COURT: Okay.
BY MR. TRAFICANT:
Q. You have firsthand knowledge, Anthony?
A. Yes.
Q. Go ahead and answer the question.
A. The FBI came to the business, they asked my father if there was an --

MR. MORFORD: Objection. That's hearsay unless he was there.

THE COURT: Yeah. Were you there?

THE WITNESS: No, ma'am.

THE COURT: Okay. So somebody told you something?

Q. Have you seen the car since the FBI had served a search warrant at your farm?

MR. MORFORD: Objection. That's just not true.

MR. TRAFICANT: Or have you seen the car since the FBI raided the B & T Express.

MR. MORFORD: Objection as to that, too.

THE COURT: Objection sustained.

BY MR. TRAFICANT:

Q. Have you seen the car --

MR. MORFORD: I'm going to object to the leading questions.

THE COURT: Why don't we move along, Congressman, or you find another way to ask your questions so that the witness testifies and not you.

Q. Do you have knowledge that the car is still at B & T Express?

A. Yes, sir.

Q. When was the last time you saw it?

A. Last weekend.
Q. Do I hug people, Anthony?
A. Yes.
Q. Who do I hug?
A. Your friends.
Q. Have you been out with me in public?
A. Many times.
Q. What's my behavior in public?
A. Besides shaking hands, you're usually answering questions or talking to people.
Q. Do people approach me?
A. Oh, yes.
Q. Do they hug me?
A. Yes, they do.
Q. Do people fear me back home?
A. No.
Q. Do you know anybody that fears me back home?
A. Outside of your political opponents, nobody.
Q. Did anybody on my staff, to the best of your knowledge, fear me?
A. Absolutely not.
Q. And after Mr. DiBlasio left, who was hired to replace him?
A. I believe it was Allen Sinclair.
Q. Did you have occasion to visit -- occasion to visit

the Overhill office when Mr. Sinclair and I were present?
A. Yes.
Q. Where, in fact, did you see us?
A. You were sitting in his office. I've seen him in your office, sitting down, having coffee one time. I think it was coffee.
Q. Do you remember times when I was in Mr. Sinclair's office?
A. Yes.
Q. Could you describe his office?
A. It had like a big old desk, like a cherry desk, very nice office, kind of plush with a chair and a computer, picture.
Q. Could you get around both sides of the desk?
A. Only from the right side. You have to enter into the back.
Q. Where would I be seated when you would see me?
A. In the front, front of his desk, sitting in the chair.
Q. Would I be near the door or near the opening going behind the desk?
A. Well, the chairs were -- you know, right by the doorway, so you were in one of those chairs in front of his desk by the door.
Q. And where was Mr. Sinclair?

A. Behind his desk.
Q. You know if Mr. Sinclair and I were friends?
A. I would assume you were. He worked for you, yeah.
Q. Did you ever get paid for any work you did at the farm?
A. No.
Q. Did I ever help you or your father?
A. You hired me.
Q. In addition to that, did I ever do any labor for you or your father?
A. Yes.
Q. What was it?
A. You helped us tear out our driveway at our house, and you came out and you dug some fence hole posts with your auger -- I think that's what you call it -- at my dad's business.
Q. And what did your dad do after those holes were dug?
A. Put a fence in.
Q. Do you know if I charged your father?
A. I don't know if you did. You would know that. I don't know.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF ANTHONY TRAFICANTI

BY MR. MORFORD:

Q. Good afternoon, Mr. Traficanti.

A. Good afternoon, Mr. Morford.

Q. Mr. Traficanti, is it fair to say that you don't come before this jury as an entirely unbiased witness in this case?

A. I hold no biases against anyone.

Q. No, but you do hold a bias for Congressman Traficant, do you not, sir?

A. A bias?

Q. Yes.

A. In what respect would I have a bias?

Q. Well, in the respect -- let's start with the fact he's a close personal friend of yours, correct?

A. Oh, yes.

Q. He's someone you look up to greatly?

A. Yes.

Q. And have since the time you were a boy?

A. Yes.

Q. Someone that your dad has been close to over the years?

A. Yes.

Q. He's also your current boss; is that correct?

A. Yes, sir.

Q. And you testified on direct that he is the person that actually hired you?
A. Yes.
Q. And you said he gave you a chance and a job when other people would not give you a chance or a job because of the reputation of your family?
A. Yes.
Q. And you testified on direct that the problem with your family's reputation was because of the Congressman's trial, correct?
A. Yes, sir.
Q. But isn't it true, sir, that the problem with your family's reputation was your father's association with the Carabbi brothers in Struthers?
A. I don't see the relevance to that. I don't know where you're getting that from.
Q. Well, isn't it true your father was a close associate and friend of the Carabbi brothers?
A. He may have been a friend, but I don't know why you're referring it as close associate. I have no knowledge of that, sir.
Q. Well, you have no knowledge of what went on in the trial either, do you, sir?
A. Which trial, Mr. Morford?
Q. The trial that you testified to on direct involving

Congressman Traficant, the original criminal trial.
A. Only what I have read and the people have told me that I've heard over the years. I was very young when that happened.
Q. You knew nothing about that trial whatsoever, did you, sir, other than what people have told you or what you've read, correct?
A. That's a fair assumption.
Q. But isn't it true people also told you that your dad at one time was hanging out with the Carabbis?
A. No one's mentioned that to me.
Q. No one has ever mentioned that?
A. Not to me my dad was hanging with them.
Q. Did your dad tell you that's why he was a witness in that case?
A. No.
Q. So you really don't know much about that, do you, sir?
A. Not really, Mr. Morford. I told you it was a long time ago.
Q. So the reputation problem that you had in getting a job in Youngstown had nothing to do with your dad's reputation of associating with organized crime type people, is that your testimony?
A. I asked the Congressman for the -- for a job. I

never mentioned anything about organized crime.
Q. Do you know who the Carabbi's are, sir?
A. Yes.
Q. Who are they?
A. They were Mafia people in Youngstown.
Q. And you knew that your dad was friendly with them, correct?
A. No, sir, I don't.
Q. Do you know if he had any association with them whatsoever?
A. Only thing that I've heard that he was a -- that he was friends with them, that he, you know -- he had a gas station in Struthers.
Q. Isn't it true that was one of the reasons you couldn't get a job, was your family's reputation?
A. That never was inferred in that sense.
Q. But it's your testimony that you needed a job. You couldn't find a job, and Congressman Traficant gave you a job, correct?
A. That's correct.
Q. And he did so as a favor to your father, correct?
A. Well, if my dad had something to do with it, so be it, but the Congressman did hire me, and I asked him, and I was qualified and educated for the job. I had a college degree.

Q. With respect to your current job, how much money do you make a year from the Congressman?
A. $51,000 a year.
Q. And how many hours are you required to work per week?
A. 30 hours by OMP standard.
Q. How many hours do you work?
A. In excess of 40 hours a week at times.
Q. Now, you're not actually in the same office as the Congressman, are you, sir?
A. That's correct.
Q. You're actually down at the office in the federal courthouse, correct?
A. Yes.
Q. And Congressman Traficant is out in an office out on Raccoon Road or that general vicinity, correct?
A. Canfield.
Q. About how far is that from the office in downtown Youngstown?
A. 15-minute drive. You know, something around there.
Q. Now, the Congressman has a big fancy office inside the courthouse congressional office, doesn't he?
A. It's pretty nice.
Q. But he's never in there, is he?
A. Not all the time, no. His office is -- he's not stationed there.

Q. Isn't it true he's hardly ever there, sir?
A. Not all the time, no.
Q. Let's say since the time that you moved from Overhill to the courthouse in Youngstown, how many times have you seen the Congressman working out of the office in the federal courthouse?
A. Couldn't say specifically.
Q. Under ten, under ten?
A. No, more than that, more than ten.
Q. More than twice a year?
A. More than twice a year?
Q. Yes.
A. Yes, that's fair.
Q. How often?
A. More than twice a year.
Q. Seldom?
A. I wouldn't say seldom.
Q. Well, if there's 365 days an in a year, how many days a year is he in that office, sir?
A. Mr. Morford, that's not his office. His office is in Canfield.
Q. How often do you see him in that office?
A. Not that often.
Q. Who's your direct supervisor?
A. The Congressman.

Q. Do you answer to anyone other than the Congressman?
A. No, only to him.
Q. So in your office, the courthouse, there's really nobody watching to see what you do or don't do, correct?
A. That's true.
Q. Who sets your duties?
A. The Congressman.
Q. Who sets your salary?
A. The Congressman.
Q. And isn't it true he could fire you at any point at will without cause?
A. Oh, yes.
Q. Now, sir, you testified about Richard Rovnak, do you recall that?
A. Yes, sir.
Q. And you testified that he worked in the office, and you didn't see him absent very much, do you remember that?
A. Yes.
Q. Now, the truth of the matter is, you didn't actually start working for Congressman Traficant until the spring of 1991, correct?
A. Mr. Morford, I couldn't be exact but sometimes in that vicinity.
Q. And isn't it true that at the time you started Mr. Rovnak had already been working at the office for some

time?
A. Mr. Rovnak was an employee when I was brought on. That's how I met him. He was in the office.
Q. So to the extent that Mr. Rovnak was -- let's just say for sake of argument, if he was out at the farm working and not in the office part of the time you started, you have no way of knowing that, do you?
A. Mr. Morford, I haven't really worked at the farm until I read what was in this trial. I saw Rich Rovnak very much in that office. I worked with him.
Q. That's not my question, sir. My question is: During the time before you started when he was working in the office, you have no idea what he was doing, correct?
A. Before I started there?
Q. Yes.
A. I never knew the man.
Q. When did you start?
A. 1991.
Q. What month?
A. I'm going to say April or May.
Q. Who else was working at the office at the time you started?
A. Bill Pierce, Grace Yavorsky, Jackie Bobby, Chuck O'Nesti.
Q. Who else?

A. Sonny Drummond, John Cisliano, and Henry DiBlasio.
Q. Also somebody name Rosselli or something like that?
A. Yes. Gloriann Rossi, she was, I believe, part-time.
Q. How many people are we talking about out of your office where you work, ten?
A. Now or --
Q. No, at that time when you started, 1991.
A. Yeah, I would imagine about ten people.
Q. Ten people, correct?
A. Yeah.
Q. And when you started, you started basically in what kind of capacity?
A. Case worker, answer phones.
Q. Sort of a gopher in the beginning, would that be fair?
A. A gopher?
Q. Yes. Do this and that as assigned, whatever duty?
A. Yes. In the office, I was told what to do.
Q. You didn't have a position of supervision, did you, sir?
A. No, sir, I did not.
Q. And you didn't sit around figuring who was there and who was not each day, did you?
A. No.
Q. You can't tell us how many days Henry DiBlasio was

there or wasn't there, can you, sir?
A. I couldn't account for how many days I was there. How can could I do that? It's humanly impossible.
Q. You can't account for how many days Jackie Bobby was there or not there, can you, sir?
A. No, but I saw her. I worked with her everyday.
Q. You just said it's humanly impossible for you to even tell us how many days you were there or not there let alone how many other employees there were?
A. That's true, but I know I was there.
Q. How about Grace Yavorsky, how many days she missed from the first day you worked there?
A. I couldn't remember that, sir.
Q. Jackie Bobby?
A. I couldn't remember that.
Q. And you can't remember for sure how many days Mr. Rovnak was there, can you, sir?
A. Well, I can remember Mr. Rovnak because me and Mr. Rovnak did not hit it off well at first. We used to fight over who's going to sit at the receptionist desk because there's not enough room for the employees there, Mr. Morford.
Q. Tell me how many days he worked and how many days he missed during the first year you worked there, during 1991?
A. To my knowledge, what I can remember, Mr. Rovnak was

there the days I was there, but he was part-time.
Q. And you don't even know what his hours were, do you?
A. No.
Q. When he was supposed to work and when he wasn't supposed to work, you don't know, do you, sir?
A. To my best knowledge, he was there three days a week.
Q. But you don't know what his exact hours were, do you?
A. Well, he was there when I was there. That's all I can tell you. His hours should have been what my hours are.
Q. Were you running around and checking up on him to make sure he was where he was supposed to be? Was that part of your duties, sir?
A. No, I worked with Mr. Rovnak, Mr. Morford. I told you. He helped me with cases, he even oriented me --
Q. Sir --
A. -- some of the doings in the office.
Q. Prior to testifying here today, did you talk to Congressman Traficant about your testimony?
A. Yes.
Q. Did he tell you he was going to ask you some questions about Mr. Rovnak?
A. About Mr. Rovnak and other people?
Q. Yes.
A. Yes.

Q. Did he tell you he wanted you to say that Mr. Rovnak was in the office a lot?
A. No. He didn't infer me to say anything. He just asked me what knowledge I had.
Q. Did you tell him it would be humanly impossible, as you just said, for you to be able to tell what employees were there and weren't there?
A. He didn't can me the way you asked, Mr. Morford.
Q. Sir, let me ask you about this:
You were asked some questions by the Congressman about a time when you were something called a congressional liaison; is that correct?
A. Congressional liaison.
Q. Isn't it true your main function as congressional liaison was to chauffeur Congressman Traficant back and forth from Youngstown to Washington?
A. Well, I did drive at times, but so did the Congressman, but my duties were to go back and forth with him.
Q. But in terms of liaison duties, what did that entail?
A. It entailed me going to Washington and being with the Congressman.
Q. Didn't he have a whole staff of people in Washington, sir?
A. Yes, he did.

Q. You didn't have any specific duties, did you, sir?
A. Oh, yes.
Q. Were you doing legislative duties?
A. I started getting into legislation with our former chief of staff, West Richards, and some of the other staff people I can't recall.
Q. Let me ask you this: On your trips to Washington, were there times during work hours where you went out and worked on the Congressman's boat?
A. Worked on his boat?
Q. Yes.
A. I was on his boat. I lived on the boat.
Q. Sir, that's not my question. My question is: During those times you were driving him back and forth to Washington, were there times you went out and worked on his boat?
A. There was one time when I got hired that I did do some work on his boat, yes.
Q. Now, when you would do this congressional liaison work and drive with him back and forth to Washington, where did you stay in Washington?
A. I stayed on the boat and sometimes in the office.
Q. Did you have any problems staying on the boat?
A. Yes.
Q. What were those problems?

A. I couldn't fit in the shower. It was very hard for me to bathe and shower. The shower was very small, and the hot water would always run out.
Q. Did you like staying on the boat?
A. It was fun at first. I have to admit. It was -- it was different. I never been on a boat or around a boat, and I thought it was quite intriguing. I kind of liked it.
Q. Is it fair to say the boat needed a fair amount of work, sir?
A. Outside of what I saw on the outside of the boat, the inside was beautiful. I don't think the inside needed much work.
Q. How about the outside?
A. There was a step that I remember that was rotted because the Congressman would tell me don't put your foot on that step, you'll rip it out. Other than that, I'm not an expert in boats.
Q. Well, sir, isn't it true it was your view that the boat was in tough shape on the outside and needed a lot of work?
A. I know it needed a paint job, but I couldn't attest to what the structural mechanisms of the boat were or what its faults would be. I just don't know that.
Q. You're saying you didn't mind sleeping on the boat?
A. No.

Q. Well, sir --
A. Outside of the shower.
Q. Do you remember testifying before the Grand Jury on August 16, 2000, stating this: If not, we would sleep in the office, and I'd come down to the boat and try to take a shower in the morning, and the night before so I looked halfway decent the next day, and that was frustrating for me. Jim didn't need a lot of amenities. I did, I needed to bathe twice a day, and it became a problem.
A. That's true.
Q. Isn't it true sleeping on the boat became a real problem, it was something you were opposed to?
A. Well, something I would prefer not having to do, but like I said, I actually liked it, it was fun. It was different. Outside that, I couldn't get the proper hygiene. It was frustrating at times, yes, Mr. Morford.
Q. Now, isn't it true that at one point you and your dad and a mechanic from your dad's company took the boat down, had it pulled out of the water and spent the day scraping barnacles off the hull?
A. Yes, I recall that.
Q. And that was during working hours, was it not, sir?
A. My best knowledge, it could have been, yes, but I couldn't say with specificity.
Q. Sir, isn't it true that that was a day where you

should have been in the office. You can say that with specificity?

A. To my best knowledge, it was a long time ago.

Q. So what is your answer?

A. I couldn't answer that truthfully. I can't really recall that.

Q. Well, did you recall it when you testified before the Grand Jury?

A. If you'd refresh my memory.

Q. Question: In other words, you would drive into Washington, stay there for a week or whatever the time was and driving back to the district at the end of the week.

Answer: I worked in the office.

Question: Well, on this day, when the boat is being worked on, you're not in the office?

Answer: No, not that day.

Question: That day, you're doing what? Cleaning the boat, right?

Answer: I was -- yeah. I was with the Congressman that day working on the boat.

Wasn't that your testimony then?

A. Yes, the Congressman was with me. I did recall that.

Q. Now, that was the day you were supposed to be in the office, correct?

A. If I was supposed to be in the office, that day I was

excused for me at my request or the Congressman's request.
Q. Excused by you by whom?
A. I'm sure I had to ask the Congressman if I could have the time to do that.
Q. So you'd say, Congressman, can I have a day off today for my official duties so I can go work on your boat?
A. I wouldn't infer to it in that sense, no.
Q. What sense would you do it, sir?
A. I can't really recall, Mr. Morford, how it happened, but I do know on that specific day I was helping with the duties on the boat to do that.
Q. Well, you testified on direct that when the FBI called and asked you to meet at their office, you were told by the Congressman you can't go do that during official hours, correct?
A. That's true.
Q. But he had no problem with you working on the boat on official hours, correct?
A. Not that day.
Q. Isn't it true, sir, that during the time you worked in the office from 1991 until at least 1998 there was no system regarding vacation days?
A. I don't recall us ever having to do time slips. I reported my vacation days to Jackie and to Chuck O'Nesti. That's who I was told to report to, and they would clear

it.

Q. That's not my question, sir. Isn't it true there was no actual system for vacation days?

A. No, we didn't -- no, we didn't fill out no slips or nothing.

Q. In fact, wasn't the rule on vacation the Congressman could give you as many days as he saw fit?

A. Not actually, but he is the boss.

Q. Well, let me read you this again from your Grand Jury transcript, August 16, 2000.

Question: So the fact that he's saying take a vacation day doesn't have a whole -- doesn't have a real meaning under the way your office was set up, does it?

Answer: I don't understand.

Question: In other words, he can give you as many vacation days as he wants at his pleasure. The fact that he says take a vacation day doesn't mean a whole lot, does it, because he can make it up to you later?

Answer: I never interpreted it that way.

Question: When he says take a vacation day, that doesn't necessarily mean you're going to lose a vacation day, does it?

Answer: That he never said.

Question: In fact, they didn't keep track of vacation days, did they?

Answer: Not to my knowledge.

Was that your testimony then?

A. Yes.

Q. Is that your testimony today?

A. Right, nothing I can recall. I told you I reported my time to Jackie and to Chuck if I was to take a vacation day. There was no formal procedure or forms that we were required to fill out. Jackie was the supervisor, and so was Chuck.

Q. And it's your testimony then that on those days the Congressman Traficant asked you to go out and do personal work for him somewhere he would just tell to you take a vacation day, correct?

A. Yes.

Q. And then later, if he wanted to, he could give you more vacation days, correct?

A. If I asked him.

Q. Now, you testified about some farm work; is that correct?

A. Yes.

Q. Work out at the farm. If you'd give me a minute, I just want to go back to my notes and make sure I get this accurately.

I believe when you testified on direct, when you were asked if you ever went out and worked at the farm, you said

quote: I lent him a hand on occasions if you want to call that work.

Was that your answer?

A. If that's what I said, I said, yes.

Q. Isn't it true, sir, that, in fact, you considered it to be real hard work?

A. It was hard at times.

Q. Then, what did you mean on direct when you said if you want to consider it work?

A. It's nothing I was forced to do. I enjoyed helping him. It was nothing hard about it.

Q. Now, at the times you went out to the farm, you did that at the Congressman's request, correct?

A. Yes.

Q. That wasn't something you thought up on your own, correct?

A. No.

Q. And isn't it true that you've stated in the past that baling hay is not fun work?

A. That's true, it's not.

Q. You testified that it's very, very hot sometimes?

A. Yes.

Q. You get very sweaty?

A. Oh, yes.

Q. You get hay chaff and bugs and flies on you?

A. Yeah.
Q. There were times when you were out there and got poison ivy?
A. That's true.
Q. Times when your allergy got so bad that you had serious problems from that?
A. Yes, sir.
Q. And you still want to say you lent him a hand if you want to call that work?
A. I enjoyed being with the Congressman, Mr. Morford. I loved working with Jim. He worked harder than anybody else out there that I ever saw, and I liked being with him.
Q. Isn't it true there were times you complained to other employees about having to go out to the farm to bale hay, sir?
A. I believe I complained when I got poison ivy.
Q. Isn't it true that you've testified before that you may have gotten mad enough and said some choice words?
A. That's possible. That happens on a daily basis, yes.
Q. During the time that you were out at the farm, there were times that you were actually out there during working hours, weren't you, sir?
A. Yes.
Q. And isn't it true that you began to worry about that and went and asked the Congressman Traficant because you

had concerns about doing his personal work on official taxpayer time?

A. I made sure with the Congressman that what I was doing was okay, and that the Congressman says you take a vacation day, there's no fault in it.

Q. And we've already established that when you take that vacation day, you can always have it given back to you if you need it later, correct?

A. That was never said to me.

Q. Well, that was the system, wasn't it, sir?

A. I'm not -- what are you referring?

Q. I'm not inferring anything; I'm asking you a question.

A. Bought vacation days back, Mr. Morford?

Q. Isn't it true the Congressman could give you as many vacation days as he wanted?

A. I guess he could. He's the boss.

Q. And that was the system, correct, if the Congressman Traficant decided he wanted to give you 20 days vacation, he could do so, right?

A. He's the boss.

Q. Is that a yes?

A. Yes.

Q. Isn't it true that you've stated before that being out at the farm is not how you wanted to spend your free

time, sir?
A. I don't believe I said that. If you restate the question or refresh my memory.
Q. Okay.
Question. -- this is before the Grand Jury once again on August 16, 2000.
Question: And let's face it, from what you've told us about this work, it wasn't the way you wanted to spend your off weekends, correct?
Answer: No, not at time, Mr. Morford.
Wasn't that your testimony then?
A. That's what it says there, that's what it says.
Q. So isn't it true that's not how you wanted to be spending your free time, sir?
A. Well, not on weekends, and I usually helped the Congressman on weekends, and there were other things I could be doing, but I wanted to be with him.
Q. But isn't it true you really didn't want to be out there baling hay, sir?
A. There were times I didn't want to be there.
Q. And isn't it true, sir, from your own testimony on direct you were a very busy man?
A. I'm very busy man.
Q. You're running a trucking company?
A. Not myself, but I own my own trucks.

Q. Well, who's running it?
A. My father.
Q. Didn't Congressman Traficant ask you if there was any connection between your trucking company and B & T, and you said no?
A. We are B & T Express. I'm B & T Express.
Q. On direct, when Congressman Traficant was asking you about the connection of your trucking company to your father's, I thought you said there was not a connection?
A. No. We all have trucks, we are all B & T Express. My father owns the real estate, Mr. Morford.
Q. Wasn't it true you were putting time into that trucking business and taking up some of your time?
A. Yes, sir, yes.
Q. From what you've testified before, probably ten hours a week or so, that would be fair?
A. That's fair, yes.
Q. You're also teaching classes at Youngstown State University?
A. Yes.
Q. And you teach a couple of those classes a week, correct?
A. Two days a week.
Q. And those are two-hour classes, correct?
A. Yes.

Q. And you have to prepare for those classes, correct?
A. That's true.
Q. You don't just go and wing it?
A. Wish I could, no.
Q. In addition, you own some apartments; is that correct?
A. Yes, sir.
Q. And you have to maintain those apartments, correct?
A. Yes, sir.
Q. Now, there's some lawn type work that needs to be done at your apartments, correct, to keep them up?
A. Yes, sir.
Q. And you don't do that yourself, do you?
A. I used to.
Q. How long ago?
A. 1995, '96.
Q. Since 1996, isn't it true you've hired somebody else to mow your grass?
A. I have a person who cuts my lawns.
Q. You didn't want to get out there and get the exercise yourself?
A. No, because of the allergies. I enjoy getting exercise, but the sneezing part became hard because of the grass.
Q. Wasn't it true you testified on direct that one of

the reasons you went out to the farm was you wanted to get some exercise?
A. That's true.
Q. But you weren't mowing your own lawn to get exercise?
A. Mr. Morford, we got to put this in a time perspective.
Q. Let's start 1996 on.
A. Right.
Q. From 1996 on, you were paying somebody else to mow your grass, correct?
A. That's true.
Q. And yet, during that same time period, you're going out to the farm to bale the Congressman's hay, to get exercise?
A. You're making it sounds like I lived at the farm. That's not true. I was only there on occasions. It's not that I was there everyday. That's what I'm wondering from your question.
Q. Sir, I'm not making it sound like anything. I'm taking direct testimony, which was that there were times you went out to the farm, because you wanted to get exercise.
A. That's true. But I did not own apartments buildings in 1991, '92 or '93. I was a young kid, a young man. I was capable of doing that. I didn't have as much weight as

I do now, unfortunately.
Q. Sir, isn't it true the reason you would go out to the farm and bale hay was because you felt obligated to go out there because of your boss, the Congressman wanted you out there?
A. I felt obligated. He's my boss, yes, but I enjoyed being with him.
Q. But you went out of there, at least in part, because of obligation because your boss, the Congressman, was asking you to go out there, correct?
A. That's true.
Q. Now, in addition to you going out to the farm, weren't there times you were out with George Buccella?
A. Yes.
Q. And on many of those days when it was hot and sticky and bad, you and George Buccella would complain about having to be out there, wouldn't you, sir?
A. That's true.
Q. And, isn't it true, sir, that there were times when you were out there for a week at a time during the hay season?
A. Not me.
Q. Are you sure about that?
A. A week at a time?
Q. Yes, sir.

A. Mr. Morford, I've tried to clear this up on many occasions. There were a couple times during the week, during the summers that I was there, but I mainly helped the Congressman on weekends. I was never there five days or -- in a row.

Q. How many days in a row can you remember being out there at the most in any given week?

A. Usually on a Friday, sometimes a Thursday, depending on when the Congressman would ask me, but I was mainly there on weekends.

Q. You're saying under oath today that you don't recall ever being there more than two days in a row, is that your testimony, sir?

A. I was there at least two days, but I mainly helped him on the weekends. Are you saying I was there everyday during the week?

Q. No. I'm asking you if there were times where you were there as much as a week at a time?

A. You mean total? I don't understand.

Q. Simple question: Were you ever there working on the farm for as long as a week at a time?

A. Days in a month, is that what you're referring to? I was never there Monday through Friday as you're trying to suggest. If it's a total of a week that I would have been out there, weekends and including workdays, that's a fair

assumption, but I can't be exact. I was mainly there on weekends.
Q. Now, with respect to the times that you were out at the farm, how many days a year would you say you were out at the farm working?
A. I couldn't say with any specificity. I really don't know.
Q. You didn't keep track?
A. I couldn't remember. It's quite awhile.
Q. Can't you go back and look at the vacation days and see how many you wrote off at the farm?
A. I don't have those records. I told you, Jackie Bobby was the manager who would know that information.
Q. Wasn't it true, sir, that you were out there sometimes 20, 30 days a year?
A. That's not true. 20, 30 days a year?
Q. Yes.
A. In what capacity, outside of me going and picking the Congressman up? Are you trying to --
Q. I'm asking you questions?
A. That's not true.
Q. How many days a year?
A. I couldn't be specific, five.
Q. Just five days out of an entire year you're testifying that you'd be out there working, baling hay?

A. That's true.
Q. Moving sawdust?
A. Total of five days.
Q. And for how many years were you out there?
A. Three or four. I can't recall. My allergies became bad. It became tough.
Q. I'd like to ask you some questions about Henry DiBlasio. Do you recall being asked questions by Congressman Traficant about Henry DiBlasio?
A. Yes.
Q. Now, I believe Congressman Traficant asked you about there's an upper floor and lower floor, do you remember him asking you that?
A. Yes.
Q. You said the upper floor was known as what?
A. The administrative office.
Q. Administrative office?
A. Right.
Q. And he asked you about how often you'd speak with Henry DiBlasio. Do you recall that?
A. Yes.
Q. And you said sometimes you'd go upstairs and talk to Henry DiBlasio, correct?
A. When I was out there, I'd see Henry, yes.
Q. How often were you up there?

A. Not that often, but when I was, I would see Henry.
Q. How often?
A. It was a long time ago. A couple -- two days a week, one day a week I'd go up there and come back. It had something to do with a particular economic development issue, something along those lines.
Q. So you'd be up there once or twice a week talking about economic development?
A. If the issue dealt with economic development, it would be directed to Henry, but I didn't have much involvement with Henry, Mr. Morford. I would see him on occasions, refer things to him.
Q. You also said that in response to Congressman's questions there were times Henry DiBlasio would come downstairs and talk with you, correct?
A. Yes. He'd come down to the office where I was at.
Q. And that you and Henry DiBlasio were friends, correct?
A. In a working capacity, yes.
Q. Well, sir, that's not what you testified to before the Grand Jury, is it?
A. I don't remember. You'll have to refresh my memory, Mr. Morford.
Q. You don't remember what you testified to about Henry DiBlasio before the Grand Jury?

A. I've been up here twice to the Grand Jury. I -- I don't recall which session we're referring to.
Q. Well, how good is your memory about the amount of interaction you had with Henry DiBlasio?
A. Just what I said.
Q. How many years ago was it that you were dealing with Henry DiBlasio?
A. I remember Henry was there when I started.
Q. With the exception of your testimony about Mr. Rovnak, you said several times that you have a hard time remembering things that happened awhile back, correct?
A. That's true, I do.
Q. Did Congressman Traficant help refresh your recollection about Henry DiBlasio before you testified here today, sir?
A. He mentioned Henry to me, that he questioned me about Henry.
Q. Did he ask you to testify that Henry DiBlasio had done a lot of work?
A. No. He just asked me what my relationship was with Henry and what I remembered in the office with Henry.
Q. And without any prompting from the Congressman, you told him what you told the jury here today?
A. He didn't prompt me to do anything.
Q. He didn't suggest to you that it would be helpful if

you testified that Henry did a lot of work?
A. That never was suggested to me or said. Obviously, I worked with Henry. I've seen Henry.
Q. Let me ask if you remember these questions and answers when you testified before the Grand Jury on August 16, 2000:
Question: Let me ask you some questions about Henry DiBlasio. You worked with him for a number of years, correct?
Answer: I didn't work for Henry. Henry worked upstairs, and he was on the Congressman's payroll.
Question: Henry DiBlasio was supposed to be the district director, correct, or the chief, whatever the title was?
Answer: Administrative assistant.
Question: Administrative assistant? And he had an office in the same building where you worked for Congressman Traficant?
Answer: Yes.
Question: And he also maintained a full-time law practice, was that your understanding?
Answer: That was my understanding.
Question: Tell us Henry's duties as you understood it as a full-time staffer working in the office where Henry was listed as the administrative assistant.

Answer: I never worked directly with Henry. I would see Henry from time to time. The only thing I understood and what I was told he was staff counsel for the Congressman, and that Henry was involved in a few union strikes that the Congressman was asked to get involved with because I remember seeing Henry on the news. But Henry and me were hi and good-bye. Really nobody was allowed to go up to that floor. There was other attorneys in there. And I never had any business to go up there.

Wasn't that your testimony before the Grand Jury, sir?

A. That's what I recall.

Q. That's not what you testified to this morning on direct, is it?

A. No, that's not true. I did have a relationship with Henry. I would see Henry in the office, Mr. Morford.

Q. Isn't it true that in the Grand Jury, you testified that your relationship with Henry was hi and good-bye, and that nobody was allowed to go up on that floor, that you described this morning that as the administrative floor because there were other lawyers up there?

A. I was told not to go upstairs, but Congressman Traficant would ask me to come upstairs. I would come upstairs, and I seen Henry, Mr. Morford. Henry came downstairs to the office. I did talk to Henry, and we did

go over things, and Henry always, always spoke to me when he saw me.

Q. Sure, to say hi and good-bye, correct?

A. He did that at times, yes.

Q. Let me continue.

Question: -- again at the Grand Jury. And he, meaning Henry DiBlasio, and he never came down much, did he?

Answer: Not much. On occasions, you'd see him, but usually he would beep people on the telephone to come upstairs. I was just a young new face in that office, and it was kind of a hostile environment down there. People weren't very friendly to me. Only the elite got to go upstairs, and I wasn't the elite. Wasn't that your testimony?

A. That was true.

Q. Who were the elite?

Answer: Jackie Grace and Chuck got to go upstairs.

Question: Other than him, Henry DiBlasio, being on TV, having helped settle a couple union strikes, do you remember any specific duties that Henry did?

Answer: No, sir.

Question: And so for all you know, based on your own personal experience, he may not have been doing much of anything, correct, for all you know?

Answer: For all I know.

Wasn't that your testimony before the Grand Jury?

A. That's what I said, I said.

Q. So isn't it true you had no idea what Henry DiBlasio was doing up there, sir?

A. I know what Henry was doing.

Q. How, if you weren't going up -- if you weren't going up the stairs and he wasn't coming down the stairs and you had a hello-good-bye relationship, and you testified before the Grand Jury that based on your own personal experience, he may not have been doing much of anything up there, how do you know what he was doing?

A. Mr. Morford, I recall Henry would send a lot of memos to the staff. Henry came downstairs. He just not came to me; he came and spoke to other staff people. I did not have a direct relationship with Henry. I didn't refer things to Mr. DiBlasio. He was a very nice man.

Q. You were asked the questions. You never provided any of that, did you?

A. Mr. Morford, I was totally petrified during the Grand Jury session. I can't remember hardly anything that I said.

Q. Well, sir --

A. A lot of things after the Grand Jury have come to my fruition as this trial has proceeded. It's a lot of

things.
Q. And they came to your fruition as you talked to Congressman Traficant about your testimony, didn't it?
A. That's not true. That's not true.
Q. Sir, isn't it true there were times when Jackie Bobby, Grace Yavorsky, and Chuck O'Nesti complained to you about the amount that Henry DiBlasio was working versus the amount of work that he was doing?
A. There was a lot of jealousy and statements made by Jackie and Grace against Henry, that's true.
Q. And Chuck O'Nesti, also, wasn't that true, sir?
A. Yes.
Q. Why did you just say Jackie and Grace and you left out Chuck O'Nesti, if that's true?
A. What reason would I mention Chuck?
Q. Because I just asked you about Chuck.
A. I answered it.
Q. And you said yes as to Grace and Jackie, and you left out Chuck. Why?
A. He wasn't on the thought process. You mentioned it, and I said yes. They always complained, Mr. Morford, about Henry. They were jealous of Henry.
Q. How do you know that's why they were complaining? You don't even know how much work Henry DiBlasio was doing, do you, sir?

A. I worked in the office with those people. I heard their complaints. They made complaints to me about him.
Q. And they made the complaint he wasn't doing much work, correct?
A. I heard Jackie say that.
Q. And you heard Grace say that?
A. Grace said that.
Q. And you heard Chuck say that, right?
MR. TRAFICANTE: Objection on hearsay.
THE COURT: You can continue.
BY MR. MORFORD:
Q. And you heard Chuck say that, correct?
A. Yes.
Q. And having them said that, you have no idea what Henry was or wasn't doing in terms of his actual assigned duties, correct?
A. Mr. Morford, outside of what I already testified to, those three individuals that you refer to were very jealous of Henry, and they were jealous at the amount of money he was making. That was obvious. That's all they complained about.
Q. And he was the highest paid staff member on the staff at that time, correct?
A. To my best knowledge, I would say yes, but I don't know that to be true. There could have been someone else.

Q. Now, did there come a time when Congressman Traficant asked you to help a guy by the name of Dave Sugar?
A. Yes.
Q. And he asked you to help Dave Sugar regarding a DUI case involving Dave Sugar's son, correct?
A. Yes.
Q. And you performed a number of duties to assist the Sugars at the Congressman's direction, correct?
A. Yes.
Q. But isn't it true that when you were asked about your knowledge of congressional assistance to Dave Sugar on August 16, 2000, you failed to tell the Grand Jury anything about any assistance that you gave to Dave Sugar, correct?
A. You never asked me specifically, Mr. Morford, but I believe you cleared that up with the second time that you had me up here.
Q. Isn't it true that you had to come up a second time because you didn't tell us in the Grand Jury about the work you'd done for Dave Sugar the first time, sir?
A. That's what you explained to me the reason why that you brought me back.
Q. Well, let me see if you remember these questions and answers on that first Grand Jury appearance, August 16, 2000.
Have you ever heard of any dealings between

Congressman Traficant and/or his staff and Mr. Sugar?

Answer: Just what was involved in the papers about --

Question: You're talking within the last couple months?

Answer: Yes.

Question: Do you remember the time you worked for Congressman Traficant you never heard of him or anyone in your office.

Answer: I heard of Dave. Dave dealt a lot with Chuck. I remember a workmen's comp problem Dave had years ago when I first started. He came to the office with a bunch of material, and I talked to him, and it was a workmen's comp problem, given to Chuck, it was very in depth. It was given to Chuck, and Chuck took it over. I don't know what happened after that.

Now, you didn't tell the Grand Jury that day in response to the question have you ever heard of any dealings between Congressman Traficant and/or his staff and Mr. Sugar; that you had actually been involved in a very detailed way in a constituent services case helping Mr. Sugar and his son with a DUI case, did you?

A. Mr. Morford, my best recollection of that proceeding was you never asked me about Dave Sugar, Junior. You asked me about Mr. Sugar, Senior, and we addressed that issue.

Q. Isn't it true when the case first came up Congressman Traficant asked you to call Dave Sugar, Senior?
A. That's true.
Q. And the two were related, correct?
A. I take that back. The Congressman mentioned -- told me that Dave Sugar, Junior would be calling me, that he had a problem, and that he'd like us to help him.
Q. Now, in terms of the work that you actually did, isn't it true that at Congressman Traficant's direction you drafted a letter to be sent to the Judge that was the sentencing Judge in his case?
A. Per the Congressman's instruction and also the attorney that was involved.
Q. And who was the attorney that was involved?
A. Attorney Mark Colucci.
Q. Who got attorney Mark Colucci involved?
A. I did.
Q. At whose direction did you get attorney Mark Colucci involved?
A. Congressman Traficant.
Q. So Congressman Traficant instructed you to get Mark Colucci to represent Dave Sugar's son, correct?
A. If I may, sir, the way the situation entailed was I did speak to Dave Sugar, Junior, and his problem required the assistance of an attorney, outside the scope of what I

could do, and I did tell the Congressman that, and he said see if Mark Colucci would be able to take the case, and I called Attorney Colucci.

Q. Now, isn't it true that after Mr. Colucci took the case that he would send you detailed memos regarding a status of the case for you to forward to the Congressman?

A. Yes. He did send me memo to that.

Q. And isn't it true that that was an incredibly unusual thing?

A. In which respect?

Q. Have you ever referred constituents to an attorney before?

A. Yes, Attorney Colucci would be the one.

Q. And isn't it true there was never another case where after you made the referral, that Mr. Colucci would actually send memos to you to give the Congressman, to advise him on the details of how the case was going?

A. Outside of the Sugar case, I can't recall any that comes to mind.

Q. And isn't it true when you testified at the Grand Jury you testified it was unusual for that to happen?

A. Unusual in the respect that the Congressman, in fact, asked me personally to get involved in it, but outside of the fact of Mark setting it up, since we initially asked him to do it, I didn't see what would be unusual about it.

It was quite informative.

Q. But isn't it true you said it was unusual for the Congressman to take that kind of interest to actually be monitoring what the lawyer you would refer was doing?

A. In that respect, it could be unusual, but the Congressman monitored a lot of things that he would ask me to do.

Q. Can you think of another time that he monitored the representation of an attorney where you referred a constituent, sir?

A. Not to my knowledge.

Q. I'd like to show you Government's Exhibits -- actually, if you want to write these down, pull them out of your evidence 5-2(1), 5-3(1), 5-2(2), 5-4(1), and 5-5. 5-1 and 5-5 have been admitted into evidence. 5-2(1), 5-3(1), and 5-2(2) have been provided to the court by the Defendant and not yet been placed into evidence.

I'm going to first show you Exhibits 5-2(1), 5-3(1), and 5-2(2.)

THE COURT: We only have one of the ones in evidence you mentioned: 5-2(2) is in evidence and is a joint exhibit.

MR. MORFORD: I'm sorry, your Honor. I also had 5-4(1) and 5-5 as joint exhibits. I'm not sure. Is that right?

THE COURT: Is 5-5 in evidence?

MR. TRAFICANT: I'd like to know which ones are joint exhibits.

THE COURT: Both -- 5-5 is admitted as a joint exhibit. 5-4(1) has a joint exhibit sticker on it, but we don't have a record of it being admitted.

MR. MORFORD: We had it as -- I can set the foundation and go back through it.

THE COURT: Okay. We've got the transcripts. We can check it.

MR. KALL: Page 3009 in the transcript.

Q. Sir, I'm going to walk you through a couple documents. Let's start with 5-2(1)?

THE COURT: It's admitted. You're correct.

MR. MORFORD: Which one?

MR. TRAFICANT: 5-1(1).

THE CLERK: 5-4(1) is, but not 5-4(1).

MR. MORFORD: Okay.

MR. TRAFICANT: Which document are we talking about now?

MR. MORFORD: 5-4(1) is a joint exhibit in evidence as is 5-5.

I am right now showing the witness Exhibit 5-2(1). I apologize for not using my parentheses. That's my fault.

THE COURT: That's okay. Everybody has to be

patient with this. This is one of the great features of the system. This is the way of preserving things after they happen, so that somebody can go back and actually assess them. It's a very important part of our system, but it's boring for everybody.

BY MR. MORFORD:

Q. Do you recognize this Exhibit 5-2(1)?

A. Yes, sir.

Q. And is this a memorandum that you prepared?

A. Yes, sir.

Q. Did you prepare it in the ordinary course of business?

A. Yes.

Q. How about Exhibit 5-3(1), do you recognize that?

A. Yes, sir.

Q. Is this a fax that you received from Mr. Colucci?

A. I would say yes, it is.

Q. And did you keep a copy of that in the ordinary course of business as part of your files?

A. I should have, yes, I would have kept a copy, Mr. Morford.

Q. How about 5-2(2)?

A. Yes, sir.

Q. What is that?

A. This is a memo that I gave to the Congressman.

Q. This is a memo you created in the ordinary course of business, correct?
A. Yes.
Q. And all these are documents you would have made and maintained as part of your files on the Sugar case, correct?
A. Yes, sir.
MR. MORFORD: Your Honor, at this time, can I please put this on the overhead?
THE COURT: Yes.
MR. TRAFICANT: I ask they all be made joint exhibits.
THE COURT: That's fine, and, of course, we always try to do that at a break. But it's fine, Congressman.
MR. TRAFICANT: For the record.
BY MR. MORFORD:
Q. First document, you said it is a memorandum, correct?
A. Yes.
Q. And this is a memorandum from you to Congressman Traficant, correct?
A. Yes, sir.
Q. And the subject says case in summary, Dave Sugar, Junior?
A. Yes.

Q. And then what's the date on that, sir? Can you see that?
A. It's kind of blurry for me here, June 16, '99.
Q. Okay.
A. Yeah.
Q. And this was a memorandum attaching a memo from Mark Colucci, right?
A. It could have been, yes.
Q. Well, it says please find attached a case summary, 12 pages including cover page of Dave Sugar, Junior, as you requested. It is Colucci's understanding that he continues to be Mr. Sugar's representative unless otherwise advised, correct?
A. Yes.
Q. And did you write this memo base based on your conversation was Mr. Colucci?
A. Yes.
Q. Exhibit 5-3(1), what is this document?
A. That's a fax -- I believe that's a fax that Mark Colucci sent to my attention for the Congressman.
Q. And what was Mr. Colucci asking you to have the Congressman do?
A. Just what it says there, write a letter of support for an appellate bond matter.
Q. And next is the memo marked 5-2(2), do you see that

one?
A. Yes.
Q. And that's also dated June 16, correct?
A. Yes.
Q. And this is to Congressman Traficant from you?
A. Yes.
Q. And the subject is address for Judge Spahr, sentencing judge?
A. Yes.
Q. And isn't it true that you were trying to get the Congressman to send a letter to the Judge that Dave Sugar's son would get a lesser sentence?
A. Attorney Colucci asked that if we send a letter from the Congressman it would help.
Q. That's not my question. My question was, that's what you were trying to accomplish. You were trying to get the Congressman to send a letter to the Judge so that Mr. Sugar could get a lesser sentence, correct?
A. If he was -- yes, I would imagine, but I don't know if he was being sentenced. I can't recall what his actual issue was. Attorney Colucci said an appellate bond issue. I am not an attorney, so you're going above my head a little bit.
Q. Did you, in fact, write and send a letter to the Judge on behalf of Mr. Sugar?

A. Yes, I did.
Q. And isn't it true that before that letter went out you had Congressman Traficant review that letter?
A. Yes.
Q. And he did review it, correct?
A. Yes.
Q. And then you sent it out at his direction, correct?
A. Yes.
Q. You also sent a letter to Mr. Billak, Rick Billak at the Community Corrections Association on behalf of Dave Sugar, Junior, correct?
A. Yes, sir.
Q. Before that letter went out, you gave it to Congressman Traficant to review, correct?
A. Yes.
Q. And you sent that letter at his direction, correct?
A. Yes.
THE COURT: Is this a good time for a break?
MR. MORFORD: Yes, your Honor.
THE COURT: All right.
We'll give you a 30-minute break for the jury. You'll have to come back. Okay?
THE WITNESS: Yes.
(Proceedings in the absence of the jury:)
THE COURT: I understand there's been some --

there's been some discussion about whether we should rearrange the way testimony is going to come in today, and I need to know things I don't know. We have Mr. Saadey here with his lawyer, ready to go forward. The jury is in the back.

Congressman, do you have another witness today? I thought you had one more person.

MR. TRAFICANT: I do have one more person, but Mr. Saadey has asked that he and his attorney asked if they can clear up their matter today.

THE COURT: Um-hum. Well --

MR. TRAFICANT: And I want to state for the record one thing, clearly, really clearly --

THE COURT: Who's your witness first.

MR. TRAFICANT: Linda Kovachik is here.

THE COURT: Okay.

MR. TRAFICANT: I want to state for the record I was never asked by the counsel of the Defense to do anything. He found out, and in the paper there was a tape. He contacted me up here relative to concerns that it might have something to do with the particular case involving his client.

As a result of that, he asked me not to do anything. I upon my own took an action because of things that may or may not have been harmful to his client, period.

THE COURT: I think his client -- I mean, I think the attorney has made that clear. It does raise a whole new issue regarding the cross-examination that we're going to do with this gentleman, but I thought about that, and there is an issue that we have to decide that has to do with whether or not there has been something which would invalidate, basically, the testimony of this witness, which is what you heard the Government claiming.

I don't mind handling that -- oh, the jurors are here. Okay. Hold on. We got to take some jurors through.

(Pause.)

THE COURT: There are issues under Rule 26. Now, as the trial Judge, I have a whole bunch of obligations, and one is to this case, and I will go forward with the cross-examination of this witness so there is an accurate record of it. We're doing it out of the hearing of the jury, just as we have originally planned to do. It may turn out when we have time after they've gone and everybody's gone to discuss the impact, if any, that the Government is suggesting there may be because of the actions you took apparently with this tape yesterday.

And then -- then we'll deal with that, but at least we'll have the testimony recorded when these people are here, and we need to do that, even though in the long run we may not be able to proceed in the way we had thought we

could. This case has so many issues in it.

MR. MORFORD: Your Honor, not to create another issue, but I have just two last questions of Mr. Traficanti. Mr. Smith has advised me it will probably take 30 minutes to go through the cross-examination, and I was going to suggest to the Court and move that perhaps we could finish Mr. Traficanti, let the jury go, and not have the jury have to sit in the back room for what could be between 3:30 and 4:30 when they'd have to go anyway.

THE COURT: Hold on a second. Is the whole jury back now.

DEPUTY MARSHAL: Yes, your Honor.

THE COURT: So what he's suggesting is that I -- we wait a few moments and complete your cross-examination of Mr. Traficanti. I'll let you respond to that.

MR. TRAFICANT: Only thing that bothers me, I don't want Mr. Traficanti to have to come back up here tomorrow and eliminate my time to go ahead on redirect. Now, if you're going to take five minutes, fine.

MR. MORFORD: Two minutes.

THE COURT: Two minutes.

MR. SMITH: We're suggesting we do Mr. Saadey at 4:30 is what we're suggesting.

THE COURT: Oh, yeah. But, see, what I don't

know is how long they think it's going to take so I have to rely on you.

MR. TRAFICANT: I would like to see the jury leave as soon as we're through with Mr. Traficanti. If they're only going to take two minutes, I will then be allowed to do my redirect of Mr. Traficanti, and if we're done at 4:00, then -- or whatever it might be.

THE COURT: We'll let the jury go.

MR. TRAFICANT: Let the jury go whatever that be for Mr. Saadey.

THE COURT: That sounds like a really good solution. So it's good for everybody except the people who have to wait. But, hey, okay.

MR. KOPP: I'm already a day and a half longer than I thought.

(Laughter.)

THE COURT: Okay. You'll have to go and wait in an appointed place, sir. Thank you.

MR. SAADEY: Thank you.

THE COURT: We'll bring in Mr. Traficanti and bring out the jury.

(Proceedings resumed in the presence of the jury:)

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

THE WITNESS: Yes, ma'am.

THE COURT: All right.

BY MR. MORFORD:

Q. Mr. Traficanti, did you talk with your boss at all over the break about your testimony?

A. No.

Q. I just have one last area to ask you about rather quickly. During the years 1991 and 1996, the first five years you worked with Congressman Traficant's office, you received your pay by paychecks that were mailed to you, correct?

A. Yes.

MR. MORFORD: I have nothing further, your Honor.

THE COURT: Thank you.

REDIRECT EXAMINATION OF ANTHONY TRAFICANTI

BY MR. TRAFICANT:

Q. Anthony, you just been subject to pretty serious questioning. Is that a fact?

A. Yes.

Q. Is that the way you've been treated by the Government from the beginning?

A. It's been.

MR. MORFORD: Objection.

Q. Were you indicted for lying to the Grand Jury?

A. No.

Q. How old were you when I went to trial?

A. About seventh grade, 11, 12 years old.
Q. Did I ever compel you to work at the farm?
A. No.
Q. Aren't there federal regulations that govern --
MR. MORFORD: Your Honor, I'm going to object. It's his witness, and we're getting back into his testimonial questions, calling for yes or no answers.
THE COURT: Well, if you've been made known about governmental -- what are they? It depends on what you know about them firsthand or not.
THE WITNESS: Could he repeat the question?
THE COURT: We'll see.
BY MR. TRAFICANT:
Q. Anthony, when you went to Washington, D.C., were you just my chauffeur?
A. No.
Q. Did you work during the week in the office?
A. Yes.
Q. And you talked about a hot shower and hot water. Who would shower first?
A. Usually, you would.
Q. Why?
A. Because I would run the hot water tank out.
Q. Now, you have testified the inside of the boat was beautiful, was that your testimony?

A. Yes.
Q. Was it unusual wood of a classic style boat?
MR. MORFORD: Objection to the testimonial questions, your Honor. He can ask open questions.
Q. How would you describe the inside of that boat?
A. It had -- it had cherry wood -- like cherry wood trim, had a wooden table, like a little living room, and it had like a little bedroom down to the left, nice wood, bathroom, shower.
Q. Was it a small boat or big boat?
A. Fairly big. It wasn't massive. I think it was a 38-footer. I can't remember.
Q. Now, when your father come down, was I present with you?
A. Yes.
Q. Did I work with you.
A. Yes.
Q. Was there ever any time that you were in Washington, D.C. that you failed to put in 40 hours?
A. No, not -- I worked long hours.
Q. Now, if the Congress was opened and in session until midnight, where would you be?
A. Right there in the office.
Q. Now, he asked you some questions about Mr. Rovnak. Do you recall those questions?

A. Yes.
Q. When you worked for the congressional office, did Mr. Rovnak come to work?
A. Yes, I said that.
Q. And you had personal knowledge that he came to work?
A. I seen him there, yes.
Q. Did you work close to him?
A. Yeah, yes.
Q. Did you share furniture?
A. Yes. We used to fight over the front receptionist desk for a place to sit because there was no room.
MR. MORFORD: Objection, your Honor. He's got to ask open-ended questions. It's his witness.
BY MR. TRAFICANT:
Q. Did you ever volunteer --
THE COURT: You have to -- you have to put whatever it is you're hoping to put before this jury into a form that will allow the testimony to come from the person who's on the stand.
Q. Did you ever volunteer to do work for me?
A. Yes.
MR. MORFORD: Objection, it's the same thing.
THE COURT: That's not it. You have to disregard that.
BY MR. TRAFICANT:

Q. To the best of your knowledge, did Congress of the United States have rules and regulations?
A. Yes.
Q. When a case reaches a point where it cannot be resolved, whom, if anybody, is the person of last resort in our District Office?
A. You.
Q. How many times does that occur?
A. Quite a few.
Q. What, if anything, do I do when that occurs?
A. You never fail to take action. You jump right in.
Q. Was there anything different about that in the Sugar case?
A. In what respect?
Q. I mean, isn't that something that I would do in any other case?
A. That's fair to say yes.
Q. You testified earlier to a gross of $300,000, is that your statement?
A. Yes.
Q. What is your net, rough net approximate income?
A. Net?
Q. Yes.
A. After taxes, maybe less than $100,000. I don't know. I don't have my return in front of me. So I couldn't

answer honestly. It's a fair assumption.
Q. Do you know if the IRS was at any of the meetings with the FBI?
A. With who?
Q. Whenever they met with you.
A. No. I don't recall any IRS people being there.
Q. Do you know if the IRS -- you have any knowledge that the IRS was at the trucking company?
A. I believe there was an IRS agent that met with an associate of the trucking company, yes.
THE COURT: Were you there?
THE WITNESS: No, ma'am.
THE COURT: Please stop testifying to things that you don't have personal knowledge of.
THE WITNESS: Okay. It was told to me.
THE COURT: Right. That's what we're referring to.
THE WITNESS: Okay. Help me out.
THE COURT: Okay.
Q. Who would call to you come upstairs on Overhill Road?
A. You.
Q. Would you come up?
A. Yes.
Q. In your mind, did you ever abuse vacation days?
A. No.

Q. In your mind, did you ever take advantage of vacation time?
A. No.
Q. Would you rather have taken your girlfriend to lunch than put hay in a barn?
A. That's true.
Q. To your knowledge, did there come a time when we decided that Mr. Sugar needed some --
MR. MORFORD: Objection again as to the form of the questions.
Q. Was it your impression that Mr. Sugar needed some form of legal counsel?
A. Sugar, Junior did.
Q. Sugar, Junior?
A. Yes.
Q. Did you and I converse about that?
A. Yes.
Q. Did you make any recommendations?
A. Yes.
Q. What, if anything, happened on the strength of those recommendations?
A. It was given to Attorney Colucci.
Q. Now, they put a number of documents up on the board, with memos and faxes. Is that unusual that -- to communicate about cases in a congressional office?

A. No, memos and faxes come over the machine all the time, E-mails, whatever.
Q. And are they not, in fact, confidential?
A. I guess. They should be.
Q. Were you ever asked by the federal government to give you any confidential files?
A. Was I asked to give the federal government?
Q. Yes.
A. Outside of my pay stubs, no, I wasn't compelled to give anything to them.
Q. Was it your impression that you were compelled to give it to them?
MR. MORFORD: Objection, your Honor, as to who's testifying.
THE COURT: Sustained.
THE WITNESS: My -- you are referring to my pay stubs --
THE COURT: That's okay, just wait. Let the Congressman rephrase the question.
THE WITNESS: Oh.
BY MR. TRAFICANT:
Q. Now, the Prosecutor brought up the fact that you had sent a letter to the Judge; is that correct?
A. Yes, he did.
Q. He brought up the fact that I had reviewed that

letter; is that correct?
A. Yes, he did.
Q. Do you know or have knowledge of cases where I do intervene and review communications?
A. Yes.
Q. Do I know of every DUI or constituent complaint that comes to our offices, Anthony?
A. No.
Q. Do I get a report of John Doe or Jane Doe and what happened to them every week?
A. No.
Q. Who is responsible in Columbiana County for that?
A. Myself.
Q. Now, was the tone and tenor of the first meeting you had with the FBI as aggressive as the tone and tenor of Mr. Morford's prosecution of you here today?
MR. MORFORD: Object.
THE COURT: Sustained.
Q. Why were you twice at the Grand Jury, Anthony?
A. To testify.
Q. Did any of the member of the Government give you the reasons why they called you back a second time?
A. Well, I found out when I was there. They had more questions for me. They dealt with my lawyer.
Q. Did the Government ever attempt to twist your words

into some other intent?

MR. MORFORD: Objection, again. He's testifying.

THE COURT: Sustained.

Q. Did you have an impression that what you said was not being received satisfactorily by the Government?

MR. MORFORD: Objection.

THE COURT: Sustained, sustained. Move on to something else, Congressman.

Q. What was your impression of your testimony at the Grand Jury?

MR. MORFORD: Objection.

THE COURT: You're asking him for his impression of his own testimony?

MR. TRAFICANT: Yes.

THE COURT: Well, you can answer that. If you have an impression of your own testimony.

THE WITNESS: My impression was that I was very truthful.

BY MR. TRAFICANT:

Q. Now, you remember the Prosecution asking you that Congressman Traficant give you 20 days of vacation?

A. Yes.

Q. Are you familiar with federal rules and regulations regarding operations of congressional offices?

A. Yes. Not an expert, but --
Q. In recent years, have there been changes?
A. In which respect, Congressman?
Q. Relative to rules of the Congress.
A. I know that Congress is a body in and unto itself that polices itself, but our vacation days, our work hours are set according to OPM standards, is what Congress bases those guidelines on. But I couldn't get into anything in depth, to any legalities of that sort.
Q. Do you recall your first meeting with the FBI?
A. Yes.
Q. Did they refer to me as a target?
MR. MORFORD: Objection. This is way beyond the scope of any cross-examination, and it's been asked and answered.
THE COURT: You can answer this.
THE WITNESS: Yes.
Q. When was the first time you met with them?
A. June 2000. It was either June 6 or June 9th. I can't remember the exact day. It was a Wednesday, I believe.
Q. And that was the same date they raided your dad's company?
MR. MORFORD: Objection. He wasn't there. He has no firsthand knowledge of that.

THE COURT: It's okay. You can testify to that. You testified that you found out about that, right?

THE WITNESS: Yes, that's true. Yes, I found out about it. I wasn't there.

BY MR. TRAFICANT:

Q. As a congressional liaison, in addition to your driving, how many hours did you put in that office?

A. When I worked in Washington?

Q. Yes.

A. 40-plus hours a week.

Q. How long did it take us to get back and forth?

A. Six hours, could be longer, depending on traffic, weather, those sorts of things.

Q. How about when we were in the black Avanti?

A. Took a lot longer.

MR. TRAFICANT: No further questions, your Honor.

THE COURT: Thank you.

MR. MORFORD: Nothing, your Honor.

THE COURT: Thank you, sir. You may step down.

THE WITNESS: Thank you, Judge.

THE COURT: Carefully.

The steps are very old.

THE WITNESS: Okay.

THE COURT: You have one more witness here?

MR. TRAFICANT: Yes, I was --

THE COURT: Good.

MR. TRAFICANT: Do you want me to bring that witness on?

THE COURT: You brought a witness here today. We'll do your witness. You got a jury here.

MR. TRAFICANT: I was under the impression we were going to let the jury go --

THE COURT: We'll let the jury go after we've heard your witnesses that you've brought today.

MR. TRAFICANT: This witness.

THE COURT: And 4:00 or 4:30, whichever is earlier. Okay? We stay here until up to 6:00 if we have to, but you got a witness, we're here to hear it.

MR. TRAFICANT: Well, I'd like to move that the -- since it's going to be some length of time with this witness, that we dismiss the witness and move forward with Mr. Saadey.

THE COURT: No, no, no. We have a witness here, and we have a jury here, and the Judge is here, and it's not 4:30. We put testimony on for the jury. You and I work in the other areas after the jury goes or during the breaks when we don't need them. Please call your next witness.

MR. TRAFICANT: I have to do it myself.

THE COURT: Well, that's okay.

THE COURT: Raise your right hand.

LINDA J. KOVACHIK,

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

DIRECT EXAMINATION OF LINDA J. KOVACHIK

BY MR. TRAFICANT:

Q. Would you please give your name, and spell your last name then for the jury?

A. Linda, L-I-N-D-A, J-A-N-E, Kovachik, K-O-V-A-C-H-I-K.

Q. Where do you reside?

A. 454 Flagler Lane, Boardman, Ohio 44511.

Q. What street was that again?

A. Flager, F-L-A-G-L-E-R, Lane, Boardman, Ohio.

Q. And you own your own home?

A. No, I rent.

Q. How long have you lived there?

A. Approximately eight years.

Q. Where are you currently employed?

A. Congressman Traficant's office, 125 Market Street, Youngstown, Ohio 44503.

THE COURT: Can the people in the back hear this witness? Put up your arms up if you can't. No, yes?

They can. Very well. You're doing a good job.

MR. TRAFICANT: There's water there.

THE COURT: Everyone's nervous.

THE WITNESS: Yes.

MR. TRAFICANT: There's water there. I don't know if that water was left by somebody else.

THE COURT: I don't think it's possible to be a witness on the stand and not be nervous.

THE WITNESS: Thank you.

BY MR. TRAFICANT:

Q. When did you first start working for my congressional office?

A. January 1985.

Q. In what capacity were you hired?

A. A staff representative.

Q. Were you full-time?

A. Part-time and then turning into full-time.

Q. How long were you part-time?

A. I'm trying to remember. Possibly six months or so.

Q. And then you were promoted to full-time position?

A. Yes, sir.

Q. And where were you working, located at that time?

A. I'm sorry, sir. Would you repeat that, please?

Q. Where was your duty station located at that time?

A. Overhill. I'm trying to think of the address there.

Is it 20 Overhill Drive?

Q. Is that in -- on the -- where is that located?

A. It's off Market Street in Youngstown, Ohio, Overhill Drive. It's been so long since I've been there.

Q. Is downtown a little bit out of town?

A. It's called uppertown, Market Street, uptown Market Street, between the Boardman area and Youngstown.

Q. Was the federal courthouse built at that point?

A. No, sir.

Q. What did you do before you worked for me?

A. At that time, I was shipping -- shipping clerk, doing textile type work.

Q. Who did you work for?

A. Serv-a-Clean on Madison Avenue, Youngstown, Ohio.

Q. 1985 did you come to meet members of the staff?

A. Yes.

Q. Did you know a Jackie Bobby?

A. Yes.

Q. Did you know a Grace Yavorsky?

A. Yes.

Q. Did you know a Chuck O'Nesti?

A. Yes. Can you hear me back there? That was a yes.

Q. Did you know a Henry DiBlasio?

A. Yes.

Q. Was there a time when you parted service with the

congressional office?
A. Yes.
Q. At approximately what date?
A. Christmas time, Christmas party, 1985.
Q. And how did you come to be released, or how did you -- were you -- how was your employment terminated?
A. I was not terminated. I resigned.
Q. You resigned?
A. Yes.
Q. Was there any specific reason why you resigned?
A. I was doctoring for -- my nerves were bad. I had ill feelings in the office with management, and it got so over the years that it played to my nervous system, and I -- I just decided I would part and respect you in your job and your ways and go on with my life. It wasn't a pleasant thing, but that's what I decided.
Q. You only worked one year then, is that a fact?
A. No. I worked until 1990.
Q. So you resigned in 1990?
A. Yes.
Q. Now, you said that your nerves were frayed. What were some of the causes for your nerves to be frayed?
A. Well, in an office with women, I don't know about gentlemen, but you've got to go along to get along, and I try to do that, and I felt that I did it, and I carried my

weight, as best I could, to the best of my knowledge. But sometimes I was a little belittled.

Q. Who belittled you?

A. Betrayed.

Q. I didn't hear you. I'm sorry. I thought you completed your statement. You said belittled?

A. I'm trying to think of the way I felt, and I was belittled and betrayed in the office, and I felt very ill about that, to think that could happen because I felt I was pretty devoted.

Q. Who belittled you?

A. My superior, and it would be manager at the time.

Q. Who was your superior?

A. Would be Jackie Bobby.

Q. What, if anything, did she do to you?

A. Well, she got kind of into my social life after work, where I went, where I partied. I didn't type, and she knew that. I was the receptionist at the time, and I was so proud to be a part of the congressional office that I would learn or do anything, which I did attend typing class, but something just didn't quite please my manager, and it was a sad time for me.

But I made a decision to do this on my own. I was never fired.

Q. Did you take courses to learn --

A. Yes, I did.
Q. -- how to type?
A. Yes.
Q. When you say that you were belittled, in what forms were you belittled?
A. Well, I seem to come to be the in-between of two people in the office that had rivalry, to take power over the office. I was like Mrs. In between, and I was being squished there. I didn't want a part of this game plan, and I could see it. I worked with it. I experienced it. My friends, my family, they -- it's easy to tolerate some things, but others get too aggressive. It's a woman's thing, I believe.

It was either convert or exit. I took the exit with the recommendation of my doctor. I talked to my doctor about it, and it wasn't good for my health at the time.
Q. Was it your impression that you had to maybe take sides with rivalries?

THE COURT: Now you're making the statement for her. You need to ask her questions. You need to speak louder because I don't think everybody can hear you, and it's really important since you're here that we hear you. So take it out of the stand.

THE WITNESS: Oh, take it out?

THE COURT: If you want. That makes it a

little easier. Hold it near your mouth, right on your mouth but near.

THE WITNESS: How's that? Everybody hear me? Okay.

THE COURT: All right. Let's go.

THE WITNESS: I'm sorry, I'm nervous.

BY MR. TRAFICANT:

Q. When you use the term rivals, to whom were you referring to?

A. Jackie Bobby and Grace Yavorsky at the time. Kavulic I believe her name is now but Grace Yavorsky.

Q. Do you know if she's since been married?

A. Yes, she has gotten married.

Q. You know her last name?

A. I believe it's Kavulic, something like that. I'm not remembering exact spelling of the last name, but she did get married. She got married.

Q. Was there tension in the office?

A. Pretty much everyday. Pretty much everyday there was tension.

Q. Did you like Mrs. Bobby?

A. Yes. I just didn't like her ways. Nice person, personally. She's a nice person.

THE COURT: Congressman, it's getting on. It's after 4:00. So if you'd move along a little more with

these questions, it would help.

BY MR. TRAFICANT:

Q. Did you like Mrs. Yavorsky?

A. Yes. I respected -- I respected my superiors. I respected my instructions of what to do and how to retain myself. I respected that. I just came to not liking them as the years had gone by and certain things that happened.

Q. What types of things that happened?

MR. KALL: Objection.

THE COURT: Well, I don't know what it's going to be relevant to, but answer the question. If there's something you have in your mind, tell us what it is that happened, these certain things.

THE WITNESS: It was more or less a power struggle of who wanted to represent the Congressman, who didn't. She stays home; she stays in the office; don't tell Grace Jackie's doing this; don't tell Grace; don't tell Jackie Grace is doing this.

I couldn't quite keep up with this tennis type office, and that's what it got to. It was -- at times, I wondered who was the Congressman.

Q. Did I look over people's shoulders at work?

A. Pardon me, sir.

Q. Did I look over people's shoulders at work?

A. Never, never, absolutely not. You had a lot of trust

in your staff, and I think they did a qualified job for you.

Q. Did you know Mr. O'Nesti?

A. Yes, I did.

Q. Were you a friend of Mr. O'Nesti's?

A. Yes.

Q. Would you meet with him often?

A. Yes. I confided in him. He confided in me. I explained a lot of things to him that were going on in the office because as chain of command, that's what we were to do. It was like the top person on down, and I would confide in him, and he would tell me that there's things that are beyond his way of handling it because some things would get out of control.

If it's getting a bit too much for me, he'd try to help resolve it and talk to people. He did, but things persisted in happening the same as always until I told him one day, I said that nice man, I have a lot of respect for Chuck O'Nesti. I treat him like a superior, and we can correspond as far as anything related to work, and he was there for me.

And I -- I was sad when I told him I was going to resign, and he was also saddened, but he understood.

Q. Did you have knowledge of whether or not he got along well with Jackie Bobby and Grace Yavorsky?

A. Well, in my presence of being there, it wasn't too pleasant when they would be arguing. I didn't care for that at all. I didn't care for the outrages and the power struggle again, who said this, who said that and seemed like Chuck was always in the middle, and I was a neutral person. And I -- I didn't want to say too much. I don't think it was my part to do that.

Q. To the best of your knowledge, did Chuck like Jackie Bobby and Grace Yavorsky?

A. He wouldn't let them in his room.

Q. I didn't hear you.

A. I don't want to laugh, but Chuck would kind of shut the door and kind of keep the ladies out, and I respected that, too, because I didn't want to be running his into room either, but Chuck was like, if you need me in case of emergency, come and -- going at each other's throat here. So I respected that.

Q. Did you ever see Chuck argue with those two?

A. Many times, many, many times.

Q. Did you ever hear Chuck complain about those two?

A. All I know is, as the years went by, I spent five years there, and I -- I just kind of shook my head one day and said, Chuck, I don't know, you're Q towering. It's hard working with women, I know -- he said I can't really.

MR. KALL: Objection, your Honor. That's

hearsay.

THE COURT: Right. We can't take from you what he said; just what you know.

Q. Did you have many private conversations with Mr. O'Nesti?

A. Yes.

Q. Now, did there come a time -- after you resigned from the congressional office, what did you do?

A. I went on with my life and with my unemployment. I did receive unemployment, and I felt very hurt, Congressman, because it -- it was a great privilege and honor to work with you, and sometimes health comes in between, nerves and whatever, and I just, you know, I went on with my life, went to the welfare department and got into another job, working with people.

Q. Did you have any jobs after that?

A. Yes.

Q. And what jobs did you have?

A. The Human Services on Harland Avenue.

Q. What kind of services?

A. Human Services.

Q. You worked for the Human Services Department?

A. Yes, yes.

Q. And for how many years?

A. '91 I believe I got that job in '92. I went into

the limousine service.
Q. In '92, what did you do?
A. I went into the limousine service.
Q. Was it your own limousine service?
A. Yes, I was trying it out.
Q. Did there come a time when you rejoined the congressional staff?
A. I always kept in touch with Chuck O'Nesti because he had respect for me, and I had respect for him, and he was kind of -- he was a caring person, and he knew that I was hurt over it all. I talked to you several times, and we supported you as Congressman. Personally with my work in the office, I left them there and shut the door.
THE COURT: Now, the question was: Did there come a time when you rejoined the congressional staff? And that would be the question you want to try and answer.
MR. TRAFICANT: Yes.
Q. Did there come a time you rejoined the congressional staff?
A. Yes. I rejoined the staff after talking to Chuck O'Nesti and with his encouragement to say Linda, go back to the Congressman's office. I know you're a good worker and the Congressman needs you. I said I don't know about these kickbacks, Mr. O'Nesti. He says I had not --
MR. KALL: Objection, your Honor.

THE COURT: Okay, whoa, whoa, whoa. As the Congressman knows, that's precisely the sort of statement that we have to deal with out of the hearing of the jury before we present it to the jury.

MR. TRAFICANT: Your Honor --

THE COURT: Don't "your Honor" me, Congressman Traficant. You can continue if you have other questions, but not that one.

BY MR. TRAFICANT:

Q. When did you rejoin my staff?

A. I rejoined it February 2, 2000.

Q. What was your position at that time?

A. Staff representative.

Q. Were you part-time or full-time?

A. Full-time.

Q. Was Jackie Bobby still on the staff?

A. No, sir, she was not. Jackie was gone.

Q. Was Grace Yavorsky still on staff?

A. No, sir.

Q. Did you have a conversation with me relative to rejoining the staff?

A. Yes, sir.

Q. As a result of that conversation, what happened?

A. Well, I think that you realized --

MR. KALL: Objection, your Honor.

THE COURT: Don't talk about what you think he realized. Talk about what happened. What happened that you have personal knowledge of?

BY MR. TRAFICANT:

Q. When you talked to me about coming back to work, did you come back to work?

A. Yes. I was happy to come back to work.

Q. Have you worked there ever since?

A. Yes, sir.

Q. And what service center do you work out of now?

A. Downtown Youngstown, at the courthouse, 125 Market Street, Youngstown, Ohio 44502.

Q. During the time that you were not in my employ, did you still -- were you still active in political campaigns?

A. Oh, yes.

Q. Did you support my campaign?

A. Absolutely, absolutely. Family and friends, even when we departed --

THE COURT: Just answer the question.

THE WITNESS: Okay.

Q. Did you ever campaign on work hours?

A. No, absolutely not.

Q. Are you still a campaign, volunteer campaign worker?

A. Sure I am.

Q. Did you trust Jackie Bobby?

A. After my experience with them, no. After my experience with Jackie Bobby, no.
Q. Did you trust Grace Yavorsky?
A. No, not after my experience.
Q. Did you ever have reason to confront them?
A. Yes. I confronted -- may I say this, Judge?
Q. What, if anything, happened?
MR. KALL: Objection.
THE COURT: Yeah, you just have to sort of wait until he gets to the next question. It's question, answer, question, answer is the way we do this. I think there's an objection.
MR. KALL: Just object to relevance.
THE COURT: Okay. You can answer.
THE WITNESS: I can?
THE COURT: Yes. Ask her the question, Congressman, so she can answer it.
Q. Would you please --
MR. TRAFICANT: I object to these continuous objections. Would you please read --
THE COURT: As you know, and as you yourself do, lawyers and people representing themselves have an obligation to object when there's something. I think the jury understands that. Okay.
Let me go back and read it for you.

He had asked you: Did you ever have reason to confront them, and you said yes, I confronted -- may I say this, Judge, and then he said what, if anything, happened. Now, you can answer what, if anything, happened.

THE WITNESS: I was confronted by my social activities after work, that I had been drinking too much, staying out maybe too late, which was irrelevant with the office, having anything to do with it.

I was set back pretty far on that one.

Q. Was it your impression that you were not liked?

A. Yes, and hurt, very hurt over it. I hadn't done anything to these two people, believe me.

Q. Were you ever belittled?

A. Yes.

THE COURT: She's testified to these things. We have five minutes left with the jury, Congressman.

Q. Did anyone other than Jackie Bobby or Grace Yavorsky belittle you?

A. Not to my knowledge, no.

MR. TRAFICANT: No more questions at this time.

THE COURT: Thank you. Ladies and gentlemen, we will recess you for --

MR. KALL: Your Honor --

THE COURT: We'll bring you back tomorrow --

excuse me. You're going to have to be back here tomorrow morning, ready to go, be here about 10 of 9:00.

MR. KALL: Your Honor, if it helps, we have no questions unless we get into something on that other matter.

MR. TRAFICANT: Well, I think it's an issue on the other matter that she stay.

THE COURT: Okay. You'll have to come back, I guess. The Congressman told you if he wants you back here, you'll be here 10 after 9:00 tomorrow -- or 10 of 9:00 tomorrow. Okay?

MR. TRAFICANT: Your Honor, unless we handle it tonight after we handle the other matter.

THE COURT: We have a lot of work ahead of us tonight, and I'm not in the business of calling people's witnesses late at night. You want her back here, she'll be back here if it turns out she's not needed, fine, she won't be needed, and she can go home. Okay? See you tomorrow. Remember all your admonitions. And don't let anyone talk to you. Don't read anything, listen to anything, watch anything on TV or get on line with anything regarding this case. And that's not easy. Okay.

(Proceedings in the absence of the jury:)

THE COURT: In between, Congressman, I want to go back to something that will be coming up in a few

minutes and what we're going to be spending some time on after the jury actually leaves today, but before this cross-examination of Mr. Saadey begins, again, I'm going to order you to produce to the United States all, any and all documents or tapes or statements of any kind, whether they are oral, written, oral and summarized, written, whether they're recorded or in any form that relate to the subject matter concerning which he has already testified on direct examination.

United States is entitled to those. You know they're entitled to them, and they have the opportunity to examine them and use them before they cross-examine the witness. We went over this yesterday. And I want you to give them. Everything. I'm going to take the five-minute break after the jury goes out. You give them every single document you have. That's an order. Now, we'll -- I'll be back in five minutes. You guys can work all that out. We'll let the jury go right now.

MR. TRAFICANT: I object for the record.

(Thereupon, a recess was taken.)

THE COURT: You can come up, gentlemen.

MR. KOPP: Thank you, your Honor.

THE COURT: Mr. Smith?

MR. SMITH: Before I start, I'd like to put on the record, despite the Court's orders a few minutes

ago, the Government has received nothing from the Congressman.

Thank you, your Honor.

MR. TRAFICANT: I have no Jencks material for the Government.

THE COURT: It's not Jencks, sir, we're asking --

MR. TRAFICANT: I have no documents for the Government concerning Mr. Saadey, period.

MR. SMITH: I'm asking about the tape as well, your Honor.

MR. TRAFICANT: I do not have the tape. I have destroyed the tape.

THE COURT: Okay. When did you do that?

MR. TRAFICANT: I did that last night.

THE COURT: Okay. And does it totally -- I mean, I don't know how you did it but totally destroyed?

MR. TRAFICANT: It is gone. I have destroyed the tape, and I do not want to discuss the elements of the tape and --

THE COURT: Well, what you want to discuss and what needs to be done are two different things, but right now we have Mr. Saadey here.

MR. TRAFICANT: I will say this for the record. I have been conducting a congressional

investigation and have nothing about Mr. Saadey in his case, other than some people that I was investigating that were involved in this case, period.

THE COURT: I don't know what we're talking about here.

MR. TRAFICANT: They do not pertain to Mr. Saadey.

THE COURT: Well, Congressman, no one will ever know except you, I guess, until and unless you made a transcript, which I had asked to you make. Did you make a transcript of that tape?

MR. TRAFICANT: No. I have no -- no information.

THE COURT: Okay. Well, we discussed this at length yesterday.

MR. TRAFICANT: All I have dealing with that tape has been destroyed, period.

THE COURT: Okay. We'll deal with that issue, but as I said before, because we have this gentleman here and his lawyer and they've been here for a good part of the day, we're going to go ahead and preserve whatever the cross-examination would be here, but it's all subject now to this new thing that has come up with you destroying the tape. So we will now go forward. Okay. Just so that there's a correct record that everyone can see of what is

happening when this witness is cross-examined in terms of his Fifth Amendment and how that may or may not impact on the other issue that we had been spending a lot of time considering in this case. Okay?

MR. SMITH: Yes, your Honor.

THE COURT: Thank you.

VOIR DIRE CROSS-EXAMINATION OF RUSSELL SAADEY

THE COURT: Are you ready? You're still under oath, and your lawyer's right there at your side.

THE WITNESS: Thank you, your Honor.

THE COURT: And you should know when there's a consultation for the record. Thank you.

BY MR. SMITH:

Q. Mr. Saadey, you and I first met last October in Judge O'Malley's courtroom down on the first floor; is that right?

A. Yes, sir, I believe so.

Q. And was I one of the Prosecutors in the case which you were prosecuted in Judge O'Malley's courtroom?

A. Yes, sir.

THE COURT: Can you just pull that up maybe and -- there we go.

THE WITNESS: I'm sorry.

THE COURT: That's okay.

Q. In that trial, did the jury find you guilty of ten

felony counts.

(Witness conferring with counsel off the record.)

THE WITNESS: The record speaks for itself.

Q. Were you found guilty of ten felony counts? That's my question.

A. I don't know.

Q. You don't know what the jury found?

Witness and counsel conferring off the record.)

A. I don't remember how many counts I was convicted of.

Q. Well, the jury returned a verdict finding you guilty of a RICO violation, correct?

A. If you say so. I'm telling you right now, I don't remember.

Q. All right.

And you don't remember being found guilty by a jury, by a jury verdict, in which the RICO enterprise as alleged was that you were part of an enterprise consisting of judges, Mahoning County Prosecutor James Philomena, and certain attorneys to fix drunken driving cases in the Mahoning County court system? Were you found guilty of that by the jury.

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment.

Q. Sir, I am not asking if you did it; I'm asking, did the jury find you guilty of it?

A. My Fifth Amendment I exercise. Thank you.

MR. TRAFICANT: Asked and answered.

THE COURT: Okay. Well, I have to evaluate each one of these to -- under the standards we have, to look at them. Whether or not it's a proper exercise of the Fifth Amendment, which I'm not going to go since there's so many until we get a transcript of it, which I'll have tonight, so just go right ahead, ask the next question. It is the defendant's burden to show that it is a proper exercise to meet the challenge.

Q. Sir, did you accept $200,000 from Phil Courtney and Bob Harvey in connection with their criminal case in order to try to fix their criminal case with the Mahoning County Prosecutor's office?

(Witness and counsel conferring off the record.)

A. I exercise my Fifth Amendment.

Q. Did you, in fact, tell Prosecutor Philomena that you only got $100,000 from Phil Courtney and Bob Harvey so you could keep a larger share of the case fixing proceeds for yourself?

A. Once again, I exercise my Fifth Amendment.

Q. Did you lie to the Prosecutor that you were in cahoots with to fix cases about the Courtney-Harvey case?

(Witness and counsel conferring off the record.)

A. Once again, I exercise my Fifth Amendment.

Q. Did you accept at least $15,000 from a drunken driver named Randy Bailey in an effort to fix his DUI case in the Mahoning County court system?
A. Once again, I exercise my Fifth Amendment.
Q. And at the time that you did that, was Randy Bailey a multiple repeat DUI offender?
A. Once again, I exercise my Fifth Amendment.
Q. Did you keep over $9,000 of Randy Bailey's money for yourself and pass the rest on?
A. Once again, I exercise my Fifth Amendment.
Q. Did you solicit $16,000 from a gentleman named Ken Olsavsky on a DUI case?
A. Once again, I exercise my Fifth Amendment.
Q. Was Mr. Olsavsky pulled over by the police in the parking lot of the Upstairs Lounge, that you were in that parking lot when the pullover happened?
A. Once again, I exercise my Fifth Amendment right.
Q. Didn't you see a golden opportunity arrive right before -- here's a guy I can go to to get money out of to fix his case?
A. Once again, I exercise my Fifth Amendment right.
Q. Because that wasn't the first time you dealt with Mr. Olsavsky, was it?
A. Once again, I exercise my Fifth Amendment right.
Q. Now, sir, did the jury also find you guilty of one

count of extortion in violation of a Hobbs Act by virtue of their verdict?

A. Once again, I exercise my Fifth Amendment right.

Q. Did the jury also find you guilty of filing false federal income tax returns for three separate tax years?

A. Once again, I exercise my Fifth Amendment right.

Q. Did the jury also find you guilty of making false statements to financial institutions on five different credit card applications?

A. Once again, I exercise my Fifth Amendment right.

Q. Now, you still await sentencing; is that right?

A. Once again, I exercise my Fifth Amendment right.

Q. Well, when you're sentenced, you intend --

THE COURT: Well, wait, wait, just a minute. I think before we begin this, the Court was put under the impression anyway that you are a person in between the time when you had a conviction and you're to appear to be sentenced, and it does make a difference to whether or not you assert any Fifth Amendment rights if you've already been sentenced.

We're in a different zone, and I'm assuming you haven't been sentenced. So I need -- I need somehow -- somehow we need to clear this up.

MR. SMITH: I'll rephrase.

Q. You have not been sentenced yet, correct?

A. That is correct.
Q. All right.
THE COURT: Thank you.
Q. After your sentence, you intend to pursue an appeal, correct?
A. That is correct.
Q. So as you sit here today, you still intend to continue fighting against the Government with respect to the criminal case in which you were prosecuted, correct.
(Witness conferring with counsel off the record.)
A. I plan to preserve my appellate rights.
Q. So your relationship to the U.S. Attorney's Office for the Northern District of Ohio has been and will be adverse; is that correct.
(Witness conferring with counsel off the record.)
MR. TRAFICANT: Can you repeat the question?
BY MR. SMITH:
Q. Mr. Saadey, your relationship to the United States Attorney's Office for the Northern District of Ohio has been and will remain adverse for the foreseeable future; is that correct.
(Witness conferring with counsel off the record.)
A. I exercise my Fifth Amendment right.
Q. Now, on your direct examination by the Congressman, you testified about certain statements made to you by one

James Sabatine; is that correct?
A. Yes.
Q. And you testified that in your view, James Sabatine was under pressure to plead guilty, correct.
(Witness conferring with counsel off the record.)
A. I don't believe that's exactly what I said.
Q. All right. Well, at any rate, Mr. Sabatine never denied to you that he was guilty of the offenses to which he pleaded guilty, did he?
Witness and counsel conferring off the record.)
A. He said he gave political contributions, not bribes.
Q. All right. And do you know what -- do you know specifically what offense that Mr. Sabatine was charged with respect to the Congressman.
(Witness conferring with counsel off the record.)
A. I don't, sir.
Q. Do you even know if Mr. Sabatine was charged with bribing the Congressman?
A. I believe I -- I remember reading that.
Q. You think that the -- you think that James Sabatine has been charged with bribing the Congressman under federal law.
(Witness conferring with counsel off the record.)
A. I don't know. I don't know.
Q. Do you know the difference between bribery and

gratuity under federal law?
A. No.
Q. Mr. Sabatine never told you that the Government said anything to force him to say -- to testify untruthfully; isn't that right?
(Witness and counsel conferring off the record.)
THE WITNESS: Can I have that reread, please?
MR. SMITH: Yeah.
Q. James Sabatine never told you that the Government said anything to force Mr. Sabatine to testify falsely; isn't that right?
(Witness and counsel conferring off the record.)
MR. TRAFICANT: Can you repeat that question?
THE COURT: No, he's considering it.
THE WITNESS: He was under pressure to do certain things so he could protect himself.
Q. All right. Mr. Sabatine was feeling pressure. You agree with that?
A. Yes, sir.
Q. Now, you've been a RICO Defendant yourself, correct?
A. Yes, sir.
Q. And you felt pressure simply by the virtue of the fact you were charged with a criminal offense; is that right?
A. I exercise my Fifth Amendment.

Q. Well, isn't it true that you personally experienced pressure simply by virtue of the fact that you've been charged with a criminal offense; isn't that true?
A. I exercise my Fifth Amendment right.
Q. I mean, the Government doesn't have to say anything to a criminal defendant in order for a defendant to feel pressure once they've been charged, right?
A. I exercise my Fifth Amendment right.
(Witness conferring with counsel off the record.)
Q. You said that Mr. Sabatine was feeling pressure, correct.
(Witness conferring with counsel off the record.)
A. Yes.
Q. What was the source of that pressure, as you understood it?
Witness and counsel conferring off the record.)
A. I believe the pressure was coming from the FBI.
Q. All right.
And what specifically did the FBI do to create that pressure on Mr. Sabatine?
Witness and counsel conferring off the record.)
A. They threatened to take everything he had.
Q. And how do you know that, that they said something like that?
A. It was in our conversation.

Q. So Mr. Sabatine told you that the FBI threatened to take everything he had, or was that the conclusion he drew from the conversation? Which was it?

(Witness and counsel conferring off the record.)

A. Will you repeat that, please, Mr. Smith?

Q. Did Mr. Sabatine come to the conclusion that he was being threatened with the loss of everything he had through something that the FBI said to him or through his own mental processes?

MR. TRAFICANT: Objection. How would he know what's in Mr. Sabatine's mind?

Q. Well, you just said you had a conversation with Mr. Sabatine, didn't you?

MR. TRAFICANT: Ask him about the conversation.

MR. SMITH: That's what I just did.

MR. TRAFICANT: Not what was in his mind.

THE COURT: You can answer. If you know, you can answer.

MR. TRAFICANT: I object to this.

THE COURT: I understand you do, but --

MR. TRAFICANT: You never allowed anybody to testify regarding what was in their mind about my questions.

THE COURT: The jury is not here. This is a

special voir dire, and this is the Government's time --

THE WITNESS: I don't know.

THE COURT: -- to cross-examine. He has his lawyer sitting next to him. He's doing very well. Thank you.

MR. TRAFICANT: I'm trying to do my best as well.

THE COURT: No problem.

BY MR. SMITH:

Q. Did Mr. Sabatine say that the threat that he was going to lose everything he had -- did he say it came from the FBI or that it came from his own reaction to the visit by him?

A. I don't know.

Q. And so as you sit here today, you can't say for sure that the pressure that Mr. Sabatine felt about everything he owned came from the FBI, can you.

(Witness conferring with counsel off the record.)

A. That's where the pressure came from originally with him.

Q. All right.

MR. TRAFICANT: I didn't hear the answer.

MR. SMITH: Mr. Sabatine --

MR. TRAFICANT: I didn't hear the answer.

THE COURT: That's where the pressure came

from originally with him was the answer.

BY MR. SMITH:

Q. And certainly, there was a threat of Prosecution of Mr. Sabatine, correct?

A. I believe so.

Q. And you would agree the FBI is in the business of developing cases to prosecute people. That's their job, correct?

(Witness and counsel conferring off the record.)

A. Yes.

Q. All right.

So again, did Mr. Sabatine tell you that the threat of losing everything he owned, did that come -- did Mr. Sabatine say that came from something the FBI told him, or did that come from Mr. Sabatine's own mental reaction to the visit by the FBI?

A. I wouldn't know that.

Q. And so, therefore, you cannot say that Mr. Sabatine's feeling about being threatened as to everything he owned came from a statement made to him by the FBI. You can't say that, can you?

(Witness conferring with counsel off the record.)

A. I guess I can't say that.

Q. All right. Now, your father, Russell Saadey, Senior at one time was the vice chairman of Mahoning County

Democratic party; is that right?

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment right.

Q. Was your family involved in a business known as the Upstairs Lounge on Mahoning Avenue in Austintown?

A. I exercise my Fifth Amendment right.

Q. Was the Upstairs Lounge frequented by politically active people in the Democratic party?

A. I exercise my Fifth Amendment right.

Q. Did the chairman of the Columbiana County Democratic Party, Dennis Johnson, frequent the Upstairs Lounge?

A. I exercise my Fifth Amendment right.

Q. Did you on more than one occasion meet with Mr. Johnson at the Upstairs Lounge?

A. I exercise my Fifth Amendment right.

Q. Did you ever meet with Mr. Johnson about a case known as the Silvestri case?

A. I exercise my Fifth Amendment right.

Q. Did you ever call Mr. Johnson and ask him to intervene with a county prosecutor's office about the Silvestri case?

A. I exercise my Fifth Amendment right.

Q. Now, sir, you were asked on direct examination by the Congressman about this meeting that you had with the -- you -- that you had with the FBI agents; is that right?

A. I don't recall.
Q. Well, didn't the Congressman go through a long litany of questions about contact that you had with FBI agents where they supposedly promised you immunity and leniency? Didn't you testify about that on direct?
(Witness and counsel conferring off the record.)
A. Yes, there was one meeting.
Q. All right.
When did that meeting with those FBI agents occur?
A. I don't want to guess, and I really don't remember the exact date.
Q. How about a year?
(Witness and counsel conferring off the record.)
A. Can I get back to you at another time because I don't have it with me, but I can get it.
Q. All right. Let's try it this way.
Were you indicted on December the 7th, 2000, and arrested shortly thereafter in connection with the cases you were tried before Judge O'Malley on?
(Witness and counsel conferring off the record.)
A. I believe so, December of 2000.
Q. December 2000 was the month that you were indicted, correct?
A. If you tell me, I really don't remember, being honest with you.

Q. All right.

Did the meeting that you had with the FBI occur before or after you got indicted?

A. Before.

Q. How long before?

A. I'm sorry. I just don't remember.

Q. Can you give any estimate to the number of months before?

A. I can find out if I go through files.

Q. All right. Well, isn't it true that in 1998, specifically on August the 19th of 1998, that you were interviewed by two agents with the IRS?

Witness and counsel conferring off the record.)

A. I exercise my Fifth Amendment right.

Q. Specifically, did IRS special agents, Dennis Dolis and Patricia Reese interview you solely and exclusively about your tax situation in August of 1998?

A. I exercise my Fifth Amendment right.

Q. And they didn't solicit your cooperation in any way, shape, or form, did they, those two IRS agents?

A. I exercise my Fifth Amendment right.

Q. Now, you said that these FBI agents before you got indicted, promised you leniency or immunity if you cooperated; is that right?

(Witness conferring with counsel off the record.)

A. Yes.
Q. Did they make -- did they make any statement to you that their representations had been approved in any way by the U.S. Attorney's Office.
(Witness conferring with counsel off the record.)
A. Will you repeat that one more time, Mr. Smith?
Q. Did the agents, who allegedly promised you immunity and/or leniency, make any representation to you that their promise or promises had been approved by the United States Attorney's Office?
(Witness conferring with counsel off the record.)
A. I can't remember.
Q. Now, on direct examination, did you indicate that when your cooperation was solicited by the FBI, that you thought that you would need to be truthful? Did you say that on direct examination?
(Witness conferring with counsel off the record.)
A. I don't recall the specific answer to that.
Q. Didn't you say on direct examination you got the impression if you cooperated with the FBI, that you would need to be truthful? Didn't you say that on direct here today?
(Witness conferring with counsel off the record.)
A. If you say I said it. I don't think you're lying to me.

Q. Well, did any FBI agent that interviewed you that day ask you to lie?

(Witness conferring with counsel off the record.)

A. Nobody specifically asked me to lie.

Q. Nobody asked to you lie that day, right?

(Witness and counsel conferring off the record.)

A. Nobody specifically asked me to lie.

Q. All right.

Did the FBI agent say to you I don't care if you tell the truth or not, or if you tell lies, cooperate and you get a deal? Did the FBI agent say anything remotely close to that to you?

(Witness conferring with counsel off the record.)

A. Yes.

Q. So you're telling us, under oath, that an FBI agent told you, in words, in words, that it didn't matter if you told the truth or if you lied, that you could get a deal; is that what your testimony is?

THE WITNESS: Is that what he just asked me?

MR. SMITH: Yes. That's what I just asked you.

THE WITNESS: Would you reword the question please?

MR. SMITH: Sure.

Q. Did an FBI agent tell you, in his own words, that you

could get a deal to benefit yourself, and it didn't matter if you told the truth or if you lied?

(Witness conferring with counsel off the record.)

A. I said -- I think he never specifically said if I lied.

Q. So isn't it true that anything about telling a lie and getting a benefit for it was what was going on in your mind?

A. That's correct.

Q. So you were thinking, hey, maybe I can pull -- maybe I can pull a snow job on these guys if I tell them a lie and they buy it, I can get myself a deal. That's what was going on in your head; is that correct.

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment right.

Q. Wasn't based on what the agents said; it was what was going on in your mind; you thought you could lie and get a deal, right?

A. Once again, I take my Fifth Amendment right.

Q. After all, you would lie to Jim Philomena, the Prosecutor of Mahoning County, about a bribing scheme, wouldn't you?

A. I exercise my Fifth Amendment right.

Q. Now, sir, when the agent solicited your cooperation, they -- they made a general request for your cooperation

about anything that you might have knowledge about; isn't that right?

(Witness and counsel conferring off the record.)

A. I don't know.

Q. Well, they certainly never said we want you to cooperate, solely, exclusively, against Congressman Traficant. They never told you that, right?

(Witness conferring with counsel off the record.)

A. Philomena, Traficant, and any other information I can share with you.

Q. All right.

At the time, you were -- you were indicted with a co-defendant by the name of James Vitullo, correct?

A. No.

Q. Were you tried jointly with James Vitullo?

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment right.

Q. You said that the agent solicited your cooperation as to Prosecutor Philomena, right?

A. Yes.

Q. So it stands to reason then that your cooperation was solicited before Mr. Philomena pled guilty, correct?

Witness and counsel conferring off the record.)

A. Correct.

Q. When did Mr. Philomena plead guilty?

A. You tell me. I mean, I don't mean to be smart. I think you've got it written down.
Q. You were jointly tried with Mr. Vitullo; is that right?
A. That's correct.
Q. And you understood the Government's offer of cooperation to extend to anything you might have to say about Mr. Vitullo as well, didn't you?
MR. KOPP: I'm sorry, the question was?
Q. You understood the FBI's offer of -- offer to have you cooperate as extending to what you could tell them about Mr. Vitullo as well, correct?
(Witness conferring with counsel off the record.)
A. No, Vitullo's name never came up when I was interviewed by a specific agent when he mentioned --
Q. My question is: Did you understand the offer of cooperation -- did you understand their offer of what you could cooperate about to include Mr. Vitullo in your own mind?
A. No.
MR. TRAFICANT: Repeat that question for me, please.
(Thereupon, the record was read back by the Court Reporter.)
MR. TRAFICANT: What was the answer?

THE COURT: No.

BY MR. SMITH:

Q. Now, when the FBI asked you to cooperate, did you feel pressured.

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment right.

Q. Isn't it a fact, sir, that simply by virtue of having had contact with the FBI and having been informed by them that you are a target of a criminal investigation, that merely that information was sufficient for you to feel pressured?

A. I exercise my Fifth Amendment right.

Q. A FBI agent would have to do nothing at all improper in order for a person who's a target of their investigation to feel pressure, would it?

(Witness conferring with counsel off the record.)

A. Are you asking regards to me or in general?

Q. You.

A. I exercise my Fifth Amendment right.

MR. SMITH: Your Honor, I think we'll stop there. Thank you.

THE COURT: Thank you.

MR. TRAFICANT: Your Honor, I have some redirect questions for this witness.

THE COURT: Okay. You can do it.

MR. TRAFICANT: Pardon?

THE COURT: You can do a few. What would be -- remember that the point of this inquiry is limited. What we're trying to do here is to see where this Defendant wishes to assert his Fifth Amendment and where he doesn't so that we can compare direct and cross in terms of a very technical Rules of Evidence that has evolved in this case.

VOIR DIRE REDIRECT EXAMINATION OF RUSSELL SAADEY

BY MR. TRAFICANT:

Q. Mr. Saadey, did the FBI ever say to you that they would give you leniency if you made statements against me?

(Witness conferring with counsel off the record.)

A. Yes.

Q. Was your present state of mind a result of your own impressions or the FBI's pressure?

(Witness conferring with counsel off the record.)

A. I exercise my Fifth Amendment right.

Q. The Government asked you a lot of questions about your case, is that not correct?

A. They did.

Q. Have I asked you questions about your case?

(Witness conferring with counsel off the record.)

A. Reread the question, please, I'm sorry.

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

(Witness conferring with counsel off the record.)
A. No, not that I remember you asking me any questions about my case.
Q. Were not all my cases and were not all my questions directed to the state of pressure that was visibly observed by you on Mr. Sabatine?
(Witness conferring with counsel off the record.)
A. Yes.
Q. You answered?
A. Yes.
Q. So all of my questions have been regarding your conversation concerning Mr. Sabatine; is that correct?
MR. SMITH: Objection. It's not even true, according to the transcript.
THE COURT: Okay. Well, the transcript is the one record, but you also can inquire as to what his memory reflects.
BY MR. TRAFICANT:
Q. To the best of your memory, were my questions directed towards your conversation with Mr. Sabatine immediately after he had been interviewed by the FBI?
(Witness conferring with counsel off the record.)
A. A good portion of it, yes.
Q. Was it your testimony that he was extremely -- that he was very upset and nervous because of that meeting with

the FBI?
A. Yes.
Q. And did he say to you that he was being pressured to make false statements against Jim Traficant?
(Witness conferring with counsel off the record.)
A. He said he was under pressure to cooperate.
Q. Was he still in the same state of being upset and nervous when he said he did not bribe Jim Traficant?
A. Yes.
Q. Was he in the same state of nervousness when he said he made contributions?
A. Yes.
Q. Did he say that those -- was he in the same state of nervousness when he said that the contributions he made had been spread out over a number of years?
A. Yes.
Q. In all of the years that you've known Mr. Sabatine, have you ever seen him that nervous and upset?
(Witness conferring with counsel off the record.)
A. No.
Q. While he was nervous and upset, did he say to you that the Government was going to take his house and all his money?
MR. SMITH: You know, this is leading to the extreme.

THE COURT: It is over the edge. You can't lead that way. You know that, Congressman. Find another way to ask a question so that we can hear the witness.

BY MR. TRAFICANT:

Q. While Mr. Sabatine was under -- was he under continuing stress when he told you -- when he talked about the Government taking his property and all his money?

MR. SMITH: Object to the leading again.

THE COURT: It's the same objection, and it's sustained. Move on to something else if you can't rephrase it.

Q. While Mr. Sabatine was under continuing stress, did he make any statements to you regarding his property and his money?

(Witness conferring with counsel off the record.)

A. Yeah. I believe I already told you what he said.

Q. And that's a yes?

A. Yes.

Q. Did Mr. Sabatine ever under any circumstances of any degree of being upset ever make to you any statements that were so critical?

(Witness conferring with counsel off the record.)

A. So critical of what, counsel?

Q. So critical of his own welfare.

A. No.

Q. When you said he was nervous, did you notice him shake at all?

MR. SMITH: Leading again.

THE COURT: Well, we went over this when you had him on direct. We don't need to go over it again.

BY MR. TRAFICANT:

Q. When Mr. Sabatine made these statements to you under stress, did you, in fact, make any comments or make any statements back to Mr. Sabatine?

(Witness conferring with counsel off the record.)

A. I must exercise my Fifth Amendment right.

Q. Would you be willing to testify under oath if the questions were limited simply to the incident immediately following Mr. Sabatine's meeting with the FBI and his stressful situation and nothing more? ?

(Witness conferring with counsel off the record.)

THE COURT: Are you saying with no cross-examination and all that? Is that what you mean by nothing more?

MR. TRAFICANT: No. I'm saying if it was limited strictly to his conversation with Mr. Sabatine and the statements and declarations made by Sabatine under pressure.

MR. SMITH: And I would object that it is irrelevant what this witness would care to testify about or

not. It's not up to the witness.

THE COURT: No, it's not, but I think it is all right for you to ask him the question. But I'm not clear whether you're asking him in regard to just cross-examination -- I mean, just direct examination or cross-examination?

MR. TRAFICANT: Your Honor, I'm going stipulate for the Court that there are compelling factors regarding this witness, and that this witness' knowledge, dealing with the Traficant case, is the only thing that I'm concerned about.

THE COURT: All right.

Q. Now, having said that, would you be willing to testify if this examination of you would simply be limited to the Sabatine issue that dealt with me and had nothing to deal with concerning anything else?

(Witness conferring with counsel off the record.)

THE WITNESS: I can only answer on a question-by-question basis.

Q. If the Judge were to immunize you --

THE COURT: Wait. He has his lawyer here. He is asserting his Fifth Amendment rights, which he is entitled to do, and, in fact, asserting them question by question is what -- is the way that you do those.

So he has to listen to his lawyer.

MR. TRAFICANT: I didn't get all of your answer.

THE COURT: Well, that's because his answer wouldn't be appropriate to that question.

MR. TRAFICANT: Okay.

THE COURT: His lawyer is here to advise him about what he's going to do.

BY MR. TRAFICANT:

Q. Are you concerned with any other statements that may or may not have been made to me, other than my case?

(Witness conferring with counsel off the record.)

A. I really don't know what you're asking me. Ask you -- say that again, or rephrase it or --

Q. Would you be concerned about any statements you may or may not have said to me regarding my case or other matters?

(Witness and counsel conferring off the record.)

A. I must exercise my Fifth Amendment right.

Q. Did Agent Speranza threaten you?

(Witness conferring with counsel off the record.)

A. Sorry. I must exercise my Fifth Amendment right.

Q. Did Mr. Speranza discuss with you the congressional investigation concerning his rape of one of my constituents?

MR. SMITH: Objection.

THE COURT: Sustained. That will conclude this part of these proceedings. You have any -- you have any redirect -- I mean any recross?

MR. SMITH: Just one question.

VOIR DIRE RECROSS-EXAMINATION OF RUSSELL SAADEY

BY MR. SMITH:

Q. When did the conversation with Mr. Sabatine occur in which he made those statements to you? When was it?

(Witness conferring with counsel off the record.)

A. Mr. Smith, I can't recall the specific time. I mean, we're a close family, and I mean, I see him a lot at my mother's house, his house. It was right after his incident. I mean, I don't know the specific dates or times. I'm sorry.

Q. Can you give us even a year?

A. I swear to God, what I been through the last six years, you know -- I don't remember.

MR. TRAFICANT: Objection. Asked and answered.

THE WITNESS: I have to go reference to reference. I can't -- and I don't know, why lie?

THE COURT: Okay.

MR. TRAFICANT: Can I have a redirect?

THE COURT: No. You can't have any more right now. We have a lot of other issues to go to, and you

persist in bringing up things that you're not allowed to bring into this case. So we're going to conclude this right now and release you.

MR. KOPP: Your Honor, may I put one thing on the record before we leave? As you know, this not only affects this case, but --

THE COURT: Yes, you can.

MR. KOPP: If I could.

THE COURT: Yeah, just say it so everybody can hear.

MR. KOPP: I'll step down here.

THE WITNESS: Thank you, your Honor.

THE COURT: You're welcome.

MR. KOPP: Your Honor, as you are aware, we are here because he was properly -- or Mr. Saadey was properly served with a subpoena.

THE COURT: Right.

MR. KOPP: When he presented himself in court yesterday, I cited you two cases, which my understanding in our circuit is quite simply this. If we have to present ourselves and inform the Court that we intend to exercise our Fifth Amendment right, that the Court then is entitled to voir dire, do whatever process it chooses. We never intended this process in any way, shape, or form to waive our Fifth Amendment right. We tried to give you our best

indication as to where we would raise that issue.

THE COURT: Right.

MR. KOPP: There are limited issues where right now we cannot foresee any criminal prosecution. In particular, with the conversation he had with Mr. Sabatine. He was never threatened in any conspiracy, never made aware by the Government, never charged in either Columbiana County or the federal case with anything that had to do with Mr. Sabatine.

That being said, we in good faith answered those questions before the Court today without frivolously raising our Fifth Amendment rights.

We never intended that to be a waiver. It was only for the Court to make a decision here today. And I think that would make clear for the record, if for some case or some instance Mr. Saadey's case is overturned by the Court of Appeals and comes back down and intends to take the stand.

THE COURT: Okay. Thank you very much.

MR. SAADEY: Thank you, your Honor.

MR. KOPP: Thank you, your Honor.

THE COURT: You're welcome.

We have several other issues that were raised that we should handle, but we're only going until 6:00. So, Congressman, can you update us on the welder?

MR. TRAFICANT: I have -- I haven't been able to communicate. My congressional liaison was in an accident yesterday. I haven't even had the opportunity to make a phone call.

THE COURT: So is the answer no, we don't have any new information?

MR. TRAFICANT: I don't know, I am -- I'll try to have it here as early as possible and look into it myself this weekend if I don't have it here tomorrow. I will work on it tonight.

THE COURT: How many witnesses do you have for tomorrow?

MR. TRAFICANT: I have to lineup witnesses for tomorrow. We still have --

THE COURT: Well, you're going to have to -- you know your case; can't just --

MR. TRAFICANT: No. I know that. I'm trying to say --

THE COURT: You have to get your witnesses in, get the welder down here, because we're -- we need to be giving the jury work to do, and they're coming in tomorrow at 9:00. What they have when they get in here is very brief.

MR. TRAFICANT: I plan to call tonight some bankers, and I would hope that I'd be able to offer them

tomorrow. I would also be trying to bring in Attorney Mark Colucci tomorrow as a witness. I don't know how long the bank situation is going to take. It could be quite lengthy.

Now, I will also notify the Prosecution in the morning if, in fact, I have any other witnesses that I've been able to subpoena. I've been trying to make service on -- subpoenas in some cases and have been made to and haven't been able to make those subpoenas and been working very hard to do so.

And if they're made, they'll be here, but I'm going to call tonight to have a banker here, tomorrow relative to some statements. The banker may have to be recalled because not all the statements that I have requested have yet been here, but I have turned over expeditiously upon receipt as soon as I possibly could, had them copied to the Prosecution.

MR. SMITH: We got one batch way back.

MR. MORFORD: No. When?

MR. SMITH: Yeah; hasn't been since the first batch.

THE COURT: Okay. What is it that you say you've turned over?

MR. TRAFICANT: I've turned over matters that are significant to the case that I plan to use regarding

Home Savings and Loan accounts, and I turned them over to the Government as soon as I could have them copied.

MR. MORFORD: My question is: The records he's talking about having this banker testify to tomorrow, has he given us those yet?

THE COURT: Have you?

MR. TRAFICANT: Yes, I have. I've given them to you in boxes.

MR. MORFORD: Okay. You're not bringing in any records tomorrow that we haven't seen?

MR. TRAFICANT: Unless between now and tomorrow I get some certain things that I have yet to receive, and I will give them to you immediately, even if -- I don't have time to copy them. I will share them with you.

THE COURT: Okay. Well, I have another concern, which is that we have an entire court staff plus a jury to deal with on a day of your trial, presenting your defense, and so far I've only heard that you have one or maybe two witnesses, and I can't imagine that you can take up the jury's time with one or two witnesses, even if the welder arrives and we have a welder to view. You've got to put on your case.

MR. TRAFICANT: I am, your Honor, and I'm putting on my case. And there are people that are ducking

my subpoenas. It took me a long time to subpoena Mr. Saadey.

THE COURT: Well, we're talking about tomorrow. Which other witnesses are you going to bring in here?

MR. TRAFICANT: I know that I'm trying to get Colucci up here. I'm trying to get -- I'll bring the banker up here.

THE COURT: That's two.

MR. TRAFICANT: I still do not have all the information from the banker that I want, but I'll bring in that banker --

THE COURT: We need more witnesses than that unless you're going to conclude tomorrow. If you're going to conclude --

MR. TRAFICANT: No. I'm not going to conclude tomorrow.

THE COURT: Well, you get your witnesses in here. How many more witnesses do you have?

MR. TRAFICANT: Well, I have about seven or eight subpoenas out there, and I am a hoping that they will be served. And if they are, I'll have those people here tomorrow.

MR. MORFORD: Can we have a list of who they are.

THE COURT: They aren't served?

MR. TRAFICANT: They haven't been served. I haven't been able to reach certain witnesses.

THE COURT: Okay. Give us the names so we know who you're serving.

MR. TRAFICANT: I don't have the list with me, but I know we're trying to service Tyson, Greg Tyson, a Josephine Hewlitt. There are several banks that said they weren't able to provide the information that we would need for several weeks. I do have information -- some information that I shared already with the Government.

THE COURT: Okay. Now, I have three witnesses: Greg Tyson, Josephine Hewlitt, and Colucci. Who else?

MR. TRAFICANT: And the banker.

THE COURT: And the banker. That's four. That's not going to take an entire day.

MR. TRAFICANT: It may, it would be an extensive --

THE COURT: If it takes --

MR. TRAFICANT: That banking business is going to be very extensive.

THE COURT: If it takes an entire day, that's very interesting, because I -- it's unusual to only have to call four people to take up a whole trial day.

MR. TRAFICANT: Your Honor, we have one trial day here. They've taken --

THE COURT: Give us some more. Give us some more.

MR. TRAFICANT: No. They've taken up several weeks of a trial, and they used one day alone just for Bucci and one other case.

THE COURT: Are you expecting that any of these three that you've told me about, Josephine Hewlitt, Greg Tyson, or Colucci, are going to take a day or half a day?

MR. TRAFICANT: I don't know how long they're going to take. I don't know how much time we're going to take.

THE COURT: How long for you, and then as they've always said, they can maybe estimate how long theirs will take.

MR. TRAFICANT: I don't know. I can't predetermine the banker situation.

THE COURT: Forget the banker for a minute.

MR. TRAFICANT: I would feel that they would take up half the day if I was able to get those three, and I'm sure the banker would take up the morning, maybe even more than that.

MR. MORFORD: Your Honor, he said seven or

eight witnesses. Can he tell who the other four are?

MR. TRAFICANT: I don't know who they are out there. I have to look at my list. Why does the Government have to know my list?

THE COURT: We have to know how to spend the time in a trial --

MR. TRAFICANT: I'm hoping they have --

THE COURT: -- of jurors, alternates, staff, two court reporters and a whole lot of people. We handle many cases inside this courtroom. I have five pending death penalty habeas cases. We have to allocate our time. And we can't have you using a little piece of a trial day.

MR. TRAFICANT: Your Honor, I object to that. They have taken several weeks on --

THE COURT: You can take more time.

MR. TRAFICANT: I have taken one week, and I plan to finish next week.

THE COURT: But I want you to fill the trial days.

MR. TRAFICANT: I am going to do that. I would hope to conclude by next week, but -- with but two weeks of defense, after they've taken seven weeks and taken a lot of time -- they filled up two days with two witnesses.

THE COURT: It sounds as if you don't yet

know who your witnesses will be.

MR. TRAFICANT: If I can't get them subpoenaed, how can I get them here? I have a list out. I am trying to get Mr. Cascarilla here. That's another one who wrote the letter where Morford stated O'Nesti was not a member of organized crime that you would not allow in, and before I leave, I want to introduce some evidence into the record today.

THE COURT: Okay. Well, that's one of the other items we have on here, which is that this letter, which I think you've offered to two separate witnesses.

MR. TRAFICANT: That has been identified --

THE COURT: Something that they got, yeah.

MR. TRAFICANT: And had knowledge, personal knowledge.

THE COURT: Right. But they didn't offer the letter. And so I said that we would at a break take the time we need to take in order to have you establish why it is that either of these witnesses might be able to do something with this letter. But if you're going to bring in the author of the letter --

MR. TRAFICANT: I don't know if I can bring the author in a timely manner. If you want to stay here until July. These people are ducking me. I tried to get Tony Bucci at Rotatori's and never got a call back. I want

Tony Bucci on the stand again.

THE COURT: Let's talk about this letter.

MR. TRAFICANT: I want to talk now about the letter. Two witnesses have identified that they were handed to them by Chuck O'Nesti, had personal knowledge, had seen it, and had read it, and, in fact, Mr. O'Nesti was circulating said thing in his own behalf.

THE COURT: Now we'll let the Government respond.

MR. MORFORD: Your Honor, first of all, the letter is entirely irrelevant. It was Congressman Traficant who first broached the topic of Mr. O'Nesti's reputation. The testimony has been that he had a reputation of being a liaison between Mahoning Valley politicians and the mob. There's never been any suggestion that he was made a member of the LCN. That letter was a request by Mr. O'Nesti's attorney because it would make Mr. O'Nesti happy to have us say what is true, that he was not a made member of the LCN, didn't go through the ceremony, didn't play the part of an assistant, and all that other stuff.

No one has suggested in this trial or outside this trial that Congressman Traficant 's chief aide was a member of the Mafia. He is not. But, the letter is entirely irrelevant. It's confusing. It has nothing to do with the

facts of this case. It was -- the topic of his reputation was only brought up by the Congressman in the first place, and it's been asked of other witnesses because it was brought into the trial.

Number 2, it's hearsay.

MR. TRAFICANT: I object. It is not hearsay.

THE COURT: Well, that's what we're having a hearing about. Tell us why it's not hearsay. Okay? We already have established --

MR. TRAFICANT: The problem established, the Prosecution put their case on first. They reported to every witness the reputation of Mr. O'Nesti as a bag man for the mob. Now, I have a letter when he was cooperating with them in a former case, that he was not such a person. Now, he writes a letter to the attorney because evidently the Congressman wanted to know what those phone calls of Strollo were about, and Mr. Morford said that they never alleged that he was affiliated with any organized crime entity.

MR. MORFORD: No.

MR. SMITH: Member.

MR. TRAFICANT: Member of or involved -- whatever it was.

MR. SMITH: Member.

MR. TRAFICANT: Now, the point is, they

referred to him as a bag man to, in fact, infer that me as his boss had a bag man on my staff to hurt my case.

THE COURT: Okay.

MR. TRAFICANT: They broached the subject and I think Morford's letter stating that Mr. O'Nesti was not affiliated with organized crime, and I think we should get the letter out and look at it.

THE COURT: Certainly, we have to get the number on it on the record. And then we have to establish who actually wrote the letter.

MR. TRAFICANT: I think we already discussed that.

THE COURT: Well, you keep saying it's the Morford letter.

MR. TRAFICANT: The bottom line is, regardless of whom, it wasn't -- it was sent to me at 125 Market Street, and I don't answer the mail at 125 Market Street. And in that regard, that makes that evidence, regarding Mr. O'Nesti, absolutely -- here is the letter, and I want to read it into the record.

THE COURT: Well, if you want to -- you know.

MR. TRAFICANT: I want to proffer it for the record right now.

THE COURT: We're trying to get you to identify it so it's part of the record.

MR. TRAFICANT: It is O-1.

THE COURT: Thank you.

MR. TRAFICANT: It is not a facsimile and regular mail dated December 22nd, 1997, addressed to Congressman Traficant at 125 Market Street, Youngstown, Ohio, re: Charles P. O'Nesti: Dear Congressman Traficant.

THE COURT: Slow down a little now so she can write it. Slow down.

MR. TRAFICANT: I write on behalf of -- and at the request of my client, Mr. Charles P. O'Nesti, regarding recent public disclosures alleging Mr. O'Nesti to be a member of the Pittsburgh La Costa Nostra organized crime family.

I have received clarifications from AUSA Attorney, Craig S. Morford, that the Government does not contend, nor has it alleged in any filing through the Court, that Mr. O'Nesti is a member of the Pittsburgh LCN or any other organized crime family.

Yet, they convicted him for his involvement with mob boss, Lenny Strollo.

MR. MORFORD: Yeah.

MR. TRAFICANT: I further read into the letter --

THE COURT: Okay. Please --

MR. TRAFICANT: I trust this information will

be of assistance to you in assessing the statements made about Mr. O'Nesti in the local media.

If you desire any further information concerning this matter, please do not hesitate to contact me. CC Mr. Charles P. O'Nesti.

Now, the words or any other organized crime family --

THE COURT: Read who signed the letter so we know whose letter it is.

MR. TRAFICANT: Attorney Ralph E. Cascarilla of Cleveland, and I'm attempting to have him served.

Now, the point I'm making though, he doesn't just say a member or any other organized crime family. He was -- he was subpoenaed in.

THE COURT: Well, it says what it says, Congressman. The point is, tell me now why it's not hearsay. That's what we're here for. Tell me why it's not hearsay.

MR. TRAFICANT: Because these people have personal knowledge that received this letter directly from O'Nesti.

THE COURT: Or bring in the man who wrote the letter.

MR. TRAFICANT: I'm trying to do that. If I have him -- and I will have him here tomorrow, he's -- let me tell you this: The Government is trying to have it both

ways. During the Strollo trial, they have him tied in with Strollo and convict him for perjuring himself in the Strollo case, and Strollo is supposedly the mob boss. Then they referred to him as the bag man in the Traficant case in front of the jury --

THE COURT: The Government has not referred to him that way.

MR. TRAFICANT: They have if you look through the testimony.

THE COURT: Witnesses have. But anyway, I'm still waiting to hear why that's not hearsay.

MR. TRAFICANT: Well, I would like to have the opportunity to just try and continue to subpoena this witness. I'll try to have this witness here tomorrow.

THE COURT: Okay. Very well. Now we've got a couple more things that's really getting in the wire here. Let's see what we reserved.

MR. TRAFICANT: I have some exhibits I want to introduce, your Honor.

THE COURT: Okay. Just one second.

MR. TRAFICANT: You'll have to determine --

THE COURT: There was a hearsay issue that we said you could handle with Kovachik. Am saying that right? And also with Johnson.

MR. TRAFICANT: Did you rule on that? And

also I have under subpoena Mr. Saadey. He's been standing around here missing --

THE COURT: Well, he's come in.

MR. TRAFICANT: Is he allowed as a witness?

THE COURT: I haven't decided all that. I have to go through the whole transcript of all of his claims of --

MR. TRAFICANT: Well, he is a subpoenaed witness of mine.

THE COURT: Okay. He can respond, and he came here today.

MR. TRAFICANT: Yes, he has.

MR. KOPP: Your Honor, just so I know, is he required to be here tomorrow?

THE COURT: No.

MR. KOPP: Okay.

THE COURT: If he's required to come back, it'll be after we -- after we rule on the various levels of ruling that we have to rule in the case as it involves him.

MR. TRAFICANT: Well, your Honor, almost all of my witnesses you have declined the opportunity for them to testify on exceptions to the hearsay rule in support of the Government.

THE COURT: Well, we have --

MR. TRAFICANT: We clearly have a fellow here

who has, without immunity --

THE COURT: Johnson was here this morning. We did the voir dire. Now I can listen to your argument on the hearsay problems with Johnson. You know, you did a whole -- I was prepared to just read you the questions out of the prior transcript, but you did a whole new inquiry with it. So --

MR. MORFORD: Your Honor, can I address that for a moment? We've got some new filings from Congressman Traficant today, and because all of our breaks have been used up in hearings, we haven't even had a chance to read them, let alone decipher them and be ready to address them with the Court.

THE COURT: I haven't read them. I think I have seven new motions that came in today. So --

MR. TRAFICANT: Your Honor, from day one, I've been deluged by papers from the Government and --

THE COURT: This is a paper intensive case.

MR. TRAFICANT: I am beginning to proffer into the record those things that you have not allowed witnesses to testify to.

THE COURT: Well, this is what we have here. We have -- we wanted arguments regarding the Johnson hearsay. And he was voir dired this morning. So --

MR. MORFORD: Your Honor, that's what I'm

addressing. One of the things Congressman Traficant filed this morning relates to that and apparently brings up some new arguments we've never heard before, and we've got to go back through all that.

THE COURT: So we'll have to postpone that.

MR. MORFORD: That's what I'm trying to say.

THE COURT: We have a list that's here which we try to keep up with.

MR. TRAFICANT: One question, not to interrupt --

THE COURT: Kovachik hearsay, there was one we put over on Kovachik. I think we can probably pull that up.

MR. TRAFICANT: I want her called back. That was an unsolicited statement that was made by a witness, and I -- that witness should have the opportunity to make -- and be at least given the opportunity to testify.

THE COURT: She is coming back tomorrow, I think.

MR. TRAFICANT: Well, they rested on her.

THE COURT: Did you rest on her?

MR. MORFORD: Yes, we did, your Honor, but there's absolutely no hearsay exception for that statement whatsoever.

THE COURT: Put on the record what statement

we're talking about so we have this all clear.

MR. MORFORD: She's your witness.

MR. TRAFICANT: I'd have to read it and hear it myself. I didn't -- I wasn't leading in that direction. I was leading more or less into the relationship that Chuck had with Jackie Bobby and Grace Yavorsky, and she come out with something relative to Chuck O'Nesti --

THE COURT: Okay. Let me just --

MR. TRAFICANT: -- and kickbacks, and it may be something that hurts me for that matter. I don't even remember.

THE COURT: Okay. Let me go back and see whether there's a hearsay objection to that rule.

MR. TRAFICANT: I'm sure if it hurts me, the Government wants it in.

THE COURT: Congressman, if you can just be quiet, it will help me because I have to search a whole record here.

MR. TRAFICANT: I'll try.

THE COURT: Thank you. Okay. The question put to her was: Did there come a time you rejoined the congressional staff? Her answer was yes, I rejoined the staff after talking to Chuck O'Nesti. And with his encouragement to say Linda go back to the Congressman's office. I know you're a good worker, and the Congressman

needs you. I said, I don't know about these kickbacks, Mr. O'Nesti. He said -- that's the issue that I reserved -- he says I had not. Objections. Okay, whoa, whoa, whoa. As the Congressman knows, that's precisely the sort of statement we have to deal with out of the hearing of the jury before we present it to the jury.

MR. TRAFICANT: Your Honor, could we please repeat my question?

THE COURT: Um-hum. Did there come a time when you rejoined the congressional staff? Her answer was not responsive exactly to the question. She answered it, but she kept going. She answered -- she said, yes, I rejoined the staff after talking to Chuck O'Nesti and with his encouragement to say Linda, go back to the Congressman's office. I know you're a good worker, and the Congressman needs you -- those are all quotes from O'Nesti. And then she says, I said I don't know about these kickbacks, Mr. O'Nesti -- she gets into a whole other area.

MR. TRAFICANT: And then what did she say?

THE COURT: And then Mr. Kall objected. Then she said he says I have not -- objection, your Honor.

MR. TRAFICANT: Your Honor, we have had under oath now Mr. Johnson. Now you have a statement from Linda Kovachik.

THE COURT: Regarding what Mr. O'Nesti said.

We're back in this area a lot.

MR. TRAFICANT: Yes, yes, like a startling surprise type thing. You have a statement unsolicited of Mr. Johnson, Mr. Cafaro. When he wants to talk to him about titles to a car, and Cafaro thinks he wants to talk to him about the case. I mean, clearly, then you look at Mr. Saadey's case. He is -- he is talking about a person who is immediately under stress, never seen him so stressed.

THE COURT: I haven't ruled on that.

MR. TRAFICANT: Made a statement immediately after a meeting with the FBI.

THE COURT: You have all that on the record now. We'll evaluate that, but we haven't had time to evaluate that.

MR. TRAFICANT: When will we do that?

THE COURT: You want to respond on this question. Mr. Kall, you posed the objection.

MR. KALL: Again, your Honor, a timely statement was made apparently February of 2000. There's no circumstantial guarantees of trustworthiness at that time.

Mr. O'Nesti was still on staff -- excuse me -- February of -- excuse me -- at that time he was off staff but still very close with Congressman Traficant. And there's no circumstantial guarantees of trustworthiness

when his former boss and very close friend, he's making statements that exculpate that person. There's no circumstantial guarantees of trustworthiness as to a statement such as that.

THE COURT: Okay. Well, it's up to the Congressman to establish something like that, and this is your chance to do it.

MR. TRAFICANT: Okay. That is not a truthful statement.

THE COURT: That's not going to help you, Congressman.

MR. TRAFICANT: Okay. Hear me. I want to just make it. I'm not saying he's lying. But -- we have a witness that was voir dired, that said I wasn't returning Mr. O'Nesti's calls. So evidently, I wasn't all that close with Mr. O'Nesti at that time. Or I wasn't getting a message, so Mr. O'Nesti evidently went out of his way hearing what when he found out Mr. Johnson was evidently in a certain place; went out of his way to be taken there, to talk to him for me to talk to him. Now, for them to say that I was in close contact with my close friend is a misrepresentation of that period of time when such statements made out of court to a party with no interest --

THE COURT: Okay.

MR. TRAFICANT: -- now leaves it to a point

where you're looking at the stress factor of Sabatine. You're looking at the unsolicited remarks of Cafaro, who thought he was talking -- going to be talking about cars -- would you fellows let me finish?

MR. SMITH: I'm talking to him. I'm not talking to you.

MR. TRAFICANT: Yes. You're talking while I'm speaking.

THE COURT: I'm listening.

MR. TRAFICANT: Mrs. Kovachik, she was close to O'Nesti. I'm getting towards O'Nesti's relationship with Bobby and Yavorsky, that he would have never talked with them at all.

THE COURT: Okay.

MR. TRAFICANT: And that was my purpose.

THE COURT: Okay.

MR. TRAFICANT: Now, if you want to voir dire -- I'm tired of having my witnesses come in and go through double jeopardy in a trial, and I think they should be allowed to testify. They could object if they want, and you can strike it.

THE COURT: Thanks.

MR. TRAFICANT: My God, you let them bring in testimony here of two vindictive women that weren't even liked by the guy, wouldn't let him in his room. The

testimony was brought out.

THE COURT: Thank you. Now we're adjourned. It's a few minutes after 6:00. See you in the morning --

MR. TRAFICANT: Your Honor, can I please submit some evidence tonight so I don't forget it?

THE COURT: Okay. Okay. Let's --

MR. TRAFICANT: I have some things that were photographs taken yesterday, and I ask they be placed on the record. First of all --

THE COURT: Well, who took the photographs? Was it someone who was --

MR. TRAFICANT: He testified to them yesterday, Mr. Marchese.

THE COURT: Show them to the Government.

MR. TRAFICANT: Yes. They were the pictures of the -- of the house. Just the ones that deal with the house. There are some photographs in there, and I was going to take them --

THE COURT: We have to do that in the morning.

MR. TRAFICANT: I would like to, at least, put in tonight the check of Susan Bucci that she identified. That was TB-4, a check for $1,000, endorsed by Susan Bucci and testified to yesterday.

THE COURT: Okay. Yes.

MR. SMITH: No objection.

THE COURT: No objection. It will be admitted. And we'll look at the pictures tomorrow because they haven't seen them. Okay. Thank you very much. See you at 9:00.

(Proceedings adjourned.)

VOIR DIRE DIRECT EXAMINATION OF DENNY JOHNSON 4977
VOIR DIRE CROSS-EXAMINATION OF DENNY JOHNSON 4988
VOIR DIRE REDIRECT EXAMINATION OF DENNY JOHNSON 4999
DIRECT EXAMINATION OF ROBERT BARLOW 5003
CROSS-EXAMINATION OF ROBERT BARLOW 5019
REDIRECT EXAMINATION OF ROBERT BARLOW 5047
DIRECT EXAMINATION OF GEORGE HOOKER 5052
DIRECT EXAMINATION OF ANTHONY T. TRAFICANTI 5058
VOIR DIRE DIRECT EXAMINATION OF RUSSELL SAADEY, JR. 5079
DIRECT EXAMINATION OF ANTHONY TRAFICANTI..... 5107
CROSS-EXAMINATION OF ANTHONY TRAFICANTI..... 5121
REDIRECT EXAMINATION OF ANTHONY TRAFICANTI..... 5174
DIRECT EXAMINATION OF LINDA J. KOVACHIK..... 5187
VOIR DIRE CROSS OF RUSSELL SAADEY.....5207
VOIR DIRE REDIRECT OF RUSSELL SAADEY.....5228
VOIR DIRE RECROSS OF RUSSELL SAADEY..... 5235

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.

George Staiduhar, RPR, FCRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 575-1727

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 28, 2002

Jury Trial

Volume 28

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APPEARANCES:

For the Government:	CRAIG S. MORFORD, BERNARD SMITH, MATTHEW KALL, Assistant U.S. Attorneys 1800 Bank One Center 600 Superior Avenue, East Cleveland, Ohio 44114-2600 (216) 622-3600
For the Defendant:	Pro Se
Official Court Reporter:	George J. Staiduhar, RPR, FCRR 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.

MORNING SESSION, THURSDAY, MARCH 28, 2001 9:20 A.M.

THE COURT: Thank you. Be seated, please. Good morning.

MR. MORFORD: Good morning, Your Honor.

MR. SMITH: Good morning.

THE COURT: We have still the issue before the jury comes out of the objection that was posed to questioning of the last witness, your staff member, and I think she was going to come back. They had no cross-examination, or I don't know if it was recross.

MR. MORFORD: There was no cross-examination, period.

THE COURT: But there was a question that was put to her, there was an objection posed, and this is your opportunity to show us whether or not it falls outside of hearsay.

MR. TRAFICANT: It was unsolicited. It was made at a time when the individual was under no stress and no obligation to have made such statement and had responded in the fashion that was, in fact, made in conjunction with a request or a conversation relative to her returning to work and some of the allegations she read. It was a spontaneous reaction.

THE COURT: By -- I just want to be clear, by Ms. Kovachik here on the stand.

MR. TRAFICANT: To Ms. Kovachik, yes, on the stand.

THE COURT: I am trying to figure out what you are saying.

MR. TRAFICANT: Ms. Kovachik made the statement Mr. O'Nesti told her she made no kickbacks.

THE COURT: She started to say -- at that point there was an objection.

MR. TRAFICANT: She did say that. She said Mr. O'Nesti said he made no kickbacks to Jim Traficant. That's what I understood what was said.

THE COURT: We went over it yesterday, and I will go over it again. "Did there come a time when you rejoined the Congressional staff?". That was your question. And her answer was, "Yes. I rejoined the staff after talking to Chuck O'Nesti, and with his encouragement to say" -- and now the hearsay part -- "Linda, go back to the Congressman's office. I know you are a good worker and the Congress needs you."

That's an area of hearsay. Then she says, "I said" -- she is talking about herself at that point -- "I said I don't know about these kickbacks, Mr. O'Nesti."

"He says" -- now she is talking about hearsay again, "I had not" -- and there was an objection posed. That's the issue that we told you we would address if you want to

address it, and we told her to come back so we could do it.

MR. TRAFICANT: She is here to be voir dired.

THE COURT: All right. So we will do that.

MR. TRAFICANT: He said he had not.

THE COURT: That's what you say, but that's not what the transcript is, and she may come in and say that. I don't know what she is going to say.

MR. TRAFICANT: We will voir dire her later. I do have witnesses here and expecting others, however you want to handle it.

I understand you ruled on the tapes. I was told by the press outside you ruled on tapes. Is that a fact?

THE COURT: I think we issued rulings yesterday or the day before. Did we issue rulings? We have so many motions in this case --

MR. TRAFICANT: Did I receive a ruling on the tapes?

THE COURT: You get all my rulings.

MR. TRAFICANT: Who handed it to me?

THE CLERK: After the Judge announced it I walked up and handed it to you.

MR. TRAFICANT: When did you hand it to the prosecutor?

THE CLERK: The second after I handed it to you.

MR. TRAFICANT: When did you hand it to me?
THE CLERK: Right after the Judge --
THE COURT: In any event, it is docketed.
MR. TRAFICANT: Mr. DiBlasio is taking the Fifth Amendment. He is not available.
THE COURT: We have been through this, Congressman.
MR. TRAFICANT: His tapes should be admissible.
THE COURT: We have been through that, and --
MR. TRAFICANT: And you are not going to admit the DiBlasio tape.
THE COURT: Whatever is in that order is the order I made in the case. You should read the docket and the order in the case. They affect you. If you were surprised by it when you went out and talked to the press, I'm sorry.
MR. TRAFICANT: I didn't talk to them. They notified me. "What are you going to do now the tapes are thrown out?"
THE COURT: We will tell you when it was docketed.
MR. TRAFICANT: When was it filed?
THE COURT: When was what filed?
MR. TRAFICANT: What was the date of the

motion? Show me the date of the motion.

THE COURT: Hold on. Just relax. We will get a docket entry.

MR. TRAFICANT: I am upset. You are denying me the opportunity to defend myself.

THE COURT: It was issued on March 27th at 8:34 in the morning. It is an order denying Defendant's motion regarding hearsay. It was posted on the docket at that time. It was handed to you here in the courtroom, and it probably also was sent out the usual way.

MR. TRAFICANT: Does it delineate the tapes --

THE COURT: Do you still not have a copy of it?

MR. TRAFICANT: I don't have it with me.

THE COURT: Would you like a few moments to read a copy of it?

MR. TRAFICANT: I would appreciate it.

THE COURT: Thank you. And now you should learn to read the docket. The docket has a big impact on your case.

MR. TRAFICANT: Let me tell you what I know about this case. All the impact --

THE COURT: We have all the motions you filed and they filed, Congressman. You filed motions and they

filed motions. I think seven were filed yesterday morning.

I have a whole bunch of responses filed this morning. That's part of your lawsuit. You have to pay attention to it.

MR. TRAFICANT: Your Honor, I file motions and you deny them. They file motions, and you sustain them. And you have not had a level playing field here, again for the record. You are a prosecution witness, as far as I am concerned.

THE COURT: It would be a good idea --

MR. TRAFICANT: I would like to subpoena you, put you on the stand, quite frankly.

THE COURT: Congressman, it would be a good idea if you would remember the rules this courtroom operates under that we started with long before the trial began.

MR. TRAFICANT: I would like to ask into another matter.

THE COURT: No, no. We are going to finish with some of these matters.

MR. TRAFICANT: Fine.

THE COURT: The docket is what carries the orders of the Court in the case. If you are not going to read the docket yourself or have anyone else read it for you, then you will continue to be surprised, because courts

rule on motions that are in front of them.

MR. TRAFICANT: Your Honor, I am not surprised at any of your motions. I haven't even looked at their evidence, and quite frankly, I know how you are going to move an order before you do. But I was informed by the press today, and if it was given to me yesterday by Jeff, that I would state that I didn't see it.

Now, if you have anything more to say with that, I'm fine. If not, I would like to know, since this was admitted into evidence shouldn't the Court have taken it and made it part of the record, this check?

THE COURT: Well, it was admitted into evidence. We don't hold on to the evidence.

MR. TRAFICANT: How does the jury see it?

THE COURT: Well, at the time that the case is submitted to the jury all the evidence that has been admitted is taken by the lawyers, put together, we go through it before the jury sees it, and it is sent back with them.

MR. TRAFICANT: So you do not maintain them once they are admitted in your own control and custody, and it is a requirement of the lawyers to maintain a piece of evidence that has been admitted in evidence?

THE COURT: Yeah.

MR. TRAFICANT: Okay. Fine. I am just the

son of a truck driver here, you know?

Now, I do have witnesses. I want to know if you want to voir dire Ms. Kovachik first, who is here, or if you want to go forward with the jury.

THE COURT: That's up to you. We are giving you an opportunity by putting her on the stand and having her say what it is what she would have said were she allowed to answer the question.

MR. TRAFICANT: Why don't we go through with hers since they released it, and why don't we go ahead with her at this particular point and go ahead with her.

THE COURT: Bring her down.

MR. TRAFICANT: And I would ask for the opportunity to examine the witness.

THE COURT: We will ask the question that was here. If you get into more direct there may be some cross-examination. If you are just going to ask her the question here and ask what I need to make the ruling and make your argument, whatever it is about how it is a hearsay exception --

MR. TRAFICANT: Your Honor, I already know how you are going to move. I want a direct examination, for the record.

THE COURT: Of this witness?

MR. TRAFICANT: Yes, on this issue.

THE COURT: Well, you can ask her the question that we asked.

MR. TRAFICANT: And I cannot ask her nothing more than that relative to the conversation she had with Mr. O'Nesti?

THE COURT: There never was a cross-examination of her. If you do that, if you go forward with that, you are going to open yourself up and the witness up to being cross-examined by the Government. Right now the Government isn't in a position to do that because they said they had no cross.

MR. TRAFICANT: Because they are scared to death of any of these witnesses.

THE COURT: No, no. Come on, Congressman.

MR. TRAFICANT: They have the testicles of an ant. And I have subpoenaed a witness who I tried to service subpoenas.

THE COURT: One of your witnesses is coming into the room, so if you would try and hold your tongue.

MR. TRAFICANT: I would ask you to ask the prosecution to constrain themselves.

THE COURT: You are still under oath. We need to reask you a question from yesterday pertaining to your answer.

The question was, "Did there come a time when you

rejoined -- did there come a time you rejoined the Congressional staff?"

THE WITNESS: Yes.

THE COURT: And you said, "Yes, I rejoined the staff after talking to Chuck O'Nesti," and you went on and said some other things.

The question that was put to you is, "Did there come a time you rejoined the Congressional staff?"

THE WITNESS: Yes.

THE COURT: Okay.

THE WITNESS: I had been attending spaghetti dinners, and Chuck O'Nesti was usually there -- or he wasn't there, but this one day that he was there, he was there, and I was going out of the hall, and he was sitting at a table by himself. And I said, "How are you doing, Chuck?"

"Sit down. Where are you going?"

"I'm just heading out. What are you doing?"

"You working yet?"

"No."

"I told you to call Jim. You are a good worker. Get back there. The girls are gone."

THE COURT: So you are testifying to things he said.

THE WITNESS: I don't know. Do you want me

to say this?

MR. TRAFICANT: I would like to examine the witness.

THE COURT: Excuse me. You should be testifying the way that the rules indicate, which is that you have to speak from your own experience about what happened.

THE WITNESS: Okay.

THE COURT: What you know.

MR. TRAFICANT: I move that the Court read her final statements to her, and I ask then to direct examine this witness.

THE COURT: You want me to read the part that is in this transcript?

MR. TRAFICANT: The last four lines.

THE COURT: "Yes. I rejoined the staff after talking to Chuck O'Nesti, and with his encouragement, to say, 'Linda, go back to the Congressman's office. I know you are a good worker, and the Congressman needs you.' I said, 'I don't know about these kickbacks, Mr. O'Nesti.'"

THE WITNESS: Yes.

MR. TRAFICANT: Read the last of the statement.

THE COURT: I'm trying to. The witness is talking, he says I had. There you were interrupted.

MR. TRAFICANT: Your Honor, can I now examine this witness?

THE COURT: Let her answer the way she was answering the question.

MR. TRAFICANT: Go ahead and answer that final question.

THE WITNESS: I had not gotten any kickbacks from Jim.

THE COURT: Okay. All right.

VOIR DIRE DIRECT EXAMINATION OF KOVACHIK

BY MR. TRAFICANT:

Q. Were you there -- did you approach Mr. O'Nesti?

A. We kind of seen each other at the same time. I seen him, he seen me, waved to me, sit down.

Q. How long were you with him?

A. Oh, we chatted for -- I can't tell the time exactly.

Q. Was this shortly before he died?

A. It was in the month of October of '99, before he died. He died in February. He was very sickly at that time.

Q. How was his voice?

A. He was weakly, and with that cancer it was hard for him to talk. That's why I kind of sat down and heard him, got a better hearing on his voice.

Q. What was the main reason for talking about the job

with Mr. O'Nesti?
A. I was unemployed, and I needed work.
Q. Did you have any knowledge of what happened in my office?
A. What I read and heard, and hearsay.
Q. As of what? Were there job openings?
A. There were people that had left. There was a staff opening there, and it was going to be available. I was interested in coming back.
Q. Was there anybody else that left that concerned you?
A. Jackie Bobby and Grace Yavorsky.
Q. Would you have reapplied had Jackie Bobby and Grace Yavorsky still had been employed?
A. No. I don't think so, no.
Q. Would you have reapplied if Mr. O'Nesti said he gave kickbacks?
MR. KALL: Objection. Speculative.
THE COURT: Uh-huh. Objection sustained.
BY MR. TRAFICANT:
Q. Did you at some point contact me?
THE COURT: Congressman, remember the purpose we are here for: There is no jury listening to this testimony, so don't go beyond what you want to go beyond in order to establish there is an exception to hearsay here.
Q. Were you rehired?

A. Yes, sir.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. KALL: No questions.

THE COURT: Thank you. You can step down.

THE WITNESS: Okay. Thank you, Judge. Do I leave now?

THE COURT: Yes. You can leave. You are released.

MR. TRAFICANT: Would you be prepared to go forward with witnesses or do you want time to rule against this witness?

THE COURT: Congressman, I would like you to just be seated.

MR. TRAFICANT: I would prefer to stand.

THE COURT: Well, I'm so sorry, but you can't do that right now because I am about to talk about a different topic.

We have people from the public who have come in from time to time into this courtroom. Posted outside the door, probably delivered to some people who are in the courtroom now, are things called Information for Trial Participants. We have been over those with you since long before this actual trial began. We have been over parts of these persistently throughout the trial, and because of the

childish remarks that you just delivered a few moments ago regarding the other people who are participants up here in this case, I'm going to review these with you so that you are clear.

These rules apply to all people who practice in this courtroom. They apply to pro se litigants. They even apply to people who are here just in the galley, members of the public and press, and there is a sheet called Information for Trial Participants. You've had it over a long period of time and on many occasions.

In terms of the sixth item there, courtroom decorum for counsel and pro se defendants, the first one is to stand when making an objection. The second one, "Do not interrupt the Judge or counsel." That's a continuing problem we've had in this case --

MR. TRAFICANT: I object to that.

THE COURT: -- is that you interrupt the Judge and counsel.

The next one is, "Follow the Judge's directions on how to proceed." The next one is, "Cursing or profanity is not permitted." The next one is, "After you have objected and made your record for appeal, do not reargue or protest the Judge's ruling." The next one is, "Do not disrupt the proceedings." The next one is, "Insulting other parties, counsel, the Judge, or jury by voice or demeanor is not

permitted."

It says here that the Court and the Marshal will enforce these rules.

Another rule that we have gone over with you repeatedly has to do with bringing evidence before the jury that this Court explicitly prohibited you from presenting to the jury. Yesterday in the afternoon was yet one more ridiculous example of your trying to get a question out to a witness at the end that has repeatedly been ruled not relevant to this case and not part of this case.

MR. TRAFICANT: I object. You did not ask that witness if I had solicited that remark.

THE COURT: I am not talking about Kovachik. I'm talking about the witness who was on the stand yesterday afternoon.

MR. TRAFICANT: What witness was that?

THE COURT: So you continue to violate the basic rules that everybody, everybody is required to pay attention to, and just because you are who you are in some respect you must believe that you can do whatever you want to in a court of law, but that's not true.

So I would like to go forward since we have jurors here today, and I would like to tell you one more time what the rules are and ask you to follow them so we can proceed in a case that is fair to both sides.

We need -- we want to get your witnesses on. We want you to be able to get your evidence in front of the jury.

MR. TRAFICANT: What evidence? You have stricken every bit of evidence.

THE COURT: Well, that's certainly not true, and you said you had witnesses today.

MR. TRAFICANT: I want to ask a question of the Court. Which of those have I violated, and what witness did I violate yesterday?

THE COURT: We will give you a long opportunity when the jury is gone home to discuss that.

MR. TRAFICANT: You made it a matter of public record here now, and I think contemporary --

THE COURT: It has been a matter of public record for a long time. These rules are posted in the courthouse.

MR. TRAFICANT: Yes. And I believe you have interrupted me during cross-examination before I had even reached a reason for my questioning. I want that placed on the record.

THE COURT: Good.

MR. TRAFICANT: That you have also my records from Chicago, which is very unusual, in your chambers, and I want now and request the order of Judge Aldrich to

produce the $10,000 for the FBI to photocopy in that trial.

THE COURT: I have no idea what you are talking about about $10,000.

MR. TRAFICANT: You have my documents, and I request you to give me that. And I ask you to allow me to subpoena Judge Aldrich since she was interviewed by the FBI about the Bucci case.

THE COURT: I don't know what you are talking about, but that's not relevant to this.

Do you have witnesses here today, Congressman? Do you have any more witnesses?

MR. TRAFICANT: I want to subpoena Judge Aldrich first.

THE COURT: Then issue a subpoena, but get me your witness.

MR. TRAFICANT: I will get my first witness.

THE COURT: Who is it?

MR. TRAFICANT: I already told the prosecutor, Mr. Mack Gibson.

THE COURT: Mr. Matt Gibson?

MR. TRAFICANT: Mack as in Mack truck.

THE COURT: Are there any papers or statements, or anything else, that need to be given to the Government regarding this witness?

MR. TRAFICANT: No. He was just subpoenaed

recently. I have no statements, nothing myself. They have gotten exactly what I have, what they will hear.

THE COURT: Okay. We will bring in the jury.

(The following proceedings were held in the presence of the jury:)

MR. TRAFICANT: Mack, just go up the right-hand side there and sit up there beside the Judge.

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

THE WITNESS: Good morning.

ALBERT M. GIBSON, of lawful age,
a witness called by the Defendant,
being first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION OF ALBERT M. GIBSON

BY MR. TRAFICANT:

Q. Mack, there is water available to you, and if you sit closer to the microphone you will be heard by the jury and everyone else.

Would you please state your full name for the record, and spell your last name?

A. Albert M. Gibson, G-i-b-s-o-n.

Q. And what is your address, Mr. Gibson?

A. 9231 Peck Road, Mantua.

Q. Heck?

A. Peck, P-e-c-k.
Q. Mantua?
A. Yes.
Q. Do you go by a nickname?
A. Mack, Mack.
Q. Would you be offended if I referred to you as Mack?
A. No.
Q. How long have you known me approximately?
A. Approximately -- it has been a few years, seven, eight, ten.
Q. What do you do for a living?
A. Well, I paint barns and do carpenter work, paint factories.
Q. Do you have any special equipment?
A. I have a boom truck that I can get up like 60, 70 feet in the air.
Q. Do you still own that truck?
A. Yes.
Q. Is it an old or new truck?
A. Well, I bought it in '78, and it doesn't have many miles on it, but it runs real good.
Q. What year model is it?
A. '78 Ford, F 600.
Q. When you say a boom on it, what kind of a boom does it have?

A. It has a pair ladder, 65 foot, where you can get up 65 foot and work on anything, and you can lift stuff up with it, too.
Q. Well, how does it lift?
A. It has a winch. It has its own pair unit, a winch, where you can run it out there and lift anything you want to up.
Q. Does it slide, or does it fold, or does it --
A. It slides.
Q. Did you have to do any work on a farm in Greenford, Ohio?
A. Yes.
Q. Do you recall how long ago that was?
A. Maybe five years ago.
Q. What was the first thing you did?
A. We put a roof on a small building up in the air, like it must have been about 50 foot in the air.
Q. And how did you put that roof on?
A. We used that truck to get up there to get the roof started on top of it because it was only a small building, like eight by twelve or something.
Q. You said it was up high in the air?
A. Yeah, 50 foot.
Q. You thought it was 50 foot?
A. It was close to it, the top of it.

Q. Was your ladder extended to 50 foot?
A. I don't know that. It was pretty close.
Q. What was the building constructed out of?
A. Wood, shingles, panelling for the sides.
Q. Well, what kind of a building was it? What was the structure of the building?
A. It was supposed to be a deer stand, I guess.
Q. And what were the supports for this little building?
A. There were telephone poles or electric poles.
Q. Were the telephone poles already in the ground?
A. Yes.
Q. Was the platforms already done?
A. No, I don't think they was.
Q. What all did you do to the building?
A. We put a roof on it, put the sides on it, and I think we put a floor in it.
Q. So there was something to put the floor on?
A. I believe there was two-by-fours where it was framed up around it.
Q. Yes. Did you use new or used material for the walls?
A. It was used material.
Q. And to the best of your knowledge, what kind of materials were there?
A. It was parts from doors where they had these like garage doors, panels. It was real nice panels that had

dents in there, you know.
Q. And did you install them?
A. Yes.
Q. Did you put the trusses on the building?
A. Yes.
Q. Did you put the sheeting on the trusses?
A. Yes.
Q. Then you put on the shingles?
A. Yes.
Q. Were you paid for that job?
A. Yes.
Q. How were you paid?
A. By check.
Q. Who paid you?
A. You did.
Q. Now, did there come a time when you did a second job?
A. Yes.
Q. Can you describe what that job was?
A. You wanted a roof put on a silo.
Q. What is a silo?
A. It is a tank that stands about 50 -- some of them can be 60, 70 feet high -- that you put feed in for the dairy cows, or some of them put sawdust in them now to bed horses.
Q. What was the silo made out of?

A. It was a cement structure.
Q. Was it --
A. Stakes.
Q. Was it round or square?
A. It was round.
Q. And what, if anything, did you do to that building, to that silo?
A. We put a roof on it.
Q. And how did you do that?
A. Well, we got up there and just started building a roof on it. We had to anchor into the wall with heavy screws and build on up from there.
Q. And did you complete the job?
A. Yes. We got a roof on it.
Q. Did you build the trusses?
A. Yes.
Q. What kind of roof did it have on it?
A. It didn't.
Q. When you got done what kind of roof did it have on it?
A. It had a nice peaked roof on it.
Q. What was the roof made out of?
A. Wood, shingles, plywood.
Q. Did you buy the material?
A. No.

Q. Was it provided to you?
A. Yes.
Q. Did you get paid for the job?
A. Yes.
Q. How did you get paid?
A. You paid me by check.
Q. Did I ever ask you to do any work on the farm other than that?
A. That's all.
Q. Did I ever hug you?
A. No.
Q. Did you ever hug me?
A. Not as I know of.
Q. What, if anything, did we do? Did we ever touch?
A. Just shake hands, I guess, when I met you.
Q. Do you fear me?
A. No.
Q. Do you live in my Congressional district? Do you have knowledge if you live in my Congressional district?
A. No, I didn't. I lived in Portage County. I don't think that was in your district.
Q. Do you know if Portage County is going to be in the new 17th District?
A. No. I heard maybe it was, but I didn't know.
Q. Were you referred to me by someone?

A. I think some guy I had worked for before, you know, referred me to you.
Q. Do you recall the name?
A. Dominic.
Q. Dominic. Did you do this job over a period of time?
A. Yes.
Q. And why was that?
A. You've got to work with the weather. You just can't work every day on something.
Q. Did you have other jobs in between?
A. I might have. It has been quite awhile. I can't remember whether I was doing two jobs then or not.
MR. TRAFICANT: Thank you, Mack. No further questions.
THE COURT: Just a moment, sir. They may have some questions.
MR. KALL: No questions, Your Honor.
THE COURT: All right. Thank you. You are released, sir.
MR. TRAFICANT: Your Honor, I will go get my next witness, see what I have there.
THE COURT: Thank you.
MR. TRAFICANT: Your Honor, I call Melinda Davies from Home Savings & Loan.
THE COURT: Fine.

MELINDA DAVIES,

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

THE COURT: Since everyone may want to hear you in the back of the room, you may want to use the microphone.

DIRECT EXAMINATION OF MELINDA DAVIES

BY MR. TRAFICANT:

Q. Linda, there is water there, and I will be with you in a minute.

A. Thank you.

Q. Can you see this chart, Melinda?

A. Yes, I can.

Q. Have you been sworn under oath in this case before?

A. Yes, I was.

Q. Who did you testify for?

A. The prosecution.

Q. When you were interviewed by the prosecution, who was the subject of their inquiry?

A. Basically it was with two different accounts, one for a Henry DiBlasio and the other for R. Allen Sinclair.

Q. Did you testify to what they asked?

A. Yes, I did.

Q. In the matter regarding Mr. Sinclair, how many

accounts did they inquire about?

MR. MORFORD: Objection.

THE COURT: Well, if you remember or don't, you can answer.

A. I believe we talked about one specific account.

Q. And what did that one account deal with?

A. That was Mr. Sinclair's personal account.

Q. And do you know what elements of the personal account they had interest in?

A. Well --

MR. MORFORD: Objection as to what the Government had interest in, Your Honor.

Q. Do you know what you testified to relative to the prosecution's request?

THE COURT: Okay. That objection is sustained.

Q. Do you know what you testified to and what checks you testified to relative to the prosecution's request?

MR. MORFORD: Objection as to relevance.

THE COURT: You can answer if you know.

A. Yes. I do know what I testified to.

BY MR. TRAFICANT:

Q. And what was it?

A. There were questions concerning checking accounts and deposits made into that account and checks that were

cashed.

Q. And where were those checks coming from?

A. Specifically there were U.S. Government paychecks.

Q. U.S. Treasury checks?

A. Yes, sir.

Q. Paychecks?

A. Yes, sir.

Q. Were you asked about anything other than that?

A. Yes.

Q. What was that?

A. Questions concerning the checking accounts of both Mr. DiBlasio and Mr. Sinclair.

Q. Were you served with a subpoena by the Defendant?

A. Yes, sir.

Q. Did you comply with that subpoena?

A. I complied with as much as I was able to with the reasonable amount of time provided.

Q. Are there still things pending that you have not yet given me?

A. Yes, sir. We are still continuing the research.

Q. I want you to look through these, and I want you to identify them for the jury. And if you would hold them up one at a time, and then state if, in fact, these were given to me by you, these documents.

THE COURT: Okay. Have you seen these?

MR. MORFORD: I don't know, Your Honor. We may have, but we don't know if they are the same.

THE COURT: Okay. Congressman, you have to let them see --

MR. MORFORD: Are these what you have given us in the box, sir?

MR. TRAFICANT: These are all you have right here.

MR. MORFORD: They are the same, right?

MR. TRAFICANT: They are exactly the same.

THE COURT: Okay. That's fine.

BY MR. TRAFICANT:

Q. Would you pick up the first packet and identify it?

A. The first packet is -- represents statements from the personal checking account for R. Allen Sinclair and Kimberly Sinclair.

Q. Does it have an exhibit number on it?

A. Yes, sir. HSL-1.

Q. -1?

A. Correct.

Q. And it is a personal joint account of --

THE COURT: Congressman, I don't know what you are putting up there, but you can -- before we said you can kind of keep notes as you go along, but you can't testify from there to this jury, and you don't need to

reiterate her testimony, because they are hearing it.
Q. Is that the first account? Was there a second account of the Sinclairs? What's the next exhibit that you have?
A. The next exhibit would be for KAS Enterprises.
Q. What's the next account that you have? What's the exhibit number on KAS?
A. HSL-1D.
Q. What is the next account that you have?
A. The next account is a business account in the name of R. Allen Sinclair, IOLTA trust account.
Q. What is an IOLTA trust account?
A. Stands for interest on lawyer trust account. It is an account where lawyers and law firms deposit funds from clients into a checking account for later repayment to those clients.
Q. Now, are there any other further exhibits?
MR. MORFORD: Your Honor, we didn't get an exhibit number on the IOLTA.
BY MR. TRAFICANT:
Q. What is the exhibit number on the IOLTA?
A. HSL-F.
Q. Was there another account?
A. I have another account in the name of Sinclair Vending Company.
Q. And is there an exhibit number on that?

A. HSL-G.
Q. Is there another account for Mr. --
A. There is a business account in the name of R. Allen Sinclair.
Q. And what is the exhibit number on that?
A. HSL-H.
Q. When you testified for the Government, you testified relative to the treasury checks paid on payroll. Is that correct?
A. Yes, sir. That was one of the areas I testified in.
Q. Now, I want to refer you to the -- first, let me ask you: Are those the documents that you submitted to me?
A. Yes, sir.
Q. Have you reviewed them, and are they in the order that you have delivered them to me?
A. Yes, sir.
Q. Would you know if I had delivered them to the prosecution in the same order?
A. I would not know that.
Q. But have you gone through them and taken the time and helped to identify them with defense exhibit numbers?
A. I went through them, yes, this morning.
Q. Now, I want you to look to the KAS account, and whatever the exhibit number is, I want you to refer to that.

But first, you can say there were five accounts dealing with Mr. Sinclair. Is that correct?
A. That's correct.
Q. Of the five accounts, how many of those accounts involve both Mr. and Mrs. Sinclair?
A. The personal account has both Mr. and Mrs. Sinclair as signers. The KAS Enterprises has both Mr. or Mrs. Sinclair as a signer, and Sinclair Vending has Mr. or Mrs. Sinclair as a signer.
Q. What is the defense exhibit number for KAS again?
A. HSL-1D.
Q. Would you explain what that account is?
A. It is a business account that was opened with Home Savings & Loan originally on November 30th, 1998.
Q. And who was listed as the person that had, in fact, opened the account on November 30th, 1998?
A. Who opened the account in 1998?
Q. Yes.
A. The account was opened by R. Allen Sinclair.
Q. Were there any other names on the opening of the first account?
A. No, sir.
Q. Now, was there later a second account opened?
A. The account was changed on December 11th, 1998, and at that time, Kimberly A. Sinclair's name was added as a

signer to the account.

Q. Was R. Allen Sinclair still listed on the account?

A. Yes, sir.

Q. Was there any delineation as to titles?

A. The corporate agreement -- the corporate resolution that the bank requires shows R. Allen Sinclair's name above the line "president" and Kimberly A. Sinclair's name above the line "secretary."

Q. I want you now to turn to page 2. Is page 2 identified by a defense exhibit number?

A. Yes.

Q. And what is the defense exhibit number?

A. HSL-1DA.

Q. 1DA. I want you to read the paragraph -- I would like to see the documents since I only have that one copy. I'd like to show it to the Judge.

Could you point to me the paragraph?

A. It would be the last paragraph.

MR. TRAFICANT: Your Honor, I would like for you to look at the last paragraph before the signings.

I'd ask that you turn on the machine for me if one of you can help.

MR. SMITH: Yes, sir.

MR. TRAFICANT: Thank you.

MR. SMITH: You are welcome.

MR. TRAFICANT: I would like to put this on the screen.

THE COURT: Which paragraph do you want me to read?

MR. TRAFICANT: The last paragraph before the signatures is what I'm going to ask her to be witness to.

THE COURT: It was this one you wanted me to read?

MR. TRAFICANT: The last paragraph before the signatures.

THE COURT: All right. I read it.

BY MR. TRAFICANT:

Q. I would like you to look at this and look it over first before I put it on the screen since it is a copy that is, in fact, not as clear as it may appear on the screen. So I want you to look at it. I want you to acclimate yourself, and tell me when you have completed such.

Are you familiar with that last paragraph?

A. Yes, sir.

Q. Thank you.

MR. TRAFICANT: Can I darken this in any way, fellows?

MR. SMITH: Flip it over, for one.

MR. TRAFICANT: Thank you. Can I borrow another copy from the Government?

MR. MORFORD: Ours aren't labeled, but I guess.

MR. TRAFICANT: Would you oppose letting me use your document?

MR. MORFORD: If this is the right one.

Q. Since you cannot see all of this, I am going to ask you to read the last paragraph as it is seen on the board since it is not very clear.

A. "Further resolved that said Home Savings be and is hereby authorized and directed to honor, pay, and charge to any of the accounts of this corporation, without inquiry to or responsibility for the application of the proceeds thereof, all checks, drafts, notes, or other orders for the payment, withdrawal, or transfer of funds or money deposited in the account to the credit of this corporation, and any instructions regarding same, and any authorizations for the transfers of funds between different accounts of the corporation, whether oral, by phone, or electronic means, without inquiry as to the circumstances related thereto and for whatever purpose or to whomever payable, including requests for conversion of same into cash, as well as for deduction from and payment of cash out of any deposit, and whether or not payable to, endorsed, or negotiated by or for the credit of any person signing same or any other officer, agent, or employee of this

corporation when signed, accepted, endorsed, or approved as evidenced by original or facsimile signature by any one of the officers, agents, or employees of this corporation from time to time holding the following offices of this corporation."

Q. What, in essence, does paragraph two say about that account?

A. That it would require one signature to withdraw funds.

Q. Could either R. Allen Sinclair and Kimberly Anne Sinclair without the consent of one another take funds from that account?

A. Yes, sir.

MR. TRAFICANT: This is yours, gentlemen.

BY MR. TRAFICANT:

Q. Could you let me see the next exhibit? I would like to put this up on the board. This will be known as Defense Exhibit HSL-1DB. It is a corporate resolution designating depository officers to sign for a corporation. It is two pages and was signed November 30th. This is the very first one that you had, in fact, testified to, the original account, and who was listed as the president?

A. Raymond A. Sinclair.

Q. Now, were there checks deposited into this account?

A. Yes, sir.

Q. Did we give it a defense exhibit number?

Did you maintain these in some order? Could you find the checks for KAS that were deposited? Take your time. There is water over there if you need it.

A. Thank you. I'm fine.

THE COURT: She has them.

Q. Do you have the checks?

A. Yes, sir.

Q. Would you look at the checks? Are you now familiar with the document?

A. Yes, sir.

MR. TRAFICANT: This is known as Defense Exhibit HSL-1E.

Upon delivery of the subpoena did you submit this note, and is this, in fact, your handwriting?

A. Yes, sir, it is.

Q. What is the reason for your statement on the bottom?

A. You had asked me whether or not one person was eligible to withdraw from the KAS Enterprises account, and according to the documents you subpoenaed, that information was available to you. I was demonstrating to you where you could find that document.

Q. Now, I'm going to turn this over without trying to take this apart. Did your bank negotiate this check?

A. Yes, sir.

Q. And it is a United States Treasury check?
A. Yes, sir.
Q. And what amount is it made to?
A. I can't -- $330.12.
Q. Uh-huh. And how was it negotiated?
A. The check was deposited into the account KAS Enterprises.
Q. Could you describe what that check is?
A. That's a U.S. Treasury check.
Q. And how much is it made out to?
A. $656 even.
Q. And who is it made out to?
A. KAS Enterprises.
Q. At what location?
A. The address on the check is 11 Overhill Road, Youngstown, Ohio.
Q. Was that the address for KAS Enterprises?
A. Yes, sir.
Q. And was it, in fact, negotiated at your bank?
A. Yes, it was.
Q. And is that the order of deposit?
A. That is the endorsement stamp, yes, sir.
Q. Now, after having testified for the Government, were these the amounts that were shown on Mr. Sinclair's pay accounts, on his paychecks?

A. Were these checks the same amounts as his paycheck?
Q. Yes.
A. No, sir.
Q. Who was his paychecks made out to?
A. His paycheck was made payable to R. Allen Sinclair.
Q. Now, is this another check you negotiated?
A. Yes, sir.
Q. And how much was it for?
A. $303.48.
Q. Did you negotiate that check?
A. Yes, sir. It was deposited into the account for KAS Enterprises.
Q. And how much was that check for?
A. $656 even.
Q. And who was it paid to?
A. Payable to KAS Enterprises.
Q. And "deposited by" stamp?
A. That's correct, deposited into account for KAS Enterprises.
Q. What was that check in the amount of?
A. $134.66.
Q. And was it deposited, negotiated at your bank?
A. Yes, sir. It was deposited into the account of KAS Enterprises.
Q. And negotiated at your bank?

A. Correct.
Q. What is the month and date of that one?
A. This check is dated November 22nd, 1999.
Q. And how much is it for?
A. $656 even.
Q. Have you had several checks that say $656 even?
A. Yes, sir.
Q. And was this negotiated at your bank?
A. Yes, it was. It was deposited into the account of KAS Enterprises.
Q. Would you identify this check and read the date?
A. The check is a United States Treasury check. It is dated December 20th, 1999.
Q. And how much is it for?
A. $656 even.
Q. And where was it sent?
A. To KAS Enterprises, at 11 Overhill Road, in Youngstown.
Q. And you negotiated that check?
A. Yes, sir. It was deposited into the account of KAS Enterprises.
Q. Would you read the date on this check?
A. January 21st, the year 2000.
Q. Did you negotiate that check?
A. Yes, sir. That check was deposited into the account

of KAS Enterprises.
Q. Does that language mean any special thing?
A. Those documents are used as that check went through our processing system at night.
Q. And how much was that check for?
A. $103.72.
Q. Was that negotiated at your bank?
A. Yes, sir, it was deposited into the account of KAS Enterprises.
Q. What is the date on that check?
A. February 18th, 2000.
Q. And for how much?
A. $656 even.
Q. Was it negotiated at your bank?
A. Yes, sir. It was deposited into the account of KAS Enterprises.
Q. And what date is that?
A. March 20th, 2000.
Q. And for what amount?
A. $656 even.
Q. Did you negotiate that check at your bank?
A. Yes. It was deposited to KAS Enterprises.
Q. Did you negotiate that check?
A. It was deposited into the account of KAS Enterprises.
Q. For how much?

A. $112.52.
Q. What was the date on this check?
A. April 20th, 2000.
Q. And for how much?
A. $656 even.
Q. And was it deposited where?
A. At Home Savings & Loan for KAS Enterprises.
Q. And how much was that check made for?
A. $164.48.
Q. And did you negotiate it?
A. Yes. It was deposited to KAS Enterprises.
Q. This is pretty hard to read, but can you read it?
A. Yes, I can read it.
Q. Go ahead and see if you can try and read it.
A. The amount of the check is $656 even. It is payable to KAS Enterprises, and it was deposited into the account of KAS Enterprises.
Q. And what is that?
A. When I delivered the subpoenaed documents to you, I asked you to sign that you did receive the documents pursuant to that subpoena.
Q. Now, I want you to take this document, and I want you to count how many checks total $656, not the total of those checks, but how many $656 checks were written and cashed into that account?

A. Nine checks that total $656 even.
Q. Only nine?
A. That's correct.
Q. Did you search for any others?
A. We have searched for others, yes, sir.
Q. Now, do you have any other checks of $656?
A. I'm not aware of any at this time.
Q. Do you know how long Mr. Sinclair worked for the Congressman?
A. No, sir.
Q. Do you know if it was more than nine months?
A. I don't know, sir.
Q. Now, with this KAS account, either or both could have taken these dollars and used them for their personal use?
A. Any of the funds in the account KAS Enterprises could be withdrawn by either R. Allen Sinclair or Kimberly Sinclair.
Q. For example, could Mr. Sinclair buy a suit of clothes?
A. I can testify that he could withdraw funds from that account.
Q. And he could use it for whatever he wanted: Could you testify to that?
A. Yes, sir.
Q. Did you find any other -- are there still matters in

my subpoena pending?
A. Yes, sir. All the research has not been completed up to this point.
Q. How many accounts have you identified?
A. Five accounts.
Q. Were any of the accounts that we talked about today paychecks?
A. Were any of the accounts paychecks, were any of the accounts, did they have paychecks deposited into them.
Q. Yes.
A. The answer is yes, there appeared to be paychecks deposited into the personal account.
Q. Was that a joint account?
A. Yes, sir.
Q. There were three joint accounts of the five?
A. Correct.
Q. Now, I want you to refer to the vending business. What was the defense exhibit number on the vending business?
A. HSL-G.
Q. I want you to look those documents over very carefully. Who was eligible to the funds from HSL-G?
A. The signers on the check are R. Allen Sinclair or Kimberly A. Sinclair.
Q. Did you find any $656 checks in there?

A. Not to my knowledge.
Q. Describe the volume of activity of HSL-G and how much money had gone through HSL-G.
A. I don't have an actual dollar amount of funds either being deposited or withdrawn from the account. There is not a lot of activity on that account.
Q. By "not a lot of activity," how much activity? Would you estimate it in hundreds or thousands? Could you look at several?
For example, give me one document, and tell me how much was deposited.
A. I have a statement dated January 31st of 2000. For that one-month period there was one deposit to that account for $490 even.
Q. And what was the nature of the deposit?
A. I don't know that.
Q. Could you see the back of it? Would you know if it was cash or check?
A. I don't know that.
Q. Are you familiar with vending businesses?
A. Not really.
Q. It is your testimony there was very little, if any, activity in HSL, in Sinclair Vending?
A. I would agree with that statement, not a lot of activity in this business account.

Q. But you do not know whether or not these were cash machines, or would you write a check for this vending machine? Would you have any knowledge?
A. I don't understand the question, sir.
Q. When you use a vending machine, do you put cash into it or checks into it?
MR. MORFORD: Objection, unless she has knowledge about this company.
THE COURT: She said she didn't have any special knowledge of vending.
BY MR. TRAFICANT:
Q. Have you ever purchased a bottle of soda?
THE COURT: It wouldn't matter.
Q. Would you put these back in some order and semblance in which we had them? And I apologize for that.
Did the Government subpoena all of Sinclair's accounts?
A. No, sir.
Q. What account did the Government subpoena?
A. The personal checking account.
Q. Is that all they asked for?
A. No. There was more information subpoenaed on other accounts.
Q. I'm talking about the Sinclair account.
A. They subpoenaed just the information on the personal

checking account.
Q. Now, in concluding my testimony with you, there were three accounts that both could take funds from independently of the approval of the other party. Is that a correct statement? Yes or no.
A. Yes.
Q. Do you know who withdrew from those accounts?
A. I would need to review each of the checks on all of the accounts to positively identify who withdrew funds.
Q. Is that part of your continuing search?
A. Yes. There is some information yet that we are continuing to search. I did provide many of the checks in response to the subpoenas that you had issued.
Q. Did you respond to every and all $656 check that you had in your possession? Is that all that you were able to find through your search?
A. To this point, yes, sir.
Q. Could there be more $656 checks deposited to that account?
A. That's possible.
Q. Do you memorialize and have a computer system?
A. Yes, sir.
Q. When an account of this nature pops up would not all the activity of KAS pop up?
A. In doing research, the researched items are stored by

the bank in different areas, so deposited items are not necessarily stored with the checks, which are not stored with the statements. So it would take researching all the areas, and that's a lengthy process generally.

Q. But you were able to find nine $656 checks?

A. Yes, sir.

Q. Now, wouldn't those checks all be kept in the same location?

A. In our archival material, no, they are not all stored together, no, sir.

Q. So you could find others from other accounts?

A. There could be other $656 checks that I have not been able to research enough to find those at this point in time.

Q. From your knowledge as a banker, could this check be negotiated at any other banks?

A. Yes. It could be negotiated at another bank.

Q. So in other words, could Mrs. Sinclair come into Jones Bank and sign it and endorse it, and would the bank negotiate a U.S. Treasury check?

A. Generally speaking, it is common bank practice that a check payable to a business needs to be deposited into an account with that business name.

Q. So it should have been deposited at your account?

A. Correct.

Q. Would you accept another -- would you accept a U.S. Treasury check that you did not have an account on?
A. If it was payable to a business, no. We would want it deposited into an account. We would not just cash that check.
Q. And you have found nine?
A. Yes, sir.
Q. Now, if you can approximate when the rest of your subpoena search will be completed relative to the Defendant's request of subpoena for material at the bank?
A. We received the first subpoena request on Friday, March 8th; began the research on the 11th and 12th, and I was required to appear here on the 13th with the documents. At that point, we gathered as many documents as we could, and at that time in order to comply fully with the subpoena I had estimated about two months worth of time to look up every deposited item on all five accounts.
Q. So you still need how many more days to conclude your accounting?
A. A month and a half.
MR. TRAFICANT: No further questions at this time.
THE COURT: Thank you. We will take our morning break, 30 minutes. We will have to keep you around. We will have a break. Okay? Thank you.

(Thereupon, a recess was taken.)

(Proceedings out of the presence of the jury.)

THE COURT: Congressman, are you ready to proceed?

MR. TRAFICANT: I did not rest with the witness?

THE COURT: You are standing up, so I wanted --

MR. TRAFICANT: Oh, I'm sorry. I thought I rested with the witness.

THE COURT: You didn't say anything. The witness is here. The Government may want to inquire of the witness.

MR. MORFORD: Yes, but I asked Jeff if I could address one matter. There is a witness who we have been told is going to testify today by the name of Mark Colucci, and I don't know what the Congressman intends to ask Mr. Colucci, but I would ask the Court if he intends to go into that area that we do it outside the jury's presence through a voir dire, because I don't believe it is relevant to the charges in this case, but it could result in a virtual mini trial on some things, and that has to do with his attempt to represent Clarence Broad in a civil suit he tried to file against me that Judge Nugent threatened him with sanctions.

THE COURT: Okay. If anything like that comes up, you object, and we will deal with the objection.

MR. MORFORD: I just wanted to give the Court a heads-up that that may arise.

MR. TRAFICANT: Your Honor, I may also attempt to qualify Mr. Colucci as an expert having practiced law for 18 years, but he is here to testify first on another matter.

THE COURT: Good. What sort of an expert is he going to qualify as?

MR. TRAFICANT: On the law.

THE COURT: The court determines whether he'll qualify as an expert and instructs on law during the trial. He can testify if he has something to say about the facts of the case. Okay? Bring in the jury.

(Proceedings held in the presence of the jury.)

THE COURT: You can proceed.

MR. MORFORD: Thank you.

CROSS-EXAMINATION OF MELINDA DAVIES

BY MR. MORFORD:

Q. Good morning.

A. Good morning.

Q. The Congressman showed you a number of monthly checks payable to KAS in the amount of $656 that were negotiated with your bank. Is that correct?

A. Correct.
Q. And I believe you testified there were nine of them that you found. Is that correct?
A. That's correct.
Q. Now, do you know if those checks were rent checks that were payable to KAS?
A. I would have no way of knowing that from the face of the check.
Q. He also showed you a number of lesser monthly checks payable to KAS. Do you know if those were for utilities, cleaning expenses, those kind of things?
A. Again, that's not stated on the face of the check. I would not know that.
Q. So all you know is they were checks, and you don't know what they were for?
A. Correct.
Q. Do you know the business for which KAS is engaged?
A. No.
Q. Now, Congressman Traficant asked you whether there could be some additional $656 checks beyond the nine that you have located, correct?
A. That's correct.
Q. Now, isn't it true that after a check clears it is returned to the institution that originally originated the check?

A. Yes.
Q. And could you tell from these checks what the institution was that originated the checks?
A. Well --
Q. I will show you again, the Congressman showed you HSL-1 -- just picking one randomly -- this one is dated 4-20-2000, $656, payable to KAS Enterprises?
A. Correct.
Q. And what is the institution that generated this check originally?
A. United States Treasury.
Q. And does it indicate which branch of the Government?
A. At the top, the phrase says U.S. House of Representatives, Washington, D.C.
Q. So to the extent that there were three or four months of checks you can't find in the amount of $656, isn't it true that the Congressman could go to Congress and find those checks, because that's where they end up after --
MR. TRAFICANT: Objection.
THE COURT: She can answer.
Q. -- after your bank negotiates them, correct?
A. Yes.
MR. MORFORD: I have nothing further.
THE COURT: Any questions?
MR. TRAFICANT: Absolutely.

REDIRECT EXAMINATION OF MELINDA DAVIES

BY MR. TRAFICANT:

Q. Do you know if I served a subpoena on the U.S. House of Representatives?

A. I don't know that, sir.

Q. Did the U.S. House of Representatives send the check?

A. It is a U.S. Treasury check.

Q. Is the U.S. House of Representatives a part of the overall umbrella of the federal government, to the best of your knowledge?

A. Yes, sir.

Q. And is the U.S. Treasury the depositor of revenue funds?

MR. MORFORD: Objection unless she knows, Your Honor.

THE COURT: Well, she has a chance to think before she answers.

A. I believe so, yes.

Q. Does the U.S. Treasury write the checks for the Government?

A. Yes.

Q. Are you still looking for checks?

A. Yes, sir.

Q. Were the $656 checks the same amount that the U.S. Government showed you as payroll checks?

A. No.
Q. Did Mr. Sinclair have access to the checks that I wrote on that paper and you testified to this morning?
A. Can you clarify that question for me?
Q. Could Mr. Sinclair go in and take the money out of those accounts of KAS?
MR. MORFORD: Objection. It has been asked and answered several times.
THE COURT: Many times.
MR. TRAFICANT: It was brought up on direct -- on cross.
THE COURT: Well, whatever. I think the jury has the information. You need to move on.
Q. Were the $300 checks, were they different than the U.S. Treasury paychecks to Mr. Sinclair?
A. Yes.
Q. Was the $104 check different than the U.S. payroll check to Mr. Sinclair?
A. Yes, sir.
Q. And on all five accounts, Mr. Sinclair needed no permission to draw funds?
MR. MORFORD: Objection, again. This has been asked and answered.
THE COURT: Go ahead and answer for the last time. Thank you.

A. Yes.

MR. TRAFICANT: No further questions.

MR. MORFORD: Nothing further.

THE COURT: Thank you very much.

MARK COLUCCI,

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

DIRECT EXAMINATION OF MARK COLUCCI

BY MR. TRAFICANT:

Q. Good morning, Mark.

A. Good morning, Congressman.

Q. Would you please give your name and spell your last name for the jury?

A. Mark Colucci, C-o-l-u-c-c-i.

THE COURT: You can take that mike out if you want to. It is up to you. We just need to hear you all the way in the back.

THE WITNESS: Thank you, Judge.

Q. And where do you reside?

A. In Austintown, Ohio.

Q. And what is your current employment?

A. I am self-employed.

Q. And what is your pursuit of business?

A. I am a lawyer.

Q. Are you licensed in the State of Ohio?
A. Yes, I am.
THE COURT: It is probably easier for you to take it out and hold it.
BY MR. TRAFICANT:
Q. Are you licensed to practice in any other states?
A. Well, I am licensed in the State of Ohio. I am licensed in the United States District Court for the Northern District of Ohio. I am licensed in the Sixth Circuit Court of Appeals, Cincinnati. I am licensed in the Third Circuit Federal Court of Appeals in Philadelphia. I am licensed with the United States Supreme Court in Washington, D.C., and I am a member of the American Trial Lawyers Association.
Q. Have I asked you to do any research on laws ,numbers?
A. Yes.
Q. Was that research relative to laws and my strategy?
A. I believe so.
Q. How long have you known me?
A. I think I first met you when I helped you in your campaign for sheriff back in the early '80s, 1980, and maybe a little before that.
Q. How long have you been an attorney?
A. For 18 years.
Q. Were you an attorney when you helped me in the

sheriff race?
A. No. I was still in school.
Q. Law school?
A. I graduated in '83 from Cleveland State, but I think I would have been at Hiram College at that time.
Q. Your undergrad was at Hiram?
A. Yes.
Q. Did you ever practice before the Supreme Court?
A. Well, I have a petition right now for certiorari before the United States Supreme Court. I have never had the honor or privilege of arguing the case there yet. I am hopeful.
Q. What does the petition before the Supreme Court deal with?
A. You have to set forth grounds why your case is worthy of their taking a case and involves filing a written brief, and a number of requirements. And I have done that a number of times.
Q. Have you appeared before the Third Circuit Court in Philadelphia?
A. Yes, I have.
Q. Have you appeared before the Sixth Circuit Court in Cincinnati?
A. Many times.
Q. Have you appeared in the Northern District Court of

Ohio?
A. For 18 years.
Q. Do you own your own law firm?
A. Yes. It is just me.
Q. Do you know a man by the name of David Sugar, Jr?
A. Yes, I do.
Q. How did you come to learn that name?
A. I represented David, Jr. --
THE WITNESS: And Your Honor, for the record, what I am about to say is all public record.
I represented him in a case in Delaware, Ohio, which is near Columbus, a few years ago.
Q. What was the nature of that representation?
A. I believe it was a third DUI, third or fourth DUI.
Q. Was that matter referred to you, or did he come to you personally?
A. Anthony from your office called and asked for help. It was referred to me.
Q. Did you meet with Mr. Sugar?
A. Yes, I did.
Q. Jr?
A. Yes.
Q. Where did you meet with him?
A. Well, I was called the day before his sentencing, and I met him when I went down to have his prior lawyer

discharged from the case because the prior lawyer for him was actually the Magistrate Judge who took his arraignment and set his bond, and then he ended up representing him.

Q. Was that a concern of the Sugar family?

A. Yes. I believe in general the concern was that beside the fellow being the judge and then turning into the lawyer that he said there would be a trial, and then right at the end he pled him out. My understanding was they were concerned that they were not being dealt with honestly with that particular lawyer, and the judge in Delaware did order him to withdraw and allowed me to enter an appearance.

Q. Did you then enter an appearance on behalf of David Sugar, Jr.

A. Yes, I did. I represented him in the case.

Q. Was the case postponed because of that change?

A. Well, if I may say what happened, the day I went down, the Judge -- I'm just going from memory -- he allowed the change, but eventually, it was either that time or the second time, he sentenced him. He went to jail, and I pursued trying to file motions to have the judge give him a bond for an appeal because of what I believed was a serious matter.

The judge denied that, and the Court of Appeals denied that, so there were several hearings. I went down to Delaware at least three or four times, at least three

hours each way, and I did file and represent him in the Fifth District Court of Appeals on that case. And I did eventually win that appeal, and his conviction was reversed, and that was about a year or a year-and-a-half or two, in my recollection.

Q. Was it after he had finished his jail service?

A. He served his time, yes. Yeah, they would not allow a bond.

Q. But after he served his sentence now, you had it reversed on appeal?

A. Yes, a unanimous decision. The three judges reversed his conviction and ordered a new trial because of the ethics problem.

Q. Was there ever a new trial?

A. Well, at that time his father wouldn't pay for it, and I withdrew. That was it. I wouldn't work for free. I didn't on the first time.

Q. I didn't hear you about the first time.

A. Well, you know, I was retained. I represented him on one, two, three -- at least three to four appearances in Delaware. That's six hours each way. And then the appeal in the Fifth District involved writing a brief and appearing for an oral argument, and that's in Canton. So I charged a fee, and he paid it.

Q. What was the fee you charged?

A. I mean, again, it is not a confidential thing, but it was -- it was a standard fee. It wasn't anything heavy.

THE WITNESS: Should I --

THE COURT: You are the one that has to decide if you can reveal it.

A. I mean, if he would sign a release I would tell you, but I did not work for free. I did not work -- it was not an excessive fee.

Q. Was it in excess of $5,000?

A. Well, I can't get into the particulars, but, yeah.

Q. Okay. Were you ever asked to represent him further?

A. Well, after going through the appeal, I mean, he wanted -- he was just having a child, and he had to get back to work, and he wanted to have a trial to get his conviction or to get the current charge acquitted because, you know, another charge like that would mean a bad thing.

Q. Did you charge the father, did you say the father's fee would be $25,000?

A. Not to my recollection. In fact, I reviewed my file, and if I can say, Congressman, I spoke to his father numerous times on his father's cell phone on the construction site. He knew what the fee was. He paid it.

And the second time I faxed a letter to his dad, and it was almost -- I would be losing money doing the case, but I wanted to try to help him because I had gone that

far.
Q. Did I ask you to bring with you today that letter?
A. Yes.
Q. When did you give it to me?
A. Well, maybe -- I had to go back to my car to get it. In the jury room I gave it to you.
Q. How long ago?
A. Just before I came in here is when you got it.
Q. Would you look at that document. Does it have an exhibit number on it?
A. It is marked as Defendant's Exhibit MC-100.
MR. TRAFICANT: Can I put this on the screen, Your Honor?
Q. Would you object to that?
A. No. I don't believe that's confidential, statutory confidential communication.
Q. I think it has to heat up awhile. Is there any way to lighten these things up?
Is that your letterhead?
A. Yes, it is.
Q. Is that the exhibit number?
A. Yes.
Q. Is this the document you had given to me shortly before you came in?
A. Yes.

Q. Is that big enough for you to read?
A. I could basically see it. I know what it says, having been in my file.
Q. Would you please read that?
A. Well, it basically says, if I can just get to the heart of it, it is about the new trial, and it is addressed to David Sugar, Jr. and David Sugar, Sr.
Q. Why did you address it to both?
A. His father was involved in paying his fees.
Q. How old was his son?
A. He was a young man, in his late 20s, 30s. I am not sure.
Q. Is that why you addressed it to both?
A. Well, no. With regards to -- well, first of all, as a matter of my definite recollection, I had his permission to discuss his case with his dad, which I did many times over the phone, and his father was the one paying for the defense. And that's why I addressed it both to my client and to his father with regards to what I would be willing to do for them, because he was complaining about having a money problem, and it just says, basically, I would retry, have a jury trial --
Q. I would like you to read the first paragraph.
A. "Please allow the correspondence to confirm our discussion of this date where I advised you I would reduce

my requested fee as a courtesy to you from $15,000 to $5,000 to try the above-referenced matter before the jury."

Q. Stop right there. What case was that now being discussed?

A. This was the retrial after I had won the appeal, and the case was sent back to the Delaware Court for trial.

Q. How many trips would it take you to make back and forth to try this case?

A. Well, it would be a jury trial. There would be a pretrial. At least five to six, seven maybe, depending if I stayed overnight during the trial.

Q. Did that include expenses?

A. That was it. In my practice, if I take a case this far, I try to stay with it to follow it through. Having had it reversed, I would retry it because of the issue.

Q. I want you to read the second paragraph.

A. "I believe I am being very fair to you in light of the time and travel" --

MR. TRAFICANT: Can I use your copy, gentlemen, since you can read the board? Is this the same copy that is on the board?

MR. MORFORD: Yes.

Q. Could you read the second paragraph and then hold?

A. "I believe I am being very fair to you in light of the time and travel involved in this case. I would ask

that you make this payment no later than Friday, February 18, 2000. Unfortunately, if you do not make this payment, I will be forced to withdraw as your counsel. As you know, the trial is just about one month away, and I also have two jury trials immediately preceding your case and need to immediately begin preparing for all cases.

"In addition, I must again travel to Licking County in light of the fact that this matter had to be reset due to the birth of your child."

Q. Did you ever tell the Sugar family you demanded $25,000 for this trial?

A. Not to my recollection. If I can state for the record, that was faxed to Mr. Sugar, Jr.'s workplace. That's why I put "office" on there. There is a shop fax on there.

THE COURT: It is better if you wait until there is a question before you give an answer.

THE WITNESS: Thank you, Judge.

BY MR. TRAFICANT:

Q. DUI laws in Ohio have changed significantly, have they not?

A. I believe they have evolved. They are more complex than when I first started practicing.

Q. The retrial was more directed, would you say, not to the behavior but the conflict of the

attorney-judge-magistrate ruling?
A. I think that would have played a part in it, plus those other facts.
Q. What were those other factors?
A. The probable cause issue, I believe he was stopped by a park ranger, and the issue of the field sobriety test. The usual defense you would put up in a case like this.
Q. Did you take the time to go over all records?
A. Yes.
Q. Did the Sugars comply with all records requests?
A. Yes. They cooperated with it.
Q. How many times did you travel and meet with the Sugars?
A. I met with David Sugar, Jr. many times, and at the proceedings.
Q. What courthouse?
A. Down in Delaware County toward Columbus.
Q. And you had to drive down there?
A. Yes.
Q. And how long would those meetings take?
A. Well, we would meet, for example, if we had a hearing, I would meet him. I also visited him when he was in the county jail, you know, an hour or two, then the drive time is six hours.
Q. At any time did you make an excessive demand for

fees?
A. No, not at all.
Q. Whose decision was it not to proceed?
A. Well, it was my decision not to because they didn't pay, and I just couldn't -- I had two other cases. I just couldn't do it for nothing.
Q. Were you asked to do it for nothing?
A. No, no.
Q. Did you reduce your fee to $5,000?
A. Yes, for what I believe was the full circle.
Q. Is it difficult to get a case reversed on appeal?
A. Yes. About --
MR. MORFORD: Objection.
THE COURT: That would be hard, unless you are talking about his own record.
Q. Is it difficult in your field, having dealt with cases on appeal --
THE COURT: That won't work either.
MR. MORFORD: Objection.
THE COURT: Because we would have to have all the appellate decisions.
Q. Do you have personal knowledge of having all the traces --
MR. MORFORD: Objection.
THE COURT: The objection is sustained. Move

on, Congressman.
Q. Did David Sugar, Jr. have the money to proceed?
A. No.
Q. Okay.
THE WITNESS: I knew I'd do that. Sorry, Judge.
THE COURT: That's okay.
BY MR. TRAFICANT:
Q. Do you know if Mr. Sugar was eventually moved to a halfway house?
A. Yes, he was.
Q. Are you familiar with anything involving that?
A. Other than the judge in Delaware ordered it.
Q. Did you make that request?
A. Yeah, yes.
Q. Did anyone ask you to make that request?
A. I can't recall specifically, but I do -- I would do it at any rate because he just had a baby, and we wanted him to be back near his home. Quite frankly, I hope the Judge doesn't get mad, but they didn't want him there. They were done with him. He did his jail time. The judge ordered him up there.
Q. Do you know if my office was involved with that?
A. Yes. I believe I asked you to write a letter for him.

Q. Did you, in fact, know that I wrote a letter for him?
A. I think I've seen it in the file, sure.
Q. Have you ever been suspended by the State of Ohio for any disciplinary action?
A. No.
Q. Would a one-year suspension be a significant suspension in Ohio?
MR. MORFORD: Objection.
THE COURT: In his mind?
Q. In your mind, would a one-year suspension for an attorney in Ohio be a significant suspension?
MR. MORFORD: Objection, because there is nothing in this case about suspension as opposed to probation.
THE COURT: In any event, you can answer that question.
A. I think it would be. Any suspension would be significant, in my view.
Q. Now, in your own mind, after having a one-year suspension, if you were to have another, would that be grounds for losing your license?
MR. MORFORD: Objection. Speculation.
THE COURT: Yeah, that is. You may be able to qualify him if he has been on one of the commissions or something like that.

Q. Have you served on any panels or been involved in any membership or organizations to --

A. No. The only way I would have any foundational knowledge is I am a member of the Ohio State Bar Association, and every month the OBAR report comes out, and they always have all the suspension cases, and every lawyer reads those.

Q. Are you very familiar with the suspension laws in the State of Ohio?

A. Well, I am familiar with the Code of Professional Responsibility, and by reading the cases you develop a sense of what facts and what situations will result in the Court acting.

Q. From the result of your knowledge and membership in the Ohio Bar Association, would you have knowledge that a second offense could, in fact, remove a person's law license?

MR. MORFORD: Objection.

THE COURT: We have to sustain the objection.

Q. Do you know a man name Clarence Broad?

MR. MORFORD: Objection.

THE COURT: You can answer.

A. Well, yes.

Q. How did you come to meet Clarence Broad?

A. I had several phone conversations with him with

regards to possibly representing him.
Q. As a result of those phone conversations, what did you learn?
MR. MORFORD: Objection. Hearsay.
THE COURT: Sustained. That's hearsay.
Q. Were you asked to represent Mr. Broad?
A. You know, without violating any attorney-client privilege, as a result of my conversations, my impression was that he wanted to consult with me.
Q. What did he want to consult with you about?
A. Well --
MR. MORFORD: Objection. Hearsay.
THE COURT: Sustained.
Q. Were you ever his attorney?
A. Not formally, but he did try to consult with me, but I never actually entered into an appearance for him in a case.
Q. Did Mr. Broad want you to represent him?
A. Well, I think without getting into the specifics, my impression was yes.
Q. Was it your impression that the attorney that was representing him was not representing him fairly?
A. I had questions, but let me say it this way: Without knowing all the facts I can't pass judgment on him, but I had questions in my mind as a result of conversations had

with the potential client.
Q. Did he want to get rid of his attorney?
A. Well, again, without getting into -- try to answer it this way: I continued to have conversations with him, and the subject matter -- I don't think he would be talking with me if he wanted to stay -- there would be no other reason for him to talk to me. I don't know him.
Q. Was it your impression that he was being pressured by that attorney?
MR. MORFORD: Objection, unless he has firsthand knowledge.
THE COURT: Right.
Q. Was it your impression that he had been --
MR. MORFORD: Objection.
THE COURT: You are asking it the same way. You need to -- the witness can answer what he has personal knowledge of, but he can't answer anything more than he knows.
Q. Do you have personal knowledge of the state of mind of Mr. Broad at or about the time he was talking to you?
A. Absolutely.
MR. MORFORD: Objection.
THE COURT: If we are going to get into a state of mind issue, you can lay the foundation.
BY MR. TRAFICANT:

Q. When Mr. Broad talked with you, was he nervous --

THE COURT: Don't testify for the other person. Ask the questions.

Q. What was the tone of voice of Mr. Broad when you conversed with him?

A. Again, I have to preface this for the record, without revealing the contents --

THE COURT: Let me ask him, were you representing him at the time that you are about to testify, or not? Was this your client or not your client?

THE WITNESS: He consulted me to be his lawyer.

THE COURT: Did you consider you were in a lawyer-client relationship, or not?

THE WITNESS: Anytime someone consults with me with regards to even potentially representing them I like to err on the side of confidentiality and preserve that.

THE COURT: All right. Go ahead.

BY MR. TRAFICANT:

Q. The question I asked, the tone, was it your impression from the tone of conversation you had with Mr. Broad that he was under pressure?

MR. MORFORD: Objection to the leading again.

THE COURT: Yeah.

BY MR. TRAFICANT:

Q. What was the tone of conversation of Mr. Broad?

A. Frightened.

Q. What was your impression as to the reason for his frightfulness?

A. The Government --

MR. MORFORD: Objection. Again, it is all based on hearsay, Your Honor.

THE COURT: Appears to be.

MR. MORFORD: And I would ask that that answer be stricken.

THE COURT: It will have to be until we have some kind of out-of-court session so the jury doesn't have to go through things until we decide there is some sort of exception at this point.

Let's move along to something else this witness can testify to.

BY MR. TRAFICANT:

Q. Had you ever met Clarence Broad before this?

A. No, I hadn't.

Q. Are you and I friends?

A. I would like to think so.

Q. Do I hug you?

A. The infamous bear hugs, yeah.

Q. Whom do I hug?

A. Everybody, friends.
Q. You say friends?
A. Yeah.
Q. Have you ever been with me in public?
A. Yes.
Q. What do I do in public if I don't know anybody?
A. You talk to them.
Q. Do I touch?
A. I think you are that type. I think that's part of your personality, yes.
Q. Do people back home fear me, Mark?
A. No.
Q. Have you ever known of anybody who feared me?
A. No, not at all.
Q. Has our office consulted with you over the years on cases?
A. Yes, it has.
Q. Have you handled some minor cases?
A. Yes.
Q. Did you charge for some of those minor cases?
A. Well, the minor ones, if it involved elderly or children, I would not charge. For example, if one of your staff would say so-and-so called, has a problem with this or that, and help them, then I would help them.
Q. Would it be pro bono?

A. Yes.

Q. Were you ever asked to do pro bono for the Sugar family?

A. No. In fact, just the opposite. I mean, no.

MR. TRAFICANT: No further questions at this time.

THE COURT: Mr. Morford, before you begin, I want to note that it is ten minutes before 12:00, and I don't know about your examination.

MR. MORFORD: I have a little ways to go, and if you want to take a lunch break I think I can probably organize it.

THE COURT: I think it might be better so you can proceed without interruption. We will see you back at 1:30, and enjoy yourself. It is pretty nice out today. Remember your admonitions.

(Thereupon, a luncheon recess taken.)

AFTERNOON SESSION, THURSDAY, MARCH 28, 2002 1:45 P.M.

THE COURT: Thank you, and be seated.

MR. MORFORD: Your Honor, before Mr. Colucci takes the stand -- it is amazing what a good lunch hour can do, I have no questions for Mr. Colucci.

THE COURT: All right. Thank you.

MR. TRAFICANT: I want to recall Mr. Colucci right now.

THE COURT: Well, you concluded --

MR. TRAFICANT: No. I ask right now to call Mr. Colucci as a witness.

THE COURT: Do you want to respond?

MR. MORFORD: Yes, Your Honor. The rules, as I understand them, that are applied in every case, once you tender your witness, you are done with your witness except to go back and cover matters that were covered on cross. Unless they talked about something over the lunch hour that is new, there should be no further testimony under the rules.

MR. TRAFICANT: These deal with matters that delved into those issues that I want to be directed towards Mr. Colucci.

THE COURT: No, Congressman. Call your next witness.

MR. TRAFICANT: Then I want a side bar right

now.

THE COURT: Call your next witness.

MR. TRAFICANT: I want to proffer for the record --

THE COURT: You can proffer as soon as the jury is gone for the day.

MR. TRAFICANT: Call Mr. Greg Tyson.

(Pause.)

THE COURT: Come right up, sir, right up here.

THE WITNESS: How are you doing?

THE COURT: Sir, would you raise your right hand?

GREGORY C. TYSON,

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

THE COURT: Take a seat, and there is a microphone there. It is a big space. And if you will speak up in a loud voice or use the mike, that will help us. Thank you.

THE WITNESS: Okay. Thank you.

DIRECT EXAMINATION OF GREGORY C. TYSON

BY MR. TRAFICANT:

Q. Good afternoon, Greg.

A. How are you doing, sir.
Q. Would you please give your full name, and spell your last name for the jury?
A. Gregory C. Tyson. That's T-y-s-o-n.
Q. And what is your address, Mr. Tyson?
A. 424 Oakhill Avenue, Youngstown, Ohio.
Q. When did you receive your subpoena to be here?
A. Yesterday morning.
Q. Did the Government ever subpoena you?
A. Concerning this, no, just for Grand Jury testimony.
Q. You were subpoenaed by the Government for Grand Jury testimony?
A. Yes, sir.
Q. Did you testify before the Grand Jury?
A. Yes, sir.
Q. How many times?
A. Once. Well, no, twice. One time was concerning a matter on the Buccis, and the Government was doing an investigation against them, and the other time was a matter concerning you.
Q. Did you ever meet with the FBI?
A. Yeah.
Q. How many times?
A. Met with their field agent Perkins. I don't know if he is FBI or IRS, one of them. And I met with the FBI

agents, I had them at my office, I welcomed them in and told them there is our files for 20 years of business, you know, and sat down with them and had them go through all the records.

Q. So there were two different meetings you had with the FBI and IRS?

A. Two or three, something like that.

Q. Do you know if Agent Perkins is in this room? You're allowed to stand up if you want.

A. I don't see him.

Q. Are any of the FBI agents that interviewed you in this room?

A. I don't think so.

Q. What is your employment, sir?

A. Right now I am an ex-contractor recovering from almost dying in November of last year.

Q. Pardon?

A. I say I almost died. I had blood clots go through my heart, lungs, and I was in intensive care.

Q. How long ago was that?

A. November of last year.

THE COURT: Can everyone hear? Okay. You might want to pick that mike up. You can take it out of the holder, just sort of talk with it near you.

THE WITNESS: Is this better?

THE COURT: Oh, yeah. Good.

BY MR. TRAFICANT:

Q. Are you afraid of being here?

A. No, sir.

Q. Are there any agencies you're afraid of?

A. Well, you have to have a healthy respect for the Government.

Q. Are there any agencies that you're afraid of?

A. No, or I wouldn't want to say anything bad about some people.

Q. How long have you known me?

A. Off and on maybe twenty years.

Q. In that twenty years, what was the nature of our relationship?

A. Well, you were a Youngstown guy. I mean, you were a legend. You were a sheriff, Congressman, football hero before then, before I got, you know, going, and somebody that you call a friend.

Q. And where did we meet?

A. Originally it was sheriff's banquets.

Q. As a candidate?

A. Well, you were already in the office, and I was just getting into the construction business and, you know, I ended up in one of those political gatherings and deals, and hell, you started slapping me around like you knew me

and started a relationship.
Q. Did I ever ask you to do any work for me after I met you when I was a sheriff candidate?
A. Not as a sheriff so much. I mean, one time, when I did some work at your farm.
Q. Was that when I was running for sheriff?
A. No. You were in Congress about 18 years, 15 years, something like that.
Q. Did there come a time when you contacted me regarding a problem?
A. Yes, sir.
Q. What was the problem you were having?
A. Well, I was getting racially put down by the banks in Youngstown.
Q. Why do you say you were getting racially put down by the banks?
A. Because if I was a white contractor with the amount of business that I had and the amount of collateral that I had, I could have got three or four times the bonding capacity on jobs. I could have had three or four times the credit rating that I was getting at the bank.
Q. Did you own a company at that time?
A. Yes.
Q. What was the name of your company?
A. Big G Construction Company.

Q. Were you in the construction business when I was a sheriff?
A. Yes. I was an apprentice with the bricklayers, and I was just starting my company from, you know, a pickup type company years ago. In fact, I got two apprenticeships, my bricklayer's and my operating engineer's card, self-taught, plus I am in the union.
Q. What union are you in?
A. Operating Local 66 and Bricklayers Local 8. I still have both of those cards.
Q. Now, as an owner of Big G you are not in the union, are you?
A. I kept my cards. I was proud of them. I earned them. I didn't need them, but I kept them.
Q. When was the first time you contacted me for significant help?
A. Well, I sent a letter to your office from an official standpoint.
Q. And what did you request?
A. I requested assistance in securing our company the financial aid we needed to go forward and become a viable company to compete like other companies do, on the same terms and basis that they had going for them.
Q. What, if anything, happened after that?
A. Well, a lot of things happened.

Q. Well, how did you and I get to meet?
A. Once I contacted you, I was actually kind of surprised, because normally when you write politicians a letter, nothing happens.
Q. Well, what, if anything, happened?
A. Well, you had your aide get ahold of me and find out the details of what we needed and why we were getting ahold of you and what the problem was, because I had been working with the City of Youngstown and several banks in the community, trying to participate through the Community Reinvestment Act to secure a decent loan and financing for my construction company.
Q. Were you familiar with what the Community Reinvestment Act was designed for?
A. Well, I don't really have all the details, but I know if you have a bank, and you have a community and you have citizens that put their incomes in, that they should be eligible, that the bank should loan money to those citizens first, and it was not happening for black businesses. I mean, there was no black businesses in Youngstown getting anything.
Q. As the owner of Big G Construction, did you have a boss?
A. No. I was the boss.
Q. What was the status of most black companies?

A. They were pickup-type companies. Some of them were willing to work, but most of them guys were just little shady companies that just put their name in the paper and were willing to go sign up any deal with any white contractor that were willing to give them a percentage. Some of them didn't want the work.

Far and few between there was a guy, a craftsman, that could do the work, but most of those guys were older guys and couldn't do the paperwork, and had the wherewithal to bid work and successfully complete it.

Q. Is it your testimony that the black contractors used it as fronts?

A. They used it like -- excuse me -- like ladies of prostitution. That's how they used it.

Q. Were you ever used liked that?

A. No, sir. I had some people that tried to use me like that.

Q. Did you and I come to meet personally?

A. Yes, sir.

Q. What, if anything, did you say to me?

A. You have to refresh my memory.

Q. What were you talking about? What was your meeting concerning?

A. Well, it was -- I think when -- you are talking about the bank loan?

Q. Is that when you called me? Is that what you called me about?
A. Oh, yeah. We were in trouble. I mean, we had work. We had contracts. We could not make our payrolls in a timely fashion because, you know, even though we would get jobs, be on the jobs, and do the work, you know, then we would get into the old go old boy stuff. Guys wouldn't pay us on time. We still had to make our payrolls, and we were having a hard time financing ourselves, keeping ourselves going.
Q. Did you explain all that to me?
A. Well, yeah. But I mean, you weren't no dummy. I mean, you knew what was going on. That's what was nice about the problem. You were looking to get to the brass tacks.
Q. What, if anything, did I say to you?
MR. SMITH: Objection. Hearsay.
THE COURT: Right. You can rephrase that, Congressman.
Q. What was your impression of your conversation with me?
MR. SMITH: Objection. That's the same question.
THE COURT: Okay. You know what the problem is. He can't testify for you.

BY MR. TRAFICANT:

Q. After your discussion -- after your conversation with me, what, if anything, did you say back to me?

A. Well, going back, and I think what you are trying to ask me is, you confronted me, and you said, "Look, Greg, I like you."

MR. SMITH: Objection to anything the Congressman said.

THE COURT: We can't -- he --

BY MR. TRAFICANT:

Q. What did you say to me?

A. What did I say to you?

Q. Yeah, after you first talked with me.

A. It was about the loan, you mean?

Q. Yeah.

A. Well, I answered your question, because you told me that --

Q. What was the question?

A. Well, the question was, you says Greg, I have to know --

MR. SMITH: Objection to anything the Congressman said.

THE COURT: It is hard for witnesses, and it is hard for the jury, but it goes back to the same principle of hearsay, which is if somebody is under oath,

subject to cross-examination, and you can see their demeanor while they are testifying, it meets standards of reliability the laws have established. So one person cannot talk and say what somebody else could say.

Q. What was your impression of my concerns?

A. Well --

MR. SMITH: Your Honor, that has to be based upon what the Congressman said.

MR. TRAFICANT: I am asking about his impression, Your Honor, and I object to these continuing objections.

THE COURT: Well, the objections are proper, and you have successfully found ways to ask questions to elicit testimony from witnesses now for quite a long time. I know you can do it. Just take the time to think it through, and you will be able to do it.

Q. Did we talk about your bank loan?

A. Yes, you did.

Q. Were there concerns about your bank loan?

A. You had a big concern.

Q. What was your impression of those concerns?

MR. SMITH: Objection. It is the same objection.

THE COURT: You can answer that one. What was your impression?

THE WITNESS: Well, Your Honor, I mean, the Congressman pulled me aside and says, "You contacted my office" --

MR. SMITH: Objection to anything the Congressman said.

BY MR. TRAFICANT:

Q. What was your impression of my concerns directed towards you?

A. You wanted to make sure that I was 100 percent legitimate, I was 100 percent committed to fulfill the obligations of this loan. If you went to bat for us in securing this loan, you wanted to make sure that I was a sincere person and there wasn't no scam, no BS, nobody was prompting me up on this thing. I could stand on my own two feet, look you in the eye, and tell you I agreed to do what we agreed to do.

Q. Did we discuss financing?

A. Yes, sir. You told me your office --

MR. SMITH: Objection to anything the Congressman said.

Q. What was your impression of our discussion relative to financing?

A. You were concerned that we were legitimate. You were concerned from the standpoint of making a loan for a black business, and you were concerned from the standpoint of

putting your office at risk for backing up someone that all the banks in the investors community had ostracized.

Q. Were you ostracized by the banks?

A. Certainly, because I was a black contractor.

Q. Did you convey that to me?

A. Yes.

Q. Were you asked at any point to prove your legitimacy?

A. Yes, sir.

Q. And how did you do that?

A. I took you out to my concrete plant. I brought in contracts that showed you that I had with Big G. I showed you my work force. I showed you the jobs I had in progress. I gave you a track record and the history that was verifiable, and I also had a record of work with bonded jobs, completed on time successfully; backed up my statements.

Q. At that time, did any minority -- were there hardly any minority loans made in Youngstown?

THE COURT: You can answer.

A. Minuscule ones.

Q. Minuscule?

A. Minuscule.

Q. Would you say meaningless?

A. You could say that.

Q. How much money were you seeking?

A. I think at the time I financed the concrete plant --
Q. What concrete plant?
A. Capital Ready Mix.
Q. Where was Capital Ready Mix located?
A. In Warren, Ohio.
Q. Who owned Capital Ready Mix?
A. I owned 51 percent of Capital Ready Mix.
Q. Who were the other partners?
A. Joe Sattarelle and 422 Limited Partnership.
Q. And who is the other partner?
A. Specifically I signed an agreement with Dan Bucci, and his two brothers were partial owners of his share.
Q. And who are his two brothers?
A. The Bucci brothers, Tony and Bob.
Q. Did I go to bat to get your loan?
A. Yes, you did.
Q. Did you get a loan?
A. Yes, I did.
Q. Was it of significant value?
A. Yes, it was.
Q. Was it one of the first minority loans of significant value in our valley?
A. It was monumental. Up until then -- I think I broke the water.
Q. Were those part of the conversations that we shared?

A. Yes, they were, because you were concerned that this was a test case. I mean, a lot was riding on this.
Q. Is that why you took me to your plant and showed me your contracts?
A. Yes, I did. In fact, we took pictures. We had the trucks, the plant, you know. We were proud to show it. I mean, we weren't a fly-by-night, fly-by-nights.
Q. Did I offer any advice?
A. Yeah. Get rid of the Buccis if I could.
Q. Did you take my advice?
A. I tried, but the bank wrote the loans wrong.
Q. By getting rid of the Buccis, what did you try and do?
A. I offered the bank the collateral on my house and my property that I had down at 551 Mahoning Avenue, plus my existing revenue that I had in receivables from Big G, in addition, over and above what the property cost to buy them suckers out.
Q. What was the position of the bank?
A. The banks were idiots. They wanted to keep the leases in place because it made my debt package look better on paper.
Q. What happened when you first applied for the loan?
A. Well, we were turned down.
Q. After you contacted me, what happened?

A. After I contacted you, then things happened. There were some things I had to do, but like I had to hire a consultant, Arnie Claybone, paid him a couple thousand to prepare our paperwork, do five years of advanced pro formas, show projections on the plant, debt structure, how much money was needed to service the debt, the whole nine yards.

I mean, it was stuff I didn't realize I needed when I first applied for the loan. They didn't give a leg to stand on, I guess, but I went the whole nine yards.

Q. Was it your impression that you would not have got the loan unless you called me?

A. Without a doubt.

Q. You testified that you offered all of your collateral. Why did you offer all of your collateral that you had? For what purpose?

A. It would have been worth it to get them Buccis out of my hair.

Q. Did you at any point ask the Buccis to sell out?

A. All the time.

Q. What prevented you from buying the Buccis out?

A. When I went to the bank to secure the money to buy them out, they did not properly do the loan. They left the leases in place. I says, "You guys are idiots." I said, "The property is worth more than the lease." I said,

"Sidley is buying concrete plants and companies all the time." I said, "We will have a buyer." I said, "We will own the plant as a serviceable concern, it will be worth twice as much as this lease." I said, "You are allowing me to pay $3,000 a month on a lease." I said, "If you loan me the money to buy the lease off, you will own the property."

Q. At the time, did you have an agreement where you could have bought the Buccis out for the lease amount?

A. We had a verbal agreement. If I paid the lease off in full, I would have owned the place.

Q. What would that amount have been?

A. Approximately 120, $125,000, depending on the amount and the type of buyer.

Q. Would the banks approve of it.

A. They wanted the lease in place. They said it helps your debt service, or whatever their stupid formula was.

Q. Did they ever ask for additional collateral you owned with Big G?

A. Yeah. They asked for -- in order to make an operating capital loan with Big G, they asked for a 50 percent -- well, they had a formula where they loaned me 50 percent on my total receivables. So I had $415,000 at the time, they gave me 50 percent of that, which was $200,000, and they would allow me 80 percent on the total

amount of that 50 percent.

It was some convoluted formula, but that $415,000, I had over a million and-a-half to get that $415. So Tony was talking I needed him. I didn't need him. That jerk needed me. I mean, he was disbarred.

Q. Now, were you familiar with my -- do you have personal knowledge of my relationships with the Buccis?

A. Only that Danny had a farm across the street from you, and that you got along with about anybody.

Q. Do you know or do you have knowledge if I was friends with Tony or Robert Bucci?

A. Tony and Robert Bucci doesn't have a friend on this earth.

Q. I didn't ask you that.

A. Well, you couldn't have been their friend.

Q. Did there come a meeting when there were problems that developed between you and the Buccis?

A. Yes, sir, there did.

Q. Can you describe what transpired?

A. We were in -- this was before the loan was made. The paperwork was in the chute to secure the loan, but the Buccis were trying to bounce us out under their land contract agreements and put me in jail, and default, and steal all the property and plant that we invested in, and fix the place up.

Q. How much money had you invested in fixing up that plant?
A. Joe must have put about sixty grand out of his pocket, getting the plant and the trucks in shape, and I had maybe 30 or 40,000, and with cleaning up the properties and what I had done to restore the trucks and the overall grounds of the property, the offices and equipment, and stuff like that.
Q. When you are saying "Joe," who are you referring to?
A. Joe Sattarelle.
Q. Did anyone else offer you advice about doing business with the Buccis?
MR. SMITH: Objection if it relates to other people's statements with him.
THE COURT: Sustained.
BY MR. TRAFICANT:
Q. To the best of your knowledge, were you warned about the Buccis by other people?
A. Yeah, everybody that knew them.
Q. To the best of your knowledge, were you warned by Mr. Sattarelle?
MR. SMITH: Objection. And he is leading, as well.
THE COURT: Sustained.
BY MR. TRAFICANT:

Q. Who was your closest partner and friendship?
A. Joe Sattarelle.
Q. Did you converse often with Joe Sattarelle?
A. Yes.
Q. What did you and Joe talk about most of the time?
A. Well, we had to watch each other's back concerning the Buccis.
Q. Did you ever offer each other advice?
A. All the time.
MR. SMITH: Objection to any advice Sattarelle gave him.
THE COURT: Right.
A. We were partners. We talked, yes, certainly.
THE COURT: It is okay, Congressman. You know how to ask questions of the witnesses, so just take your time.
Q. Was it your impression that Mr. Sattarelle wanted you to buy the Buccis out?
A. "Man," Joe said, "whatever you got to do" --
MR. SMITH: Objection to what Joe said.
Q. What was your impression, Mr. Tyson?
A. Yeah. It was our intent to buy them son-of-a-bitches out. Excuse my language.
Q. Do you have immunity?
A. No, sir.

Q. Were you subpoenaed as a Government witness?
A. Not originally. I was subpoenaed in the Grand Jury testimony.
Q. Do you know if they called you as a witness in this trial?
A. I don't think you did.
THE WITNESS: You didn't call me, Mr. Morford, did you?
(Laughter.)
BY MR. TRAFICANT:
Q. Who subpoenaed you?
A. You did yesterday, for today.
Q. Would you be here if I hadn't subpoenaed you?
A. No, I wouldn't.
Q. Was Mr. Morford the man you talked to?
A. I talked to him on the Grand Jury.
Q. How were you treated at the Grand Jury?
MR. SMITH: Objection. Relevance.
THE COURT: Well, he can answer.
A. I got slapped around like I was some kind of a criminal, which I didn't appreciate, because it was my testimony that help send the Buccis to help get their butts in the slammer.
Q. What else were you asked to do?
A. Well, they tried to subpoena me at the time that you

were getting elected, during the primaries.
Q. Did you make any comments to them relative to that?
A. I told them I didn't appreciate that because it made it look in the papers like I was some kind -- trying to come against you in some type of a testimony. I didn't appreciate that. An attorney even wrote a letter, and I didn't appreciate that.
Q. Was it your impression it was timeliness around an election?
MR. SMITH: Objection. Leading.
THE COURT: He can answer, but you should stop telling him what he is going to say.
Now it is coming out of your mouth, not his, and they can't consider it. Give the man a chance to answer questions.
BY MR. TRAFICANT:
Q. What was your impression relative to the subpoena and my election?
A. I questioned the timeliness of it.
Q. Why?
A. Because it happened a week before the election.
Q. Was there extensive news media coverage of that process?
A. My name was in six-inch high print on the Vindicator.
Q. Now, after you had made that first loan, what was the

reason for wanting to be in Warren, Ohio?
A. Well, that's where the plant was at, and that expanded my market. I was a concrete manufacturer, and there were only two in the whole State of Ohio who were minorities. The other one up in Cleveland had run into financial difficulty, so at the time I was probably the only minority contractor as far as manufacturing concrete is concerned in the State of Ohio. That might not be 100 percent accurate, but there is not a whole lot.
Q. It wasn't very easy for a minority businessman to get by, was it?
A. No, because even if you did the job, then you had some bureaucrat that wouldn't pay you. Even though your job was done, and the job was done, they lost your pay request, and they just had me sitting there.
Q. Did there come a time when you sought a second loan from the bank?
A. Well, the second loan was all part of the first loan. I mean, everything was -- they piecemealed the thing. They never gave me the loan in a fashion where it was a repayable setup. I mean, they did it like a bunch of loan-sharks. The loan should have been structured long term. I mean, I was paying back $400,000 debt on capital and $400,000 debt on Big G on a four-year note. You go down and buy a car somewhere -- the thing should have been

set up with the SBA in a mini loan like it was set up with other businesses and set out in a seven or nine-year term. They were so interested in making their interest, they didn't care about me.

Q. Did you at that time report anything to me?

A. Other than we had successfully gotten the loan. I think I wrote a letter to your office and I notified the city council, even the press, that, you know, we had secured the loan and that we appreciated your efforts in helping us. I mean, we acknowledged your office in leading the way for securing a loan of that magnitude.

Q. How much rent were you paying on Capital Ready Mix?

A. It started at $2,700 a month and had escalated per year, another $250 per year, four years, with a four-year option.

Q. Four-year option to do what?

A. To resume the lease and continue.

Q. Were there any clauses to buy them out?

A. No. My attorney didn't put it in there, which it should have been in writing. We only had the Buccis' verbal, and at the time when we made our partnership, a lot of things we did in good faith and found out later we couldn't entrust the suckers.

Q. At some point did you really fall out?

A. Oh, yeah. I mean, right before that meeting where

you sat down with us. I mean, they were trying to bounce us out. I mean, they were trying to -- me and Joe had turned that place into a show piece. All the trucks were painted. The concrete plant was in full operation. The lawns were manicured. The place was A-1, and they saw an opportunity just to bite us off at the head, get us the hell out of there, take over the place, and don't pay us anything.

Q. Whom did you call?

A. I called you because it was in jeopardy after going to bat and notifying you that we needed a loan and secured a loan, we were in the process of losing the place right before all the paperwork and everything could be taken care of.

Q. After you called me what, if anything, happened?

A. Well, we sat down in a restaurant up in Canfield, which wasn't too far from your house, and the Buccis were there, I was there, and Joe was there. And you tried to work it out like you do in arbitration with teachers and unions, and you tried to explain to them two idiots there was more involved than just their greed: You had your Congressional office that couldn't be embarrassed, and you had these two guys that put in all this money, and it was not a fair deal.

You tried to explain to them, but them two are pigs.

I mean, they don't care nothing about nobody else.
Q. Did that meeting turn in -- how did that meeting evolve? What did it turn into?
A. Well, we were sitting there trying to have a conversation, and Bob Bucci just out of the blue says, "I ought to reach over there and smack you."
Q. What, if anything, did I do?
A. Well, you sat back, and you looked at my reaction.
Q. And what was your reaction?
A. I just told Bob, I says, "You are free to reach over here, but I ain't going to guarantee you're ever going to make it back."
Q. After that statement, did the meeting -- was the meeting relocated?
A. Oh, yeah. We had to get out of the restaurant. Everybody in the restaurant was looking now.
Q. Who suggested that?
A. Joe was embarrassed, I mean, and you said, "Hey, fellows, we've got to go outside."
Q. Did we go outside?
A. Yeah. But then they started yelling and raising their voices.
Q. Wait a minute. Did we go outside?
A. Yeah. We went outside.
Q. Who went outside?

A. We made them two clowns walk in front of us.
Q. Whom did I exit with?
A. Well, you went with me and Joe.
Q. Now we got outside in the parking lot. What was decided?
A. Well, they started getting loud and running their mouths, and I mean, they were shouting, so we said, "We've got to go somewhere where this ain't so public. " So we hopped in our vehicles, and we headed down Route 11.
Q. Do you know where we exited on Route 11?
A. Yes. Yeah. There was an old restaurant that they closed, and probably has since been demolished, as soon as you get off 11 and Mahoning Avenue, right behind the Goodyear Tire. There was an old restaurant up there, so we -- I pulled my truck in there, and then Joe had his Explorer, and them two were in their pickup, and we had all the trucks in the lot.

We tried to get to the bottom of the thing.

Q. Whose truck was I in?
A. You were with me.
Q. Now, when we got there, did conversations ensue?
A. Oh, yeah, but you got these two hotshots, read my lips, we don't need no deal. They are default. They are out. I mean, they were real cocky, arrogant. I mean, you could just strangle them, but you were calm. You told

them, "Hey, guys, you've got to be reasonable about this. You just can't take a couple guys and treat them like this."

Q. What was your impression as to which side I was on?

A. You were in our corner, because the Buccis says, "We don't need no deal. They are out. The hell with them. " You told them, "It ain't going to happen. You guys are not going to do that to these two men."

Q. Did they eventually leave?

A. Yeah, they left. They pealed out of the parking lot. They thought they had us. They thought I couldn't get the money, and they thought that they were going to steal the property.

Q. Is that when the loan was secured, after that?

A. Shortly thereafter, yes, sir.

Q. Had you not secured that loan, would you have been able to move out there?

A. Well, I was already there. I would have lost the investment that we had in the plant and property. We had contracts that were there. We wouldn't have been able to fulfill them, and, you know, we would have had all our investment stolen from us outright.

Q. When you made these loans with the bank did you still have assets that were clearly your own without debt?

A. Yeah. My house was owned free and clear at the

time.
Q. Okay.
A. The bank put a second mortgage on the building I owned down at 551 Mahoning Avenue. It was 20,000 square feet. They put a $245,000 second mortgage on it.
Q. Who had the first mortgage?
A. Farmers National Bank.
Q. Was that property valuable enough to have two mortgages like that?
A. At the time it was because there was rumors of riverboat gambling bills being circulated, and the City of Youngstown just spent $3 million renovating the B&O Restaurant, and the B&O Restaurant across the street was a viable building. My building was industrial. It was also certified under the light industrial specifications and zoning, and I could put a concrete plant there if I needed an additional plant to service contracts going forward, plus the thing was an all-brick building. It could have been converted by the city, who was also looking at buying the property because they didn't know what they were doing at the time. We bought Mr. Anthony's, the B&O and the mayor was hot on that property at that time.
Q. So you still had a home free and clear?
A. Yes, sir.
Q. Now, at some point did you turn to the city -- at

some point did you take any other action?

A. Down the road we had approximately $900,000 in a debt service that we had to pay back in four years like you would go and buy a car. I mean, the thing was totally ballooned out of shape. The banks were just using us, I mean, as far as interest on the thing.

So we went to the City of Youngstown because we had employees at the time that worked in the City of Youngstown, and we were paying City of Youngstown income taxes. They had a program which was a 108 fund for businesses relocating within the city, and we applied for that loan to refinance our existing debt we had with Capital Ready Mix and Big G Construction, set it up in a long-term structure, which we could pay and service our debt, keep our employees, keep our contracts, and continue our business without being strangled.

I was servicing probably $22,000 a month in debt, and under that program, the bank would have written off $600,000 of their debt. City of Youngstown would secure a $675,000 loan set up over a nine-year deal with working capital.

So we had a million-three in debt, got it all wrote down to $674,000, all of which was approved, all of which would have made me a viable company, in place in time to participate on the $44 million CCA prison.

Then the City of Youngstown reneged on their promises of loans which we relied on in our business.

Q. When you say they reneged, how did they renege?

A. They reneged because there had never been a black business that participated in this loan program. This was the 108 loan, which they had reserved for their own little buddies. You had existing companies that didn't need these type of loans that went out on Sulphur Springs Road, got brand new offices, got their sites prepared for free. They got their existing loans written off and written down by the city all for the guarantee of having income, for the income tax of locating the jobs there.

And every one of those loans that was approved, there was 22 of those loans approved, and they had been doing it for years, the only loan that ever had a problem was mine.

Q. Did you appeal to anybody for help?

A. We brought that to your attention, that somebody was screwing us around on this 108 loan. You don't make a deal, have people rely on this thing from a business standpoint; we told all our suppliers that everything we have is all being refinanced, we had a drop dead date of when this was going to be financed, that date came and went, so obviously that was screwing that deal up.

Q. Did you ever get notification of any change in the status that --

A. Never got a notification. That thing just faded away like an old ghost. They strung us out for a year-and-a-half after we signed the papers, and the money was supposed to go -- in fact, the Vindicator put a big pie on the front page how this minority has got this money, and here it is, and it is all going here, and we never received a dime of that money. They put it in the paper like we got paid. They put it out on the street for our suppliers that we got the money and we weren't paying our suppliers.

Q. At some point was the city notified through Washington that they could have made that loan?

A. The city played so many games, Congressman, I don't know what was done. I know that the city did an investigation on themselves to prevent that loan from happening.

Q. So the city had an investigation of themselves?

A. Certainly. That's the only way they could stop the loan. The loan was gone. It was guaranteed. It was signed off. It was approved by Congress. It was announced in the paper that you were awarded this loan. This is a publicity letter that could be used for the purposes of this loan to secure.

Q. Was the city also being investigated for minority loans?

A. They had some problems with their minority loans.
Q. Were they being investigated?
A. Yes, sir.
Q. Were you any of the loans that were part of that investigation?
A. No, sir.
Q. Was there ever any black company that ever got a 108 loan in our valley?
A. No, sir. I would have been the first. I did get the loan. I just never had it funded.
Q. You did get the loan --
A. I was approved by Congress.
Q. Did you get the loan after you talked to me?
A. After I brought it to your attention that we had a problem, that with the loan, that you sent a letter that we were approved but never were funded. But, no, there was nothing that happened after that, because the city just screwed that whole thing up.
Q. So the city never gave you the money?
A. Never gave us the money. They strung me out, the bank, and caused us to go bankrupt.
Q. Had the city lived up to their agreement and made that loan, would you still be in business?
A. Certainly I would have gone from a $22,000 a month debt to $19,000 for the first year, and $7,000 a month

after that.

THE COURT: How much a month?

THE WITNESS: $7,000.

Q. Was there any other concrete supplier in Warren?

A. Majority companies, yes, sir, not no blacks.

Q. Did you have an advantage as a black businessman?

A. I did if I wanted to operate strictly as a minority company, but I didn't operate like that. I operated from a company standpoint that our material and our service is as good as anyone else's. You know, we didn't just participate as a minority company.

I mean, I did work all over this state and in Pennsylvania. I mean, I had minority certifications from the Ohio Department of Natural Resources. I had two-and-a-half million dollars in state prequalifications with ODOT before I ever signed with the Buccis.

I mean, there was a statement made that I needed him. That pig was disbarred at the time, you know. I did work for Dunlap and Johnson here down in Brecksville on a $10 million project on the BF Goodrich Research Center. In fact, Jimmy Kreidler called me up because the contractors in Cleveland were calling him and couldn't get a job. And my excavation bid secured him on a ten-million-two job because my bid was $40,000 less than the best bid in Cleveland, and they got it by less than $2,000.

Q. Did you complete it?
A. Yes.
Q. And did you complete it on time?
A. Yes, I did. I got another $200,000 extra in jobs because of my work was exemplary.
Q. What areas did your company work? Name the different areas.
A. I put a $250,000 waterline right down the City of Canfield's main street. In fact, I redesigned a job through my engineer because they had a guy that I knew was totally inept at it, was going to have us cut Route 224, the main artery of Canfield, off at night. So I had my guy redesign the thing with bores on all the intersections, so we installed the line and never stopped traffic.
Q. Did you finish it on time?
A. On time.
Q. Is Canfield a white community?
A. All white.
Q. Were you the low bidder?
A. I was the low bidder, and it was not a minority job, either.
Q. What other work did you have?
A. I put on State Route 8 for that county there, we call it Kenmore County. I put a waterline in for them. I put a 180-foot bore under Route 8 that their engineers said

couldn't be done, and I said, "I've got a guy that can do it."

I put waterlines in for the City of Youngstown, for the City of Hubbard, Canfield. I did a million-dollar sewer for the City of Warren. None of those are set-asides.

Q. What do you mean by that?

A. Little jobs that the state sets aside for little mom and pop companies that can't compete. We were a company. I just happened to be a minority owner.

Q. Did you ever ask the bank take your collateral that you had remaining in an effort to purchase the Buccis out?

A. Twice.

Q. What was the result of those requests?

A. They said no, we are leaving the leases in place. Your debt structure is better that way.

Q. Was your business structure better that way?

A. Hell, no. Excuse me.

Q. Were you a legitimate minority businessman?

A. Yes, I was.

Q. Was you ever a front man for anybody?

A. Not on your life.

Q. Why did you enter such a bad deal with the Buccis?

A. The only reason I entered the deal with the Buccis, for six months they chased me with their deal. I didn't

want anything to do with them. But Joe eventually told me, "Listen, you own 51 percent of the company, I own 24 percent of the company. We will have our attorneys draw the paperwork up. We will keep an eye on these two worms." You know, "Even though they are bad, we can watch them. " He says, "You've got to be able to make money at this." He says, "They have ODOT work. They are a blacktop company. You are a concrete company. " I said, "It just makes too much sense."

But I thought he was talking about human beings. These guys are nothing but hogs. I mean, if you got a goose that will lay golden eggs, one of those hogs will eat them golden eggs and lay chicken soup. I mean, they are just pigs.

Q. Was it ever your impression that I was trying to help them hurt you?

A. No way.

Q. Was it your impression that I was trying to save your company?

A. Yeah. You did everything you could.

Q. And when was that? About what time?

A. Well, we had the 108 in place. By the time I notified you, the city had stretched me out for so long that it was just too late.

Q. You could not service your debt, could you?

A. Well, they had an agreement in place. It was to be executed in May. The loans were supposed to take place and the monies was to be transferred. A year-and-a-half later nothing happened. In the meantime, they got it put out in the press that we got the money. No other bank would deal with us. Bank One's hands were tied, so they totally and effectively strangled us out of business.

Q. Who strangled you out of business?

A. City of Youngstown.

Q. Isn't it a fact the City of Youngstown is more concerned about the City of Youngstown than Warren?

A. I would say, yeah.

Q. Were you still going to maintain a presence in Youngstown?

A. I was going to maintain a presence in both. The other contractors that got to those politicians in Youngstown stopped that loan. They didn't want a black company that was already beating their brains in in the construction business have a concrete plant in Warren and a concrete plant in Youngstown.

Q. Did you already own property in Youngstown for a concrete plant?

A. Yes, I did own two properties.

Q. Were any of those properties already suited or partially suited for concrete activity?

A. Well, we had a side agreement with the City of Youngstown not to use my plant, my property at 551 Mahoning Avenue. They would give us additional property on Albert Street to use for installing the concrete plant, which was even closer to where the new prison was going to go in.
Q. Well, explain the proximity of your property on Mahoning Avenue to the central City of Youngstown.
A. It was right down in district town. My address was 551. It was directly across the street from a $3 million restaurant they just renovated and another $2 million they put in Saadey's place.
Q. So describe the area where they wanted to give you land.
A. It was out on the east side of Youngstown in an industrial place, ten acres, which had topsoil and sand fill, so we could use it for construction purposes. And they was also close to being located to that advantage of the 7-11 interceptor, which was work coming up and the highway expressway.
Q. Do you know who funded the 7-11 interceptor?
A. I think your office pushed that for Youngstown.
Q. Are you and I close friends, Greg?
A. I would say we are friends.
Q. Do we see each other very often?
A. No. You've got too much going on for me right now.

Q. Was there ever a time I failed to respond to any of your calls?
A. No. That's the one thing about -- that's why everybody in Youngstown likes you, because you look a man in the eye, shake their hand, and tell a man you are going to do something, and you do it.
Q. Now, what approximate time was all these loans going on?
A. Man, I am talking six, seven years ago, maybe more.
Q. Would you say '94, '95?
A. Somewhere around there. I think the first one was '94. It might have been -- might have done some leg work in '93.
Q. Did you do any work at the Traficant farm?
A. We did a little bit of cleanup for you. I think you caught me at one of your fund-raisers and said, you know, "One of these days I am going to get you out there and do a little bit of work," which I blew it off, and I looked at what you had, and I said, "Well, if I can use some used stuff that you got it won't cost that much to do it."

And you showed me, there were some creeks that were overrun. The place was in pretty bad shape when I looked at it. I did work on farms in Canfield. I did work for both of my insurance agents. They both own horse farms, you know.

Q. Did they pay you for that work?
A. They paid me. Now, Steve, he was in a wheelchair. He was my bonding and insurance agent. So what we did is I had one driver get a truckload -- he paid for the asphalt and told me, "Guys, listen, we will go out, put Steve a path in," and he bought us a whole big thing of chickens and beer. And we had some -- Gary, who lived across the street, we had probably about 15 guys donate some work and put an asphalt path in for him. And Jim sent to Fannie, he sent down a new steer loader, and had kind of a party.

Jim Hunt, he had me put concrete in his floor, and I gave him a price, but he was my insurance agent. I had to treat him halfway fairly.

Q. Did I pay you for the work you did at the farm?
A. Yeah, you paid me.
Q. How did I pay you?
A. Well, you got kind of mad at me at first, because when you came out you saw what we did, and you said, "Man, I can't pay for all that. You done way more than I asked you to do. I only wanted you to do about $500 worth of work. "

That's what I told you that it would cost. And you got agitated with me because I did more than what you asked me to do.

Q. Why did you do more?

A. Well, I already had the material and I already had the men there, and, you know, they cleaned up a couple old jobs, which they cleaned up ahead of time when they had them scheduled. I was going to lay the men off anyway.

What they did that day, anything over, you know, it was already paid for. I already had them paid on another construction job. They weren't even on from a house work because guys don't like to be paid 10 or 15 cents less for house work. If we did something like that, I used my union men, they got paid union rate for the higher jobs we worked on.

Q. How did you get paid?

A. Well, you asked me how much I owed you. I said, "This is the $500 I told you, that I told you in the first place," and you said, "Wait a minute."

MR. SMITH: Objection to anything the Congressman said.

THE COURT: Right. We have to talk about what you said. That's fine.

BY MR. TRAFICANT:

Q. Well, did you get paid?

A. Yes, I got paid.

Q. But you had done much more work than $500, didn't you?

A. No. It just looked that way. I mean, my guys were

good.
Q. Did I offer you anything else in payment?
A. You bought a baby -- you said, "I've got to pay you more."
MR. SMITH: Objection if he is lapsing into something the Congressman said.
Q. What was your impression when you completed the work relative to the amount of work you did over and above what was expected?
A. To me it was worth what I told you in the first place. I mean, the stuff was used material taken off of other jobs. The men were already paid and charged on that job anyway. And I would had to have taken the material back to my shop, paid them to take it off, and would have gotten kicked around and broken up. I couldn't have resold it anyway.
Q. Well, what, if anything, did you see after our conversation?
A. Well, you thanked me and the crew for the work that we did, but you were upset because --
MR. SMITH: Objection to what the Congressman said.
THE COURT: He didn't testify as to what the Congressman said. He just said he was upset.
THE WITNESS: Shall I answer, Your Honor?

MR. TRAFICANT: Well, I was upset --

THE COURT: You can stop when you said he was upset. You can't say what he did, and you didn't, so it is okay. Objection is overruled.

Q. While I was upset, did I make you any further offer of payment?

A. Yeah. You said you didn't have any more money --

THE COURT: You can't talk about what he said, so I think you are going to have to move on, Congressman.

Q. What was the additional payments I attempted to make?

A. You tried to pay me with your horse.

Q. What kind of horse was it?

A. Black stallion.

Q. How would you describe it?

A. Beautiful animal.

Q. Did you want the horse?

A. Not really, because I didn't have anywhere to put him at the time.

Q. Did you say no at the time?

A. I said it ain't necessary, you know. Pay me what I told you, and that's it.

Q. Was there ever a time later when you communicated to me about maybe taking the horse?

A. Well, we went round and round with that stupid horse a little bit, and then you says, "Listen, I" --

THE COURT: No, not what he said; what you said, did, saw.

A. You wanted some more work done, and I looked at the additional work that you wanted done. And you said all you have to pay me was --

MR. SMITH: Objection to what the Congressman said.

THE COURT: Sustained.

A. The horse is all you have to pay me. I looked at the work. I knew in my mind what I needed to do. I said, "Yeah, I will take the stupid horse," and we did a little bit of work.

Q. Did you make any plans to house the horse?

A. Well, I had ten acres up at Capital Ready Mix. I had the place that, you know, those -- what do you call those fences with the wood on them. It was all landscaped. In the back beyond the lake that I had I had another five acres, and I took my dozers up there, and I cleared a lot of that area off.

Q. Did you make any inquires whether or not where you'd keep the horse?

A. Well, when I grew up I kept horses before, when I grew up.

Q. Did you ever take anybody out to see the horse?

A. Not really. My dad stopped in and saw him.

Q. What was your dad's impression of the horse?
A. He couldn't believe how pretty that horse was.
Q. Do you know the difference between a stallion and a gelding?
A. Yeah. A gelding, you cut their nuts off.
Q. Did he have testicles?
A. He had them on.
Q. Was he a big horse?
A. Yes, sir. He was a stud.
Q. When you got your first loan, did you lease the car?
A. I traded it in, my old Cadillac. The guy gave me 1,500 or 2,500 cash, and I leased one. That's when these leases became popular. I wanted to get a four-wheel drive SUV at the time, but they didn't have anything there, so I got a Caddy. I used it as part of business because in my dealings I had to talk to contractors, big contractors that do 50, $60 million worth of business, and I couldn't be pulling up in a pickup with my door flapping off.
Q. What color was it?
A. Got a black car that matched my black trucks.
Q. Was it your impression that the lapse of time on the loan caused you to go bankrupt?
A. I had signed agreements that had an expiration date. Everything was set up to be executed within May or June, and there was no provisions for a year-and-a-half later,

for the same loan that I signed that I executed in May or June. It would be like you did -- I can't explain it. I haven't seen anything like that since they signed treaties with the Indians, property west of the Mississippi.

Q. Do you feel like you were treated that way?

A. I was set up.

Q. Did any other company, to your knowledge, ever have that type of a bad historical situation with the city?

A. No, one.

Q. At some point were you contacted by me about that horse?

A. You probably brought it up, but I probably didn't want to talk to you about it.

Q. Did I ever send you a bill for rent?

A. No, you didn't.

Q. I now want to show you something, Greg, Government's Exhibit 3-6. Can you tell me what that is?

A. It looks like the Bank One sheet that explained some of our loans, one of the loans you had.

MR. TRAFICANT: I should show this to the Judge first.

THE COURT: It is okay. I have it in the exhibit book.

MR. TRAFICANT: Can I put this on the screen?

THE COURT: Yes.

MR. TRAFICANT: You'd think I learned by now.

MR. MORFORD: I will get it.

MR. TRAFICANT: You have to let it warm up awhile, Matthew?

MR. KALL: Ten seconds should do it.

BY MR. TRAFICANT:

Q. What was the date on that letter?

A. May 12th -- looks like -- is that a 4 or 6? I can't see it.

THE COURT: Here is a closer one, and you can see it better.

THE WITNESS: Thank you.

MR. TRAFICANT: Thank you, Your Honor.

A. That's May 12th of 1994.

Q. And that's a letter to you?

A. Yeah, because it is on Bank One stationery. I think it is theirs, the stamp. It is from the bank to me.

Q. Do you see where it says "purpose"?

A. Yeah.

Q. Under that it says, "Facility No. 1." Read the first three starting with "type, amount, and purpose."

A. It says, "Commercial real estate mortgage loan; amount, $245,000; refinance real estate housing, Big G, located at 551 Mahoning Avenue, Youngstown Ohio, 9.75 percent fixed rate."

Q. Now, read where it says, "First mortgage on real estate" following "collateral."

A. "Guarantors: Gregory C. Tyson, Capital Ready Mix Supply Co., Incorporated."

Do you want me to keep reading?

Q. What does it say about the facility and the amount?

A. "Equipment term loan." Additional $60,000, and refinance construction equipment and vehicles. And that was under "assets."

Q. Fine. I now want to show you Government's Exhibit 3-8, parenthesis 8.

MR. TRAFICANT: Do you want to see?

MR. SMITH: I have it.

Q. 3-8(8). Can you see it? I am going to put it on the screen, 3-8(8).

THE COURT: I will come and look over your shoulder if I need to.

BY MR. TRAFICANT:

Q. Where is that bill from?

A. That's for materials.

Q. Who picked it up?

A. Carol Kent.

Q. Who is it sold to?

A. It went to your property.

Q. Was that part of the deal?

A. Yes, sir.
Q. Do you know where the Government got these materials?
A. Might have got them at my office, I think.
Q. Did they subpoena documents from your office?
A. I think they sent a letter that they wanted to check records. I told them whatever you want to look at.
Q. Government's Exhibit 7-7.
MR. TRAFICANT: Your Honor, do you want to take a break now at 3:00, or when do you want a break?
THE COURT: Well, we usually go a little longer than this.
MR. TRAFICANT: Okay.
Q. Government's Exhibit 3-7, Greg.
A. Okay. Go back?
Q. Yeah.
A. Okay.
Q. What is that?
A. Well, I had a little problem, we put your stuff in. The pump went out at the house.
Q. And what, if anything, did you do about it?
A. Well, I got a call that you didn't have any water and you couldn't water the horses.
Q. Did we try and hide that agreement?
A. No. I had that down in my office. I mean, I had it. It was a warranty. I bought it from one of my suppliers.

I vouched for it, for everything that was on there.
Q. Do you know how much that pump cost?
A. I am not sure. Somewhere between $139 and $179 sounds about what they are worth, could have been a little more or less. It might be more now, but then that's about what it cost.
Q. Did I pay you for that?
A. Yeah. You paid me after John put it in.
Q. I want you to now look at Government's Exhibit 3-4. Can you find that? It is dated April 7th, 1994.
THE COURT: It will be toward the front. Going back the other way. It is the fourth one in your book.
Q. The Government exhibits are tricky.
A. I got it.
THE COURT: Actually, they are just going in sequence, Congressman.
MR. TRAFICANT: A lot neater than mine.
BY MR. TRAFICANT:
Q. Is that the letter that you sent me?
A. I think it is two pages though, because I know I would have copied everybody on the thing.
THE COURT: On the back -- just turn the whole sheet over.
A. Okay. Yes, sir.

Q. You thanked everybody that helped you, didn't you?
A. Sure. I tried to give everybody credit.
Q. So a lot of people tried to help you, didn't they?
A. Well, once we were in, everybody that was involved, you know, was part of this thing, whether it succeeded or failed.
Q. Who gave you the most help on this job, Greg?
A. You spearheaded. Otherwise it wouldn't have got done.
Q. I want you now to look at 3-2.
MR. TRAFICANT: Bernard, there is a parenthesis or something on that, or -- 3-2, so it would be going back towards the front, Greg.
A. Okay. I got you.
Q. Are you familiar with that letter?
A. Yeah. I got a copy of this.
Q. And who is that letter from, and who is it to?
A. It looks like you signed it. It went to Mike Brennan, the bank president, Bank One.
Q. And what was it in relation to?
A. Concerning our company and assistance.
Q. I want you to read, starting with the second paragraph, "Mr. Tyson has contacted."
A. "Mr. Tyson has contacted me and Henry, and has advised both of us that the bank has sloughed him off. He

was turned over to someone by the name of Perry with a last name that he cannot spell.

"Mr. Tyson is definitely an astute businessman. He needs financing for his new cement company in Warren. He already has a contract with the City of Warren.

"If you are going to deny any financing to him, we would appreciate knowing why he is not qualified to obtain the financing he needs.

"Bank One must understand that we cannot just finance new businesses that come into the 17th Congressional District. Greg Tyson has been in business, and he needs some financial assistance. Why can't we help him?

"I am hoping that you will look into this matter and advise both Henry and I as to why our referral to Bank One has ended up in vain.

"Thank you kindly for your continued cooperation. Congressman James A. Traficant. "

Q. Did you ever see that building?

A. Looks like your old farmhouse.

Q. Who is this a picture of, Exhibit 3-1?

A. That's me, you and Joe, Buddy. That's when them trucks came. We had them painted up right to the max.

Q. Were those old trucks?

A. Yeah, because we couldn't afford one, I had seven trucks for the cost of what one new mixer was. Joe put

them through his shop, and my guy painted them. We worked on them, worked our butts off to get them looking like that.

Q. Do you have knowledge of how the Buccis acquired that property?

A. Just rumors.

Q. Did the Buccis try and use you as a front man?

A. They tried.

Q. Did you trust the Buccis?

A. No.

Q. Do you have any company starting up now?

A. Well, while I was in bankruptcy I had a smaller company with -- when I got injured I haven't been doing very much.

Q. Is it your plan to eventually try and restart, Greg?

A. I just want to get my health back right now.

MR. TRAFICANT: No further questions at this time.

THE COURT: Okay. We will take our afternoon break.

(Thereupon, a recess was taken.)

THE COURT: Thank you. Be seated. You are still under oath.

CROSS-EXAMINATION OF GREGORY C. TYSON

BY MR. SMITH:

Q. Mr. Tyson, as you sit here today, you think very, very highly of the Congressman. Is that right?
A. Yes, sir.
Q. In fact, as you described it on your direct examination, is it true in the last ten years of your professional life that Congressman Traficant, you believe, is really the only person in the position of authority that has really gone to bat for you in the last ten years or so of your professional life?
A. No. I wouldn't say that.
Q. You think he is the one that has done the most for you in the last ten years of your professional life?
A. I had people help me all through my career in our business.
Q. But since the Bank One loan situation arose, do you think that the Congressman has been the one that has done the most to help you in your professional life?
A. Well, no. He just helped on one loan. In my professional life, I did work for 25 years in construction.
Q. I ask in the last seven, eight, nine years, in the time since the Bank One loan, during that period, was he the one that has helped you the most?
A. The Congressman helped secure a loan that we could not secure due to the prejudicial situation of the banks at that time.

Q. He would certainly be the highest ranking government official to help you in a meaningful way in the last decade. Is that right?
A. I would say yes.
Q. And you feel personal loyalty to him as you sit here today?
A. Well, anyone that has been -- that has assisted in that manner, I certainly would have respect for anyone like that.
Q. Now, when you testified before the Grand Jury, you accused the Government of exercising political timing in subpoenaing you to the Grand Jury. Is that right?
A. I didn't accuse anyone. I just questioned the timing of it. And in fact, my attorney questioned the timing of it. He brought it to my attention.
THE COURT: If you could speak a little louder, Mr. Tyson.
THE WITNESS: Is this better, Your Honor?
THE COURT: Yes.
Thank you.
THE WITNESS: In fact, I think my attorney issued a letter. You should have it in your file.
Q. And the question you had was whether or not the timing of your subpoena was politically motivated. Is that right?

A. Without question, the timing of that subpoena was politically motivated.
Q. That was your opinion, correct?
A. In my opinion, yes.
Q. Now, in fact, your Grand Jury appearance actually happened several weeks after the primary occurred. Is that right?
A. My attorney scheduled that time after the primary, yes --
Q. Okay.
A. -- because I --
Q. In fact, your attorney had requested the Government to postpone your Grand Jury appearance, and the Government agreed to postpone it. Is that right?
A. My attorney notified your office that I had a prior engagement. We would have been there because it was mandatory for us to attend, and you did postpone it.
Q. You have answered my question.
A. But at the time --
MR. TRAFICANT: Objection. Let him finish his statement.
THE COURT: Goodness.
A. But at the time in the Vindicator my name was --
THE COURT: Mr. Tyson, hold on just a second. We have so many people talking. We have a court reporter

who has to write it all down at the same time.

THE WITNESS: Whatever you want to do, Your Honor.

THE COURT: Just so you understand. That's why we can't talk on top of each other, because we are trying to make an accurate record. I know it is not like being able to just have conversations.

There was an objection posed by the Congressman, and I need to respond to the Congressman.

MR. TRAFICANT: I object because he did not conclude his statement, and Mr. Smith attempted to cut him off from completing his statement. So for the record, I make an objection that that not happen, and when he makes a statement, he be allowed to completely finish his statement.

THE COURT: That is a very good rule which we try to follow all the time, and the objection is well taken. We will go back and start again, read the question again. I will have the court reporter read it, and then you listen to the question, and it is the witness the jury has to listen to. All this side stuff gets in their way of hearing. So now he has to go off the record to read it to us. He is going to ask the question, and you can answer it.

(Record read.)

THE COURT: I guess you did answer the question. You can ask the next question and go forward.

Everybody kind of relax. It is late in the afternoon. We want the evidence to be heard by the jury. You state your question, you listen to it and answer it. Thank you.

BY MR. SMITH:

Q. You understand a Grand Jury subpoena to be a document that is mandatory requiring the witness' appearance. Is that right?

A. Yes, sir.

Q. And the Government agreed to waive your appearance on the date that had been set and to postpone it based upon your attorney's request. Is that right?

A. My attorney filed a request. You granted the request.

Q. Okay. And you actually then appeared before the Grand Jury several weeks after the primary had already concluded. Is that right?

A. Correct.

Q. Now, you have never worked in the field of criminal investigation yourself, have you?

A. No, sir.

Q. All right. And so as you sat in the Grand Jury that day, you did not have any personal knowledge as to how long

the investigation had been going on before you appeared, did you?

A. Only a guess.

Q. You didn't know what other witnesses had been called, did you?

A. It wasn't my concern.

Q. You have no knowledge of the factors that go into the decision-making process as to when a witness is called before the Grand Jury or not, do you?

A. I just have evidence of my name being splashed on the paper right before the primary, right before I was supposed to go to the Grand Jury. So how does anybody know that I am going to the Grand Jury, when it is supposed to be private and confidential, before I go?

Q. But you don't have any knowledge of why the Government in a criminal investigation would call a particular witness before a Grand Jury at any particular time, do you?

A. I don't know what you are talking about.

Q. You don't know why the Government would subpoena you for March of 2000 as opposed to any other time, do you?

A. Sure, to affect an election.

Q. That's your opinion, correct?

A. Correct.

Q. But you don't have knowledge of what the Government

is thinking?
A. I have personal knowledge of my name being smeared in the paper and insinuations being made at the time of the election.
Q. And my question was, you do not have personal knowledge of what the Government was thinking when it issued that subpoena?
A. I certainly don't know what you're thinking.
Q. Now, the congressmen, they are on two-year election cycles, correct?
A. Yes.
Q. And there was a November 2000 general election in which the Congressman stood for reelection; is that right?
A. That would be correct.
Q. And then there was a March 2000 primary. Is that right?
A. I think in May, aren't they?
Q. Well, it was in March of that year, wasn't it?
A. I don't remember.
MR. TRAFICANT: Objection. If the witness doesn't know --
THE COURT: He answered it. He says he doesn't know.
A. Whatever day it was, it was a week before the election.

Q. Okay.
A. And you know what, that's supposed to be confidential.
THE COURT: Wait, wait, wait.
THE WITNESS: Sorry, Your Honor.
THE COURT: You have to answer his questions. Then you may have other questions put to you at some time, but you have to answer his questions so it is orderly.
Q. Would you agree, your Grand Jury appearance was on March 29th, 2000?
A. Is that the time I was there?
Q. If I showed you the cover page of your Grand Jury transcript --
A. If you have the record --
Q. -- would that refresh your recollection?
A. If you have the time I was there, that time and day, I was there that day whatever time I signed in.
Q. Showing you Government's Exhibit 1000, if you would look at that document up in the upper right, and tell us if that refreshes your recollection as to when you testified before the Grand Jury.
A. If this is the date you have on record, then I agree this is the day I was there.
Q. All right. And the date on there is March 29th, 2000. Is that right?

A. Yes, it is.
Q. And that was several weeks after the primary, correct?
A. Yes, it is.
Q. So the primary then was in early March of 2000, correct?
A. I don't know when the primary was. It was after the fact of this.
Q. Well, you testified in the Grand Jury after the primary. You agree with that, correct?
A. Yes.
Q. So when a congressman is on a two-year election cycle with a primary six months before, then isn't it reasonable that an investigation of any length might bump into the election cycle?
A. No.
Q. Sir, when you came before the Grand Jury, you were upset with the City of Youngstown, correct?
A. The City of Youngstown screwed me into the ground.
Q. And you felt that way when you came to the Grand Jury, correct?
A. That's not how I felt. The facts will bear me out. I had signed agreements that weren't executed. I relied on their information. I relied on their agreements. They shook my hand and they lied.

Q. You were not happy with the federal government the day you had to appear before the Grand Jury, correct?
A. You didn't investigate their wrongdoing, no.
Q. And you were not inclined to answer questions before the Grand Jury until you were immunized, correct?
A. I could have invoked my Fifth, but I didn't.
Q. Sir, isn't it a fact that you were immunized when you testified before the federal Grand Jury?
A. I was offered immunity against the Buccis, and then I was compelled to testify against Congressman Traficant because I told you he was a friend of ours and didn't think he had done anything wrong.
Q. Sir, isn't it true that in the Grand Jury you lawfully invoked your Fifth Amendment privilege and you were immunized?
A. That's against the Buccis, and I testified with Morford, who was the second prosecutor, and I was compelled to testify. Now, there is a difference, isn't there?
Q. Showing you pages 3, 4, and 5 of your Grand Jury testimony, March 29th of 2000, would you please briefly review these three pages, and tell us if you were immunized in your Grand Jury testimony after you lawfully invoked your Fifth Amendment privilege?
A. Well, my attorney isn't here to interpret this stuff for me.

Q. Could you please read it?

THE COURT: Not out loud, just to yourself.

A. It says here, "I refuse to testify and provide you other information." That means I was compelled to give the testimony.

Q. Under immunity, correct?

A. Well, I guess immunity for my compulsion, but it was not immunity where you get a deal.

Q. Sir --

THE WITNESS: Am I saying that wrong, Your Honor? That's my understanding.

THE COURT: Well, you just talk from what you know and what your understanding is. It is up to the lawyers to ask you questions. Okay? Just do what you're doing. That's fine.

THE WITNESS: Okay.

BY MR. SMITH:

Q. Isn't it a fact that the foreperson read you a court order signed by Judge Nugent of the Northern District of Ohio immunizing you in your Grand Jury testimony?

A. As I understand it, I was compelled to testify. Any testimony that I gave under that compulsion order gave me immunity because I was compelled to testify, you know.

Now, the other agreement I freely gave to the prosecutors because they were investigating the Buccis, who

committed fraud against minority contractors, and they were investigating them on that purpose. So I have no problems with that.

This one, I was compelled to testify because you asked me to testify against the Congressman, which didn't want to be testifying against the Congressman.

Q. All right.

A. And I was given immunity for whatever statements you made me say as part of the testimony to answer truthfully to you.

Q. And that immunity under the terms of Judge Nugent's order extended not only to the Grand Jury appearance, but it extended to any other Court action arising out of the Grand Jury proceedings, such as your testimony today, right?

A. Well, if that's true, I'm glad to hear that.

Q. Didn't the order say, page 5?

A. I didn't read it that well, but if I am covered under immunity, fine. I am happy to hear it.

Q. Page 5, lines 8 to 15, didn't the foreperson read this portion: "Now, therefore it is ordered pursuant to 18 U.S.C., Section 6002, that the said Gregory Tyson give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination about all matters he may be interrogated

before said Grand Jury and before any court action arising out of the said Grand Jury proceedings. "

Isn't that a part of the order that was read to you in the Grand Jury?

A. It may well have been, sir. I'm getting your understanding of it. So I'm happy to hear I still got immunity.

Q. Now, with respect to the loan with Bank One, initially, it is correct that you applied to Bank One for the loan, and you were turned down, right?

A. The City of Youngstown was trying to work with the banks in Youngstown, and Dollar Bank had just went belly up, and National City Bank was taking it up. I was told to go through Bank One.

Even though I went through all the changes, I was turned down.

Q. All right. And after you were turned down, you requested the Congressman's assistance with Bank One since you could get the financing you felt you needed, right?

A. Well, I was a little bit upset because Russia just got a $29 billion dollar loan and defaulted, and I am sitting there in Youngstown with union employees, paying union wages, and a contract with Youngstown, and I called his office to see what the hell he could do about that.

Q. All right. And you did receive help from the

Congressman in intervening with Bank One. Is that right?
A. Yes, we did.
Q. In fact, after the Congressman took action, you got a meeting with Mr. Al Matasy, correct?
A. After me and Jim got involved, all the doors opened. I started meeting all the big wigs up on the top floor who you never see.
Q. All right. And you got the loan?
A. Yes, through a long drawn-out process, including the scenario we talked about earlier.
Q. During your direct examination did you refer to Bank One or people at Bank One as being idiots?
A. Marty Durkin in particular was fired, was one of them.
Q. But you referred to people at Bank One as being idiots with respect to your loan, right?
A. I said some of the loan officers were young idiots, which they were kids. They had no common sense. They never worked for a living. They are bean counters. They didn't want property. They didn't want assets.
Q. And you said on direct examination that you felt that the loan documentation had been improperly or incorrectly structured. Is that right?
A. I was hammered into a deal, the best deal I could get, but it was not the best deal that could have been

made. I was backed into a corner, and I had to make a deal.

Q. And you said on direct examination, did you not, that you felt that the bank really was interested only in getting interest from you, and they really weren't concerned about the health of your business. Did you basically say that?

A. Well, aren't banks multi-billion dollar corporations? They don't get paid like that, helping little people.

Q. And did you say on direct examination that Bank One was interested only in receiving interest payments from you and was not really concerned about your business?

A. That was my observation.

Q. But at the time that the loan was made, you didn't criticize Bank One, you praised them. Is that right?

A. I had to. I had to get more money out of them.

Q. Well, showing you Exhibit 3-4, the letter that you identified as being the letter you wrote on April 7th, 1994, do you have it on the counter before you? Could you take a look at that, sir?

A. I have it.

Q. And in the last paragraph on page 1, would you read what you said about the people at Bank One when you got the loan? Bottom of page 1, last paragraph. Sir, page 1 of the letter. Flip it over, please.

A. I got it. Hold on.
Q. Right. The last paragraph on the front page. Okay. If you would please read.
A. "Through fate, we were introduced to a staff at Bank One, in particularly a gentleman by the name of Mr. Al Matasy. He set up a meeting with myself and fellow banking officer Mr. Perry Chickonowski, and immediately began to see results. After significant effort on behalf of numerous associates of Bank One, these gentlemen singlehandly rescued this start-up company from the trash heap, and with no other government assistance, they solely took on the responsibility of committing and financing Capital Ready Mix, Incorporated, with the proper packages and loan agreements that will make this start up company a success."
Q. And you also in the first paragraph of that letter referred to what happened in your loan situation as a magnificent banking success story. Is that right?
A. Right.
Q. So at the time you credited Bank One loan officers with single-handedly rescuing your startup company. Is that right?
A. Yeah. It is called spend control.
Q. And Mr. Perry Chickonowski that you mention in the last paragraph of that letter, he was one of those young

loan officers, right?
A. Yeah. Marty Durkin isn't mentioned.
Q. But Mr. Chickonowski was one of those young loan officers who worked on your loan?
A. He was a young aide.
Q. And flipping this letter over, this praise that you bestowed upon Bank One you distributed to Mayor Patrick Ungaro?
A. The bank did something. It was not perfect, but they did something, so I gave them praise.
Q. You praised them to the mayor?
A. I praised everybody.
Q. Did you send a letter to the mayor?
A. Yes.
Q. And you sent a copy to Youngstown City Council, as well?
A. And I sent a letter to city council.
Q. And you sent a letter to Mr. Joe Burkey, correct?
A. That would be correct.
Q. And the initials M.V.E.D.C., what does that mean?
A. That's, I believe, Mahoning Valley Economic Development Corporation.
Q. And Mr. William Carter, you sent a copy of the letter to him, too, correct?
A. Correct.

--

Q. And what do the initials Y.A.D.C. mean?
A. Youngstown Area Development Corporation.
Q. Now, ultimately and unfortunately you did default on the loan, correct?
A. Defaulted on two loans.
Q. All right. Now, prior to the time that this loan situation occurred, you testified on direct examination that there was a meeting that you had at a local restaurant with the Congressman, yourself, Mr. Sattarelle, and one or two of the Bucci brothers. Is that right?
A. The two Bucci brothers, Bob and Tony.
Q. So both of the Bucci brothers were there?
A. There are three of them. Dan is dead now.
Q. Was he there that day?
A. No.
Q. Tony and Bob Bucci were there, and Mr. Sattarelle and the Congressman, right?
A. Yes.
Q. And it was at that time that you believe that the Buccis were trying to run you right out of the company. Is that right?
A. That would have been a fact.
Q. And indeed, you thought that the Buccis were trying to destroy you as a businessman. Is that right?
A. They were doing their best effort.

Q. And that meeting in that restaurant got extremely contentious. Is that right?
A. Yes, it did.
Q. In fact, there came a point where there was at least some risk there could have been a physical altercation there, correct?
A. No. Bob is all talk.
Q. All right. Didn't somebody say they might come across the table at somebody else?
A. He thought he could bluff somebody.
Q. That's what he said, right?
A. That's what he said. He didn't do nothing.
Q. And during that meeting, the Congressman took a neutral role during that restaurant meeting, didn't he?
A. He was trying to get the problem resolved.
Q. And he really didn't take anybody's side. He was basically neutral. Isn't that right?
A. He tried to present a neutral setting, but I would say he supported us.
Q. In the Grand Jury you said he didn't take anybody's side?
A. I said he was neutral in the thing. You are asking me about sides, I would say he supported me.
Q. Well, in fact, in the Grand Jury, didn't you say that he acted more like a referee rather than a partisan in this

meeting?
A. He was trying to get the thing worked out. Yes, he came in as a mediator to see what the problem was, because I notified him that with all these bank deals in place, all this city government, that the Buccis were trying to screw the deal up.
Q. And so in that meeting in the restaurant, the Congressman was not overtly taking sides with either party, was he?
A. He was doing his job as a mediator to get the thing resolved. He couldn't show outward favoritism to them guys, he couldn't show it toward me.
Q. All right. Now, it is true that Big G and Capital Ready Mix employees went out to the farm and performed work out at the Congressman's farm in Greenford, correct?
A. Yes, sir.
Q. And there were basically two installments in that work, correct? It happened in two different installments?
A. Not from my company it didn't.
Q. In other words, there was a first installment. There was a first installment where some waterlines, sprinklers, and pipe were put in. Is that right?
A. Absolutely, yes.
Q. And the pump, that was the responsibility of John Krump of Capital Ready Mix to make sure that got taken care

of?
A. That pump had nothing to do with the first job.
Q. What pump had to do with the first job?
A. The pump came after we had completed the job, and they called up my office, couldn't get ahold of me, and they called the concrete plant because there wasn't any water for horses. The wellhead had went out.
Q. And Mr. Krump was responsible for installing a pump to fix that problem?
A. He wasn't responsible for it. I asked because John lived out that way. I didn't want to send one of my expensive guys to go out and see what the problem was, so I asked him to stop to see if he could check it out on his way home.
Q. And your testimony is that you were paid by the Congressman for that pump, correct?
A. After the pump was put in, after John did the work, Jim asked me how much I owed him for the thing, and I told him just give me $400. Then he paid me, but it wasn't right away. It was totally by surprise.
Q. And you never reported the $400 on the books and records of Capital Ready Mix?
A. I got the $400 in an envelope and just put it --
Q. My question is, you did not report the $400 on the books and records of Capital Ready Mix?

A. I don't know. It was probably put in petty cash. When I had petty cash, we didn't keep receipts on it.
Q. Isn't it a fact in the Grand Jury you testified you didn't report that $400 on the books and records of Capital?
A. I wouldn't have reported it to Capital because that envelope came to my house.
Q. Mr. Krump was a Capital Ready Mix worker?
A. He was a supervisor, mixed concrete for us.
Q. At Capital Ready Mix, right?
A. Right. But the pump -- John, he also had his own truck, and he was a union man, and he lived out there.
Q. And the pump was purchased with Capital Ready Mix money, correct?
A. No. I think I bought it from Big G. It is in the book here.
Q. Big G is one of your companies, too. Is that right?
A. Yeah. I had two companies.
Q. So one of your companies bought that pump, right?
A. Right.
Q. And you never reported the payment on the books and records of the companies that did the work. Is that right?
A. It was a chicken shit amount. I can't keep track of little stuff like that.
Q. Well, you would agree that a company must keep

accurate books and records of all matters of income so that you have, number one, accurate books and records, and secondly, that you had accuracy for tax purposes.

You would agree with that, wouldn't you?

A. We kept records as best we could. Sometimes you got a couple dollars in petty cash and incidental income. And we always get an estimated thing at the end of the year, and I always put down more in case we were covered.

Q. And you failed to report that income on company books?

A. I didn't fail nothing. That was covered in the company books and our statements. When our guys do the books I always estimate an extra amount as far as petty cash over and above our receipts.

Q. Sir, did you testify in the Grand Jury, page 57, lines 19 through 25, "Well, let's talk about applying the money properly. "

"Question: Well, let's talk about applying the money properly. Did you record on the books and records of Capital Ready Mix the receipt of the $400 cash from Jim Traficant for the well repair?

"Answer: If anything, it was put in petty cash.

"Question: That's not my question. Did you record it?

"Answer: I don't think I recorded it. "

Were those the questions you were asked and were those the answers you gave in the Grand Jury?
A. Yeah, whatever.
Q. Now, sir, with respect to the waterlines and the sprinklers in that first series of work you did --
A. I didn't put any sprinklers in, squeeze a trigger and get out water.
Q. And there were water pipes, lines, that kind of thing. Is that what happened?
A. What actually happened, I think we put the lines in, and one of my guys failed to purge the system, and I think we blew out his pump. That's why I had Krump go out instead of the guys that installed it, so I could find out what happened with the thing.
Q. And your testimony is you were paid $500 and a horse for that work, right?
A. What work is that?
Q. The waterlines and the pipe, and that stuff?
A. Right. I took older material from jobs. I had cleaned up the jobs. The men's paychecks were made out already. If they were paid for eight hours, it took a couple hours, they had their pay that day. I think we got done around noontime. They did four hours and got eight hours. It was kind of a bonus, reward.
Q. Isn't it true, you didn't report any payment for the

work on the books and records for the work on the pipes and lines?

A. I bought tickets, and I had taken my personal checks and was buying political tickets. So I didn't get any exorbitant money that I thought I had to be worried about recording.

Q. So you didn't report it on the books and records of your company?

A. No. That little bit of petty cash wasn't recorded.

Q. And you didn't report the value of the horse on the books and records of the company either?

A. I didn't want the Buccis to claim that they had 24 percent, so I guess I didn't report the horse.

Q. May I finish my question?

A. I finished answering it.

THE COURT: I think he has answered it.

BY MR. SMITH:

Q. Sir, by the way, what political tickets did you buy with this money that you said the Congressman gave you?

A. I had bought tickets for the mayor of Youngstown, the mayor of Warren. I bought Commissioner's tickets, whatever political smut come along. If you didn't buy the ticket, then they get mad at you.

Q. Now, with respect to the horse, you didn't want the horse, correct?

A. Nobody likes to take a trade-in instead of cash.
Q. In fact, earlier in life you had been bitten by a horse, and after that you really didn't care for horses. Is that right?
A. I was bitten by a pony when I was younger, but ponies and horses are different.
Q. But the point is, you never actually removed the horse from Congressman Traficant's farm; it stayed there?
A. Yeah, because I had free room and board on that sucker for a year until I determined what I wanted to do with it.
Q. You never took actual physical possession of that horse?
A. Didn't have to.
Q. Your answer is no?
A. The horse was mine.
Q. Sir, did you take actual physical possession of the horse at any time?
A. The man shook my hand and said the horse was mine, so the horse was mine. Now, did I go out there and take him out of the barn? No.
Q. And, in fact, at the time of your Grand Jury appearance you did not know if the horse was alive or dead. Is that right?
A. When did you call me? Was it last year?

Q. March 29th of 2000, when you testified before the Grand Jury, at that time you didn't know if that horse was alive or dead. Wasn't that your statement?
A. Well, I was probably just out of being glad I was alive myself. I didn't care if it was alive or dead.
Q. And you didn't know if it was alive or dead?
A. I hadn't been out to the farm.
Q. Now, there was another batch of work done later that consisted of concrete work, distribution of some slag, and some work on a barn. Is that right?
A. That was the work I did in trade for the horse.
Q. I thought you already said that the horse was part of the payment on the waterlines.
A. You thought wrong.
Q. Isn't that what you said a few minutes ago?
A. No, I didn't.
Q. At any rate, that's the same horse you didn't take possession of and didn't know if it was dead or alive?
A. The same if I did work for you and you have a 1962 car in your garage which is a collector item which you have to keep in the garage: While it is in your garage and I don't have to store it, I don't have to keep it.
Q. Okay. Let's talk about the concrete. About six trucks of concrete were sent up to the farm, correct?
A. No. That was a different deal. That's when the

Buccis wanted some work done, and they didn't have credit for the concrete.

Q. Whether the Buccis were responsible for the concrete going out there or you were, about six trucks worth of concrete went out to that farm, correct?

A. That's a separate deal. That's not the same job. You are mixing it up.

Q. Whether it is different or the same --

A. It is not the same.

Q. And you didn't ask the Congressman to pay for those six loads of concrete, did you?

A. The Buccis requested those six trucks. The Buccis had the cost of that concrete deducted from their rent. It was a separate job altogether. You are not even on the same page.

Q. My simple question is, you didn't make any requests of the Congressman to pay for that concrete, even if it was a Bucci job, correct?

A. The concrete was paid for by the Buccis, so there was no need for me to request to the Congressman.

Q. Okay. With respect to the slag, that slag was delivered to the farm by a Big G worker whose name was Carol Kent, correct?

A. Correct.

Q. And she was a truck driver, correct?

A. Correct.
Q. And you did not ask the Congressman to pay for that slag either, did you?
A. That slag was part of the agreement. When I walked around with Jim he asked me to do additional work. After we installed the waterlines and the pipe he did that, and that's why I had to come back and make a second trip, come back, pour pads, and spread slag. I did that for what the horse was worth.
Q. So you were not paid any money for that slag; you would agree with that, correct?
A. I was paid by -- with the horse.
Q. No money, correct?
A. For that slag, no money.
Q. And finally, the barn wall repair. Three or four men from your companies were sent out there to do that work, correct?
A. Whatever it took to do the job. I -- you know.
Q. Do you dispute it was three or four men?
A. Whatever it took to do the job. If I had to send two, three guys, or a machine, whatever it took. I agreed to do a job, and I do the job correctly. Whatever it takes for me to do that job, I do.
Q. And did you ask -- you did not ask Congressman Traficant to pay for that work that was done on the barn

wall either with money, did you?
A. That work was part of the agreement for Sarge, the horse.
Q. Charge of the horse?
A. Right.
Q. So no money for the barn wall?
THE COURT: Did you say "Sarge" or "charge?"
THE WITNESS: Sarge.
THE COURT: But the horse's name is Sarge?
THE WITNESS: Actually, technically, he was The Son of Sarge, but I called him Sarge.
THE COURT: I got the word "charge" out of that. I was wrong.
Q. So the horse's name was Sergeant, correct?
A. That's what I called the horse, but that's really --
Q. And on the barn wall work or repairs you didn't receive any money?
A. Yeah. I got paid with the horse before I did the work. That's what I agreed to do in part of agreeing to take the horse. When he gave me the horse in the first place, it was more than the value of the work that we did.
MR. SMITH: May I have a moment, Your Honor?
THE COURT: Did you finish? Did you finish what you were saying?
THE WITNESS: Whatever he wanted to do, Your

Honor.

THE COURT: No, no. I was listening to you, the jury was listening to you, and so we need to hear --

THE WITNESS: Whatever he goes into.

THE COURT: Just come out and finish up with what you were saying.

THE WITNESS: I am done, Your Honor, I guess.

THE COURT: Okay.

(Laughter.)

Q. Isn't it true after this supposed deal with the horse you only saw the horse about two more times after that?

A. My dad saw it a couple times.

Q. And that's it, right?

A. I wasn't concerned with it. I mean, I had cleared out things in my Capital Ready Mix plant, and the Buccis were making efforts to screw me out of that plant. I didn't want to be putting a $10,000 corral and stable, and bring the horse out there, and them son-of-a-bitches end up with --

Q. And your dad only saw the horse once, right?

A. My dad was only out there one time. My dad is dead, by the way.

MR. SMITH: Okay. No further questions.

MR. TRAFICANT: Your Honor, I just have one question. I know it is almost 4:30, but I would like to do

this. Leave the machine on. I have a document 1007. It came in discovery from you guys. You didn't put a number on it. It is a statement, borrowing base, 11-18-94. I want the gentleman to look at it.

MR. MORFORD: It is part of 3-9. It has a number. Look at the very last page, Congressman. There is an exhibit.

MR. TRAFICANT: Fine. But I want this especially -- after we are done I want to know if this is part of the record.

REDIRECT EXAMINATION OF GREGORY C. TYSON

BY MR. TRAFICANT:

Q. I would like for you to take a look at it. It is part of a package of 3-9.

THE COURT: Okay.

Q. Are you familiar with that? I want to put it on the screen real fast.

A. This is how they based my line of credit.

MR. TRAFICANT: I would like to put this on the screen, Your Honor.

THE COURT: Fine.

MR. TRAFICANT: I would like to have a special Defense Exhibit Number put on there as GT 1007.

THE COURT: We have been on Joint Exhibits. We have been calling them Joint. Is this a request for a

Joint Exhibit? It has an exhibit number from the Government.

MR. MORFORD: That exhibit was not offered, and if he wants to mark that page with that, that's fine.

MR. TRAFICANT: They haven't offered anything.

BY MR. TRAFICANT:

Q. Did they subpoena you, Greg?

A. For this testimony?

Q. Did they subpoena you to the Grand Jury?

A. Yes.

Q. Did you have an attorney to advise you with regard to that immunity?

A. Yes.

Q. Did you know that immunity carried over to this meeting?

A. No.

Q. This trial?

A. No.

MR. TRAFICANT: I would like to identify this document, and I will slow it down for you.

Q. Would you identify for me what it is? It is hard to read.

A. That was their formula. At the top, you will see it says $415,000. That wasn't my contract base for the year.

That was the profit I was going to make on jobs for the year. That was based on 30 percent profit on a million six, million seven, and that's what burned my socks when that -- excuse me -- son bitcher Bucci told me I didn't have loan value because I had those contracts in my holding when he sat there and said that.

Q. What does it say opposite that? Look at the $415, and look what it says opposite.

A. It says acceptance of accounts receivable.

Q. Now, look down below, eligible inventory, how much?

A. $82,000.

Q. Look at subtotal above eligible inventory?

A. $150,000.

Q. You are looking at the bottom. I am talking about the top, $415,000.

A. $415,970.44.

Q. Third line?

A. $207,985.22.

Q. Next line?

A. Eligible inventory, $50,000.

Q. Next line?

A. 50 percent.

Q. Tell what it was for.

A. This was our revolving line of credit.

Q. What was $25,000 -- what does it represent?

A. Fifty percent of our inventory on hand.
Q. And that's $232,985 stand for?
A. That was the total eligible amount of loan value that they had a formula, or they broke it up.
Q. You had that valuable loan value?
A. I had more than that. I had $415,000. They could have boosted that formula to more than 50 percent. They were giving me half of what my receivables were. I had $415,000.
Q. So that 50 percent underneath $415, they only gave you credit for only half of what your receivables were worth?
A. Right.
Q. In computing your assets to make you a loan?
A. Well, this was for our line of credit.
Q. Line of credit?
A. Line of credit.
Q. Did you feel you were treated fairly in that process?
A. No. We were screwed on that.

MR. TRAFICANT: No further questions.

MR. SMITH: No questions.

THE COURT: Thank you, sir. Sir. You are excused, and you may step down.

THE WITNESS: Thank you, Your Honor. Nice to meet you.

THE COURT: Be careful of our steps as you go down. They are not great.

We are going to recess until Monday morning. We will need to begin at 9:00 o'clock on Monday morning. You are going to have a nice three-day period of time, and it is important that, although you hear these words over and over again, that I remind you again that if anybody tries to contact you or put you under any pressure in this case, you have a number to call. You call it.

There may well be things in the media of any kind, and you need to avoid those completely. Don't let anyone talk to you about the case. Don't talk to anyone about the case. And watch when you are online or walking through a room where there is a TV on or listening to the radio in your car, just -- make sure when you are reading the newspaper -- just make sure you keep all of that out so you can do your job here.

And I thank you for your wonderful attention, and we appreciate it very much. This is -- we are going into our ninth week next week. And you very fine folks have these responsibilities, so enjoy your time off and your families and the rest of your lives.

Thank you.

(Proceedings out of the presence of the jury.

THE COURT: We could be subject to working a

full day down here. We do have several motions and responses that have been filed. I think we would benefit by just following the jury's steps and reconvening on Monday morning, but I'd like you to reconvene at 8:30.

I anticipate that there will be some more orders coming out on the various motions that are in this case. And so you should pay attention to that.

Congressman, you can access all this online. We also fax copies of everything to both offices. So if anything is going to come out, I'm not going to say I will give you advance warning. We will just work as we can work and get through as many as we can. But, Congressman, we need to know from you and the other side needs to know tonight who you anticipate bringing in on Monday morning, and we also would like an update on the welder situation.

MR. TRAFICANT: I will know more about that this weekend. I got the number from the prosecutor, and I will notify them as soon as I find out. A lot of it depends on the material I get from Home Savings, and I may be able to conclude my case this week.

THE COURT: I will let the jury go, and is there anything further?

MR. SMITH: Yes.

THE COURT: Well, wait. I am not sure they are ready, but it doesn't take them long to get their

coats. Everyone else, you can stand or be seated.

(Pause.)

MR. TRAFICANT: Your Honor, I would like to offer some documents into evidence.

THE COURT: If you will give us the numbers and show them to the other side.

MR. TRAFICANT: Okay. The first one is -- was a Government exhibit that had a 3.2 sticker on it. And I want it to be labeled GT 1007-B.

THE COURT: 3-2 is in evidence already as a joint exhibit.

MR. TRAFICANT: Okay. Fine.

THE COURT: Okay.

MR. TRAFICANT: A letter to Mr. Don Cheigas, Bank One from Mr. Tyson, November 18th, 1994. I would like to have it as a Defense Exhibit GT 100.

THE COURT: What's its Government number, Congressman?

MR. TRAFICANT: It has no Government number on it.

THE COURT: I think it may be part of a series.

MR. SMITH: GT 1007?

MR. TRAFICANT: I got it in discovery, gentlemen. I am using your material.

MR. MORFORD: But this was not shown to a witness.

MR. TRAFICANT: I did show it to him.

MR. MORFORD: But he didn't testify about it.

MR. TRAFICANT: I don't have it in my notes.

THE COURT: Okay. So describe it for us, and give --

MR. TRAFICANT: It was a letter to Mr. Donald Cheigas relative to the refinancing of Big G Construction, which I asked him about.

THE COURT: Who wrote the letter?

MR. TRAFICANT: It was written by Greg Tyson, GT 100, and they are saying it is already in. Is that what you are saying?

MR. MORFORD: No. I don't think that one is.

THE COURT: GT 100 apparently --

MR. SMITH: We don't care.

THE COURT: Apparently, it was not identified, but they will agree to have it come in. So without objection, GT 100 will come into evidence.

MR. MORFORD: Can you give it to us with the number on it so we know what it is?

MR. TRAFICANT: Certainly. GT 100.

GT 102 --

THE COURT: Before you go on, the Court also

needs a copy of it. Since you doesn't have it right now --

MR. TRAFICANT: I do have a copy of it for you.

THE COURT: Okay. Thank you. Thanks.

MR. TRAFICANT: Next one will be GT 102, a letter to Perry Chickonowski from Gregory Tyson.

MR. SMITH: Again, Your Honor, we don't recall it being shown to the witness, but we will not object.

THE COURT: What they are referring to, Congressman, when you had him on the stand, because he wrote the letter, you could have shown it to him and identify it and wouldn't have problems getting it into evidence.

MR. TRAFICANT: I knew they would stipulate to it.

THE COURT: I wouldn't count on that.

MR. TRAFICANT: If they don't, they don't.

THE COURT: If they don't, it won't be admitted.

MR. TRAFICANT: Well, they have already. Next one is the Government's Exhibit 3-6 --

THE COURT: Are you going to --

MR. MORFORD: I am just reading it, Your Honor.

MR. TRAFICANT: I thought Mr. Smith already stipulated to it.

MR. TRAFICANT: That was GT 100.

MR. MORFORD: No. I believe it was GT 102 as well.

THE COURT: Congressman, let him relax and read the letter.

MR. MORFORD: That's fine. It is a business record, so we will stipulate.

THE COURT: Fine.

MR. TRAFICANT: Next one -- it had a Government Exhibit 3.6. I showed it and put it on the screen, and it is known as GT 1007-D.

THE COURT: While they are looking at that, I will admit the prior exhibit, which is GT 102, will be admitted without objection.

MR. TRAFICANT: This was given to me in discovery, and I showed it to the witness on the screen, and he identified it. It was all with the packet by the Government.

MR. MORFORD: This is the same as Exhibit 3-5. So there is a copy of this exhibit under 3-5 under evidence. I think they are the same.

MR. TRAFICANT: How did you bring it into evidence?

MR. MORFORD: Under Mr. Chickonowski.

MR. TRAFICANT: I would like to put this into evidence as 1007-D under the Tyson case.

THE COURT: We don't want to give the jury two sets.

MR. MORFORD: The other one has the Congressman's handwriting, but it is the same document otherwise.

THE COURT: Okay. Very well.

MR. MORFORD: And no objection.

THE COURT: And this will be admitted without objection.

Just a minute. GT 1007-D.

MR. TRAFICANT: The Government did have Government's Exhibit 3-1 admitted. It was a photograph. If they had it admitted as a joint exhibit --

THE COURT: They did. It is a joint exhibit. You asked it to be a joint exhibit.

MR. TRAFICANT: That's the photograph?

THE COURT: Yes.

MR. TRAFICANT: Fine. The next one is known as GT 107-A. It is -- it was shown to the witness. It was Government Exhibit 3.3, and it dealt with his term loan and put on the screen.

THE COURT: It is admitted as a joint

exhibit. It has been already.

MR. TRAFICANT: Fine. Now I have several photographs that were shown -- I have several other exhibits that were shown to the -- and shown on the screen, and did we admit 101, GT 101, defense exhibit that was shown to him?

It was Big G Construction, a letter from -- it was to Big G Construction from Bank One.

THE COURT: Show it to the Government, please.

MR. MORFORD: That's the same as 3-6.

MR. TRAFICANT: Find me 3-6.

MR. MORFORD: It does appear to be different.

MR. TRAFICANT: GT 101 I move be admitted as evidence. It is different than theirs.

MR. MORFORD: Do you have another copy of it?

MR. TRAFICANT: Yes, I do. I'm looking for it. I do not at this time, and I would ask you to look at this, and if it needs to be introduced later, I will do so.

MR. MORFORD: We have no objection to this, except that we need a copy that we can mark for our own records.

THE COURT: And we need a copy, Congressman. What is it? Is there a way of describing what it is?

MR. MORFORD: A May 12th, 1994, Bank One

letter to Big G, with a bunch of loan information on it that I believe is included in what was marked but not introduced or admitted as Government's Exhibit 3-9. So if you take the pages out of 3-9, the four pages, that would constitute this document.

MR. KALL: I believe it starts on or about the third page, Your Honor. There are a few different bank records from May 12, 1994, so for clarity, the first page lists facility one in an amount of $108,000 for the first facility, $197,000 for the second facility.

THE COURT: So, Congressman, do you have a copy of that for the Court, please?

MR. TRAFICANT: I don't have a copy of that for the Court. You will -- I will have to make a copy of it.

THE COURT: They don't have an objection to its admission as I understand, but on Monday morning, you can bring a copy.

MR. TRAFICANT: And what was the number on that, Your Honor? Is that 101?

THE COURT: GT 101.

MR. TRAFICANT: So we need a copy for the Court. I do have photographs I would like to have put in the record.

THE COURT: Have you seen it -- shown it to

the other side?

MR. MORFORD: I haven't --

THE COURT: Congressman, maybe we can put them out on the table, and the lawyers for the Government can look at them.

MR. TRAFICANT: Well, they only would agree to the additional -- the pictures of the addition, and I will put them on the screen if you'd like, and maybe we can expedite it.

THE COURT: Was -- if there are some agreed to, tell me that, and we can go ahead and admit them as your exhibits.

MR. TRAFICANT: This is HA-70. Let me go through what I have.

THE COURT: Okay. You folks organize it.

MR. TRAFICANT: This is HA-70.

THE COURT: Do you agree to that?

MR. MORFORD: No objection to HA-70, Your Honor.

THE COURT: It will be admitted.

MR. TRAFICANT: HA-90.

MR. MORFORD: Just one second. No objection to HA-90.

THE COURT: It is admitted.

MR. TRAFICANT: HA-80.

MR. MORFORD: No objection to HA-80.

THE COURT: It is admitted.

MR. TRAFICANT: HA-50.

MR. MORFORD: No objection.

THE COURT: Admitted without objection.

MR. TRAFICANT: HA-60.

MR. MORFORD: I object to HA-60 because I don't believe it is part of the work that Manevich did. There is no testimony to show it was part of the work he did.

MR. TRAFICANT: It was brought out and showed on the screen they didn't finish the gutter and cut around the gutter and put the pole around the gutter with the opening up above for the animals to enter. It was clearly shown to the witness and put on the screen and the same siding that is seen on HA-1.

If you would like to tell me -- look at it, and tell me the difference in the siding.

MR. MORFORD: The problem is you can't tell who did the work, and there is no testimony in this case --

MR. TRAFICANT: The testimony was stated by Mr. Marchese.

THE COURT: He took the pictures,but wasn't there at the time that it happened. He testified he was not there at the time as work was done. That's --

MR. TRAFICANT: But he testified it was the same siding and the same job that continued under the portico, and this is part of the portico in the construction and showed the -- he explicitly described this.

THE COURT: I will go back in the transcripts. Give it to me, and I will go back to his testimony and look at it over the weekend.

MR. TRAFICANT: I will leave this with you.

MR. MORFORD: And the basis of my objection, having looked at the bigger picture, there are different parts of that house that come together, and it is not clear that they did some of the work that is displayed in that picture.

MR. TRAFICANT: Then would you agree to HA-1 was their work? He testified to that.

MR. MORFORD: No, because I have no idea. These were not shown to Mr. Manevich who did the work. You can't tell from these pictures --

THE COURT: You can call Manevich back.

MR. TRAFICANT: I am not going to pay to depose that guy who said he got $15. And the other guy said he got $10.

THE COURT: But, Congressman, if you can't identify something through the person that took the

picture, you can identify it through the person that is there.

MR. TRAFICANT: But I would have to -- he was the heart problem. This shows the drop in the floor with the board.

MR. MORFORD: No objection.

MR. TRAFICANT: That's HA-38.

THE COURT: No objection to that. It will be admitted.

MR. TRAFICANT: This is HA-400, the building that Dominic and Angelo would not walk into.

MR. SMITH: That's another version of 4-3.

MR. MORFORD: Correct.

THE COURT: That will be admitted without objection.

MR. TRAFICANT: HA-39, which shows the construction type plywood used on the deck floor.

MR. MORFORD: No objection.

MR. SMITH: Those were identified as being inside.

THE COURT: That will be admitted without objection.

MR. TRAFICANT: HA-37, which shows the water damage clearly within the deck on the floor.

MR. MORFORD: No objection.

THE COURT: That will be admitted without objection.

MR. TRAFICANT: HA-35, which shows the construction gapping of the portico.

MR. MORFORD: No objection.

THE COURT: That will be admitted without objection.

MR. TRAFICANT: HA-200. Which shows the rotted post.

MR. MORFORD: Objection, because he did not put those posts in.

THE COURT: Sustained.

MR. TRAFICANT: G-300, which shows a different version of the barn that Dominic and Angelo would not enter.

MR. MORFORD: No objection.

THE COURT: That can be admitted.

MR. TRAFICANT: That's G-300.

The rest were photographs that the Government had objected to, and I will not offer them.

THE COURT: G-300 -- would you pull it back, please?

MR. TRAFICANT: G-300 they did not object to.

THE COURT: But it has never been identified to anybody.

MR. TRAFICANT: It was identified by Mr. Marchese that he and Angelo would not enter --

MR. MORFORD: Your Honor, we will stipulate to it.

THE COURT: Okay. It can come in.

MR. TRAFICANT: And will we have an updated list -- a master list perhaps Monday?

THE COURT: Sure. We can do that.

MR. TRAFICANT: Thank you very much.

THE COURT: You are welcome.

MR. MORFORD: Your Honor, may the Government offer four exhibits?

THE COURT: Fine.

MR. SMITH: First of all. Government's Exhibit 3-4, the letter from Mr. Tyson, which he authenticated as having been sent to the Congressman with various copies to people in Youngstown.

MR. TRAFICANT: I move it be made a joint exhibit.

THE COURT: It will be made a joint exhibit and admitted without objection.

MR. SMITH: Your Honor, next is Exhibit -- this is better than any now -- 5-2(1), which was authenticated by Anthony Traficanti and I believe moved by the Congressman as a joint exhibit.

MR. TRAFICANT: Let me see it.

MR. SMITH: Yes, sir.

MR. TRAFICANT: If I moved it as a joint exhibit, then it shall be so. And you said I -- fine. It is a joint exhibit.

THE COURT: It will be admitted. Go ahead.

MR. SMITH: Next 5-2(2), which was also, we believe, offered as a joint exhibit authenticated by Anthony Traficanti concerning the letter to Judge Spahr.

MR. TRAFICANT: That's fine.

THE COURT: It was marked as a joint exhibit and now marked --

MR. TRAFICANT: Yes.

MR. SMITH: And 5-3(1), which Anthony Traficanti authenticated, which the Congressman asked to be a joint exhibit, and that's a letter from Congressman Traficant to Judge Spahr.

MR. TRAFICANT: I will take his word for that, and it is fine with me.

THE COURT: Okay. That can be admitted.

MR. SMITH: And, Your Honor, that concludes our offer today.

MR. TRAFICANT: That concludes my offers as of today.

THE COURT: Okay. So 5-3(1) is also

admitted. All right? We will see you gentlemen at 8:30 on Monday morning. Enjoy the three-day recess from the trial.

(Proceedings adjourned.)

VOIR DIRE DIRECT OF LYNN KOVACHIK.....5274
DIRECT EXAMINATION OF ALBERT M. GIBSON..... 5281
DIRECT EXAMINATION OF MELINDA DAVIES..... 5289
CROSS-EXAMINATION OF MELINDA DAVIES..... 5314
REDIRECT EXAMINATION OF MELINDA DAVIES..... 5317
DIRECT EXAMINATION OF MARK COLUCCI..... 5319
DIRECT EXAMINATION OF GREGORY C. TYSON..... 5342
CROSS-EXAMINATION OF GREGORY C. TYSON..... 5395
REDIRECT EXAMINATION OF GREGORY C. TYSON..... 5427

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.



George J. Staiduhar, RPR, FCRR
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, APRIL 1, 2002

Jury Trial

Volume 29

- - - - -

APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

MORNING SESSION, MONDAY, APRIL 1, 2002, 9:13 A.M.

(Jury in at 9:13 a.m.)

THE COURT: Good morning. Welcome.

MR. TRAFICANT: Are you guys going to turn that screen on for me?

THE COURT: Good morning. Raise your right hand, please.

(The Witness is Sworn)

DIRECT EXAMINATION OF MELINDA MINCHER DAVIES

BY MR. TRAFICANT:

Q. Good morning, Mindy.

A. Good morning.

Q. Did I have occasion to serve you with a subpoena some time ago?

A. Yes, sir, you did.

MR. TRAFICANT: Gentlemen, Defendant EX P-1, it was given to you this morning. A copy was given to the Court.

THE COURT: Very well.

Q. Would you identify this as being your submission?

A. Yes, sir, this is one of the documents that I turned over pursuant to the subpoena.

Q. Thank you. I'm going to utilize the screen and ask you to identify these.

Can you hear me?

A. Yes.
Q. This is all one packet that has been identified as Defense Exhibit EX P-1. But would you -- bless you. Can you see that?
A. Yes, I can.
Q. And what is that?
A. That's a check that is drawn on the Home Savings account of R. Allen Sinclair. It's his business account, and it is payable to Allen Sinclair.
Q. And what is the amount of that check?
A. $1,500 even.
Q. And what is the number of that check?
A. It's check number 3175. Excuse me -- 9175.
Q. And does that in fact depict that you negotiated that check at Home Savings & Loan?
A. Yes, sir.
Q. Can you identify this check?
A. This is check number 9181, drawn on the account of R. Allen Sinclair, payable to Allen Sinclair.
Q. And what is the amount?
A. It appears to be $2,000. The amount of the check is $2,500.
Q. Did you negotiate this check at your bank?
A. Yes, sir.
Q. What is that check number?

A. 9219.
Q. And who made that check?
A. The check is drawn on the account of R. Allen Sinclair, payable to Allen Sinclair.
Q. And for what amount?
A. $1,000 even.
Q. Did you negotiate that?
A. Yes, sir.
Q. Does that also carry a signature with it, for deposit only?
A. Yes. It's endorsed, and it carries the restrictive endorsement for deposit only.
Q. So it is both stamped and signed; is that correct?
A. Correct.
Q. Can you identify the number of this check?
A. This is check number 9251.
Q. And who wrote that check?
A. It is also from the account of R. Allen Sinclair, payable to Allen Sinclair.
Q. And what was the negotiated amount of that check?
A. $1,500.
Q. Was this negotiated at your bank?
A. Yes. It was endorsed and with a restrictive endorsement for deposit only.
THE COURT: Congressman, I just checked back

because I didn't recall your putting the full name of the witness on the record. And I know she's appeared before, but so that your record is complete --

Q. Would you please identify yourself and spell your last name for the record.

A. My name is Melinda Mincher Davies, D A V I E S.

Q. How many times have you testified in this trial?

A. This would be the fourth time that I've been on the witness stand.

Q. How many times have you been subpoenaed by the government?

A. I was subpoenaed by the government once. I appeared as a witness. The testimony began late on a Thursday and continued Friday morning.

Q. How many times did you testify on behalf of the government? How many days?

A. Two days.

Q. Would you identify this check here number?

A. Check number 9258.

Q. And what account is it drawn on?

A. It's from R. Allen Sinclair, and it's payable to Allen Sinclair.

Q. And what is the amount of this check?

A. $1,000 even.

Q. And how was this -- was this negotiated at your bank?

A. Yes. It was endorsed and with the restrictive endorsement for deposit only and signed by R. Allen Sinclair.

Q. Do you know if that's Mr. Sinclair's signature?

A. It does match the signature on the records of the bank.

Q. Would you identify the check number?

A. Check number 9314.

Q. And what is the amount of that check?

A. $1,000 even.

Q. And who wrote that check?

A. R. Allen Sinclair.

Q. To?

A. Payable to Allen Sinclair.

Q. Was this negotiated at your bank?

A. Yes, it was deposited into an account, and it is endorsed by R. Allen Sinclair.

Q. Is that his writing?

A. It appears to be his writing, yes, sir.

Q. And what number is this check?

A. Check number 9316.

Q. And who wrote that check?

A. It is from the R. Allen Sinclair, payable to R. Allen Sinclair.

Q. What is the amount?

A. $4,000 even.
Q. Was this negotiated at your bank?
A. Yes, sir. It was deposited into an account, and there is an endorsement for deposit only.
Q. Is that his signature?
A. Yes, it appears to be his signature.
Q. What is the number of this check?
A. 9303.
Q. And who wrote that check?
A. It's from R. Allen Sinclair, and it is payable to Allen Sinclair.
Q. What do those numbers next to Allen Sinclair signify?
A. That would be our bank's reference that a teller would put on there before they negotiated it to insure that the customer did have an account with us.
Q. And what was the amount of this check?
A. $1,000 even.
Q. Was that negotiated at your bank?
A. Yes, sir, it was.
Q. And does it carry a signature?
A. It does. R. Allen Sinclair, and with a restrictive endorsement, for deposit only.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

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CROSS-EXAMINATION OF MELINDA MINCHER DAVIES

BY MR. MORFORD:

Q. I'd like to ask you a couple things that Congressman Traficant did not ask you. You don't have the checks in front of you, I take it?

A. No, sir, I don't.

Q. I'll put them up here then. Maybe that will make it easier. Let's with the first check he showed you, which is the check that you said, check number 9175. Is that correct?

A. That's correct.

Q. And he didn't ask you the date on that check, but I'm going to go ahead and do that. What is the date?

A. The date is 2/22, year 2000.

Q. Okay. Now, there's a number that is written on each of these checks that you just testified to. Do you see that number there, 020361036?

A. Yes, sir.

Q. And on I believe all the rest of the checks -- showing you now check number 09181, the date on that is what? February 29th, 2000?

A. That is correct.

Q. In the amount of $2500?

A. Correct.

Q. Then there is a D before that same number,

D020361036. Do you see that?
A. Yes, I do.
Q. Isn't it true that that's the notation that shows that each of these checks was deposited into that account?
A. That's correct.
Q. So none of these checks were cashed for cash, correct?
A. That's correct.
Q. And what we have here then is Allen Sinclair writing checks from his business account, his lawyer account, to his personal account, correct?
A. That's correct.
Q. And depositing them into his personal account, correct?
A. That's correct.
Q. And that's a very normal, standard thing for lawyers to do, correct?
A. That's correct.
Q. In fact, that's generally how they draw their law income, correct?
A. That's correct.
Q. And so there's nothing unusual about this at all?
A. Not in my opinion at this point.
Q. Okay. So the first check that you testified to in the amount of $1500 was on February 22, correct?

A. Correct.
Q. And then the next check, check 9181, in the amount of $2500 was on February 29th, 2000?
A. Correct.
Q. Check 09219, March 8, 2000, in the amount of $1,000?
A. Correct.
Q. March 15th, 2000, in the amount of 1500?
A. Correct.
Q. March 21st, 2000, in the amount of 1,000?
A. That's correct.
Q. April 3, 2000, in the amount of 1,000?
A. That's correct.
Q. April 11, 2000, in the amount of $1,000?
A. Correct.
Q. And April 13, 2000, in the amount of $4,000, correct?
A. That's correct.
Q. And so what we're seeing here is every week or so a draw that Allen Sinclair is taking from his business law account and depositing into his personal account?
A. That's correct.
Q. And nothing more?
A. Nothing more.
MR. MORFORD: Just one moment. Nothing further.

REDIRECT EXAMINATION OF MELINDA DAVIES

BY MR. TRAFICANT:

Q. You just heard the cross by the prosecutor, and he talked to you about these numbers of checks. These checks total two months; is that correct?

A. Yes.

Q. And do you have a total figure for those two months?

A. I believe the amount was $13,500.

MR. TRAFICANT: No further questions.

MR. MORFORD: No questions, Your Honor.

THE COURT: Thank you. You're excused.

(Witness excused.)

THE COURT: Ladies and Gentlemen, I neglected to appraise you of the fact that our -- at least one of our court reporters is new to us.

We have a rotation system that occurs in the court, and as you know, today is the 1st of April. Anyway, in this case I want to introduce you to Bruce Matthews, whom I don't think you've met yet, and he's working with Heidi Geizer who was introduced to you, although you're seeing her from the back. She's been here in and out relieving our other two reporters, but these will be our reporters as we go forward in this month.

Thank you.

Sir, if you will come around through this gate,

please. Then come back over this way, weave your way through and come up onto the witness stand, please.

(The Witness is Sworn)

THE COURT: Have a seat. It's a big room. There's a microphone there. You can take the microphone actually out of the stand, you can pick up the whole thing, or just talk.

THE WITNESS: That's fine like this.

THE COURT: Okay.

DIRECT EXAMINATION OF MICHAEL ANTONOFF

BY MR. TRAFICANT:

Q. Would you state your full name for the record and spell your last name.

A. It's Michael Antonoff, A N T O N O F F.

Q. And what is your current residence?

A. 74016 Westview Drive, Boardman, Ohio, 44512.

Q. And what is your current occupation?

A. I am a licensed private investigator, state of Ohio.

Q. Are you certified in the state of Ohio for said activities?

A. Yes. I'm licensed.

Q. Certified and licensed?

A. Yes.

Q. Did we have occasion to meet?

A. Yes.

Q. When did we meet?
A. Saturday, March 30th at 10:30 a.m.
Q. Where did we meet?
A. At your office in Canfield, Ohio. Raccoon Road and Route 224.
Q. At whose request did we meet?
A. Yours.
Q. Did you perform any particular function for me?
A. Yes, I did.
Q. And what function do you serve?
A. I was serving legal documents, process serving.
Q. What legal documents do you serve for me?
A. Subpoenas.
Q. Did we have a conversation Saturday?
A. Yes, we did.
Q. As a result of that conversation, what, if anything, was your impression?
A. That I was employed by you to serve subpoenas.
Q. Was there any particular event that concerned you?
A. Yes. In reference to the subpoenas?
Q. Yes.
A. Yes.
Q. Would you explain that?
A. It was Thursday, I believe it was the 21st of March. I left my residence at Westview Drive to pick up my

daughter, Cindy Antonoff, at Stadium Drive School, which is a block away from my house --

MR. MORFORD: Your Honor, I'm going to object to this. It's been raised with the Court prior to this today, and I'd like it to be taken up outside the presence of the jury before we start getting into this.

THE COURT: As to anything that happened prior to the 30th when he was employed, we will have to -- there was a prior situation that was brought to the attention of the Court, and we will have to deal with this during break out of the hearing of the jury. We can do it, I would expect, at this morning's break.

MR. TRAFICANT: I object.

THE COURT: I understand you object, but nonetheless, that's the proper way to do it, and that's what we will do.

MR. TRAFICANT: Fine. I still have some other questions.

Q. When were you first employed by me?

A. It was February of this year, 2002.

Q. Are you afraid or concerned for your welfare?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. As a result of our conversation, was it your impression that you were concerned for your welfare?

MR. MORFORD: Objection.

THE COURT: This is exactly what we need to be talking about somewhere else since it's been raised with the Court before, and we gave you an opportunity to handle it outside the hearing of the jury.

Do not continue to inquire about those events. If you have something completely unrelated to whatever those events were, we'll deal with what's unrelated to them.

Congressman, you understand, we've done this many times before.

Q. Were you ever impeded in serving a subpoena?

MR. MORFORD: Objection.

THE COURT: The objection is sustained. You'll have to call this witness out of the hearing of the jury. You can proceed with another witness.

You can step down.

Who is your next witness, Congressman?

MR. TRAFICANT: Michael Robertson.

THE COURT: Thank you.

(The Witness is Sworn)

DIRECT EXAMINATION OF MICHAEL ROBERTSON

BY MR. TRAFICANT:

Q. Please state your full name for the jury, and spell your last name.

A. Michael L. Robertson, R O B E R T S O N.

Q. And where do you currently reside?
A. 2211 Hunting Valley Street, North Canton, Ohio, 44720.
Q. And what is your current occupation?
A. I'm a licensed private investigator.
Q. For how many years have you been a licensed private investigator?
A. Going on 14.
Q. Are you certified as a licensed investigator?
A. Licensed by the state of Ohio.
Q. Do you have any previous history in investigation work?
A. Yes, sir, I do.
Q. And would you explain to the jury what that is?
A. I served as a Special Agent with the U.S. Secret Service Department of the Treasury for 17 years.
Q. How many years -- what years were those?
A. 1969 until 1987.
Q. As a Secret Service Agent, describe some of your duties.
A. The Secret Service has two areas of responsibility. The first, better known to the public, is the protection of the president, vice president, other family members, foreign heads of state, and heads the government, presidential candidates, and others as authorized by the

president.

The second area of responsibility are criminal investigations, which include counterfeit currency violations, theft and forgery of government checks, and other instruments, threats against the president, credit card fraud, other types of fraud investigations, including electronic funds transfers, and misuse of any access device.

Q. Did you hold a supervisory position with the Secret Service at any point?

A. Yes, sir, I did.

Q. And what was that?

A. I was the resident agent in charge of the office in Canton, Ohio, which covered 11 counties under the Cleveland field office. And I also served as the fraud squad leader for the Cleveland field office for approximately three years.

Q. Did you ever work with any of the prosecutors seated here at the table? Could you look at the gentlemen?

A. Not these prosecutors, no, sir.

Q. How did we come to meet?

A. I have a attorney in Youngstown with whom I have worked in the past, and the conversation -- I was talking to him probably the middle of February.

Q. And what was the cause of that conversation?

A. It was -- I was talking to him about another case, and just as a social comment, I made a comment about the -- this particular case, and an interest I had in the case.

Q. At some particular point did you develop an interest in the matters of this case?

A. During the first conversation in the middle of February, or thereabouts, it was more just a matter of interest, and at that point the attorney told me that he knew you, and that was pretty much the end of it.

The next conversation --

Q. Did that, in fact, change at some particular point with something more direct?

A. Well, specifically then I talked to him again on February 22nd about another matter, and I made a comment to him about this case, and he stated that you were going to be in your office tomorrow, and if I had an interest in meeting you, that it could be arranged.

Q. Did we meet? Did we meet?

A. Yes, sir, we did.

Q. And where did we meet?

A. We met at your Canfield office on February 23rd.

Q. What was the nature of the concerns that you brought forward?

A. Based on what I knew about the case, I was interested

in the pursuit of documentary-type evidence, direct evidence, corroborative evidence in the case, that what I had learned about the case, it was mainly based on testimony.

Q. Did you make any requests of me?

A. Not on that day.

Q. Did we happen to reschedule and have another meeting?

A. Yes, sir, we did.

Q. Were there any requests made of me at the further meeting?

A. Yes, that if you had an interest in me looking at the case, that I would be glad to do so, and I felt that based on what I had learned, that we were going to need more information, more documents.

Q. And what, if anything, then did you suggest that I do?

A. I suggested that additional documents be obtained, mainly bank documents.

Q. And how was I to obtain those records?

A. Via subpoena.

Q. Do you know if that goal was attained?

A. The documents were obtained and provided to me.

Q. Did you receive any additional information?

A. Obviously court documents, various court documents in addition to the bank documents.

Q. Were you asked to review a particular account?
A. Yes, sir, I was.
Q. And what account was that?
A. It was a bank account in the name of Allen Sinclair. That was the initial one.
Q. In the records you received from the Court -- that is Exhibit S-22. Would you look at that?
A. Yes, sir.
Q. What is that document?
A. This is a copy of a district office lease agreement marked Defendant's Exhibit S-22 with the name of KAS Enterprises, 11 Overhill Road -- excuse me, 11 Overhill Road, Youngstown, Ohio, 44512, with a lessor being James A. Traficant, Jr. The document is dated at the bottom 11 December 1998, and bears the signature of a Kimberly A. Sinclair and the signature of James R. Traficant, Jr.

MR. MORFORD: Your Honor, for clarity of the record, I believe that's Government Exhibit 1-23, and I believe it says so up in the corner. It is going to make the record confused if it's given a new number.

MR. TRAFICANT: Fine. 1-23 is fine with me.

THE COURT: Congressman, I do need to see these before you give them to the witness.

MR. TRAFICANT: Fine.

THE COURT: Did you pick up the government

number? Thank you.

MR. TRAFICANT: What was that government number?

MR. MORFORD: 1-23, Your Honor, and I believe it's on there, Congressman, up in the left-hand corner.

Q. Is there a termination clause in there?

A. Item number 6 is a termination with 30 days notice.

MR. MORFORD: I'm sorry, I couldn't hear any of that.

THE COURT: You have to speak up, sir.

A. I'm sorry.

Item number 6 contains a clause for termination with 30 days notice given.

Q. Is there an amount of rent shown?

A. There is a monthly rent of $656, no cents.

Q. Is there any aspect of the lease that pertains to utilities?

A. Unless I'm overlooking it, I don't see it. I would like to add also though that item number 3, that the lease may be terminated by either party giving 30 days notice, not item number 6.

Q. Item number 3. And is that the document that you are referring to, sir?

A. Yes, sir.

Q. Now I will show you what is known as Defense Exhibit

HSL-1-DA. It is corporate resolutions. Would you identify --

THE COURT: Congressman, I need to see the lease one more time, too, if I may.

MR. TRAFICANT: Very glad to. May I show this to the witness?

THE COURT: Let me just go back, because Mr. Morford, you said this lease said up in the upper left-hand corner its government number. In fact, the copy the Congressman had did not say that. However, the copies in the exhibit books do say it.

MR. MORFORD: He does have a copy of this.

THE COURT: So there is no question this is Government's Exhibit 123.

MR. TRAFICANT: Yes, that's fine.

Q. Would you identify what that is, sir?

A. This is a copy of a corporate resolution designating depositor and officers authorized to sign for corporation, bearing Defense Exhibit HSL-10-A.

Q. I'm going to place this up on the screen. What property is being leased here?

A. 11 Overhill Road, Youngstown, Ohio.

Q. And the amount is?

A. $656, no cents, per month.

Q. And there is a notice given for termination?

A. Yes, sir. Item number 3.

THE COURT: And item number 6, as he testified.

MR. TRAFICANT: Thank you.

Q. This here is the document you just referred to?

A. Yes, sir.

Q. And who are the board of directors?

A. KAS Enterprises.

Q. And who has signed for KAS Enterprises?

A. Under the printed word -- I'm sorry. Above the printed word "President," R. Allen Sinclair, and above the printed word "Secretary," Kimberly A. Sinclair.

Q. Did you do any research on the KAS account?

A. Yes, sir, I did.

Q. What is the KAS account?

A. To do with the bank, sir?

Q. Yes. What is it as far as it is -- what type of an account is it?

A. The account at Home Savings is a joint account set up under the name KAS Enterprises, joint being both R. Allen and Kim Sinclair.

Q. And looking at paragraph 2, if you would, what, if anything, does the joint account mean?

A. A joint account, depending on how it's specified, either as an "and/or," "both," or an "or" account, if it's

an "or" account, as this one is, then either party can deposit and withdraw funds without the permission of the other party, the other signee.

Q. Was it signed and dated?

A. It's dated 15 December.

Q. 1998?

A. Yes, sir.

Q. Do you know if that was the only KAS account that was opened?

A. It was the same account, I believe, but there are -- there was another corporate resolution executed, I believe in the same account number.

Q. Did that raise your interest?

A. May we see the exhibit, sir?

Q. I'm going to show you a different set of exhibits. Defense Exhibit S-903, Defense Exhibit S-904.

MR. MORFORD: These are things you gave us today, sir?

MR. TRAFICANT: Yes.

THE COURT: Thank you.

Q. Would you please take a look at these two documents before I put them on the board?

A. Yes, sir. Exhibit marked Defendant's Exhibit S-903 is a printout on an on-line service from the Ohio Secretary of State containing documents regarding filings for KAS

Enterprises with the Ohio Secretary of State.

Q. And who is registered as a name for that trademark registration?

A. The name appearing on the second page of the package, the agent name is Kimberly A.

Q. And on the third page?

A. On the third page is a business filing information; the business name is KAS; the filing type is trade name/original; filing date, October 22, 1998.

Q. And the next page?

A. The fourth page is prior business name information, and it reflects no ROW, R O W, return, meaning that apparently there was no prior business name filed.

Q. The next page?

A. The next page is the trade name registration. That was filed, and I don't happen to see the form number on this. It's a state form. It has the state seal of Ohio in the upper left corner. It is called trade name registration. Item number one, the exact trade name being registered is KAS Enterprises. Item number two is the registrant is an individual. That's the block that's marked.

The registrant designated in item two is Kimberly A. Sinclair. That's in item 3. Then it gives the address, and the form is dated at the bottom 10-1-1998, signed

bearing the signature of Kimberly A. Sinclair.

Q. And what is the next page?

A. The next page is a envelope that's evidently been preserved by the recipient, being the state of Ohio, in which the form was submitted, bearing return address logo R. Allen Sinclair & Associates, Attorneys at Law, 11 Overhill Road, Youngstown, Ohio, 44512. Part of the envelope is missing. It's postmarked 19 October 1998 from Youngstown, addressed to the Secretary of State, 30 East Broad Street, Columbus, Ohio.

Q. And the next page?

A. The last page is the certificate that is issued by the state of Ohio being returned to the designee. In this case, the state of Ohio has entered that the form was returned to R. Allen Sinclair & Associates, 11 Overhill Road, Youngstown, Ohio, 44512-0000. The form is a certificate titled the State of Ohio certificate, Secretary of State Bob Taft, bearing a number for the trademark.

And the applicant listed here is Kimberly A. Sinclair.

Q. Are you familiar with this document?

A. Yes, sir.

Q. I'd like to put that on the screen for you.

MR. MORFORD: Which document is that?

MR. TRAFICANT: This would be 904.

Q. Would you describe what kind of account this is?
A. Yes, sir. This is again generated on an on-line service from the Ohio Secretary of State, business service queries. This is a business filing information for Sinclair Vending Company, and the filing type is a trade name/original filing.
Q. And what was the date of that?
A. It was filed May 20, 1998.
Q. On page 2, what is that?
A. This is the registration in the name of Sinclair Vending Company. This would be the form submitted to the state.
Q. And who, in fact, signed that on behalf of the vending company?
A. On May 4, 1998, it was signed R. Allen Sinclair.
Q. Are you familiar with vending businesses, sir, in your past activity as a criminal investigator with the Secret Service?
A. Yes, sir.
Q. Do they take checks?
A. No, sir.
Q. Do you know if this was a cigarette machine, sir?
A. There was no filing found for a cigarette vendor's license under the name of Sinclair Vending.
Q. And this document would also be a certificate. Would

you identify this?
A. Yes, sir. Certificate issued by Secretary of State Bob Taft, bearing certificate number 1016781.
Q. And who is the applicant and what is the address on the applicant?
A. R. Allen Sinclair, 3926 Helena Avenue, Youngstown, Ohio, 44512.
Q. And what is this, sir?
A. This was part of the initial query which is on the first page and brought up as a supplement, showing that the vending trade name was cancelled.
Q. What was the date that it was cancelled?
A. It's dated 6-1-2001.
Q. And who signed it?
A. It's signed R. Allen Sinclair.
Q. And is this, in fact, that certificate?
A. That, sir, is a verification response from the state of Ohio, Secretary of State, cancelling the trade name registration.
Q. Did this vending business pique your interest?
A. I beg your pardon?
Q. Did this vending business attract your interest?
A. Once I had the bank documents, particularly the deposit tickets or deposit records available, yes, sir, it did.

MR. TRAFICANT: I think this is a joint exhibit. You can give me the number? This is the first corporate resolution. Do we have a joint number on it?

This was Defense Exhibit HSL-10-B.

THE COURT: Is this also a Government's Exhibit?

MR. MORFORD: I don't think so, Your Honor.

MR. TRAFICANT: I don't think so.

THE COURT: Thank you.

Q. Would you just take a cursory look at the document, and then I want to put it on the board.

A. Yes, sir. It's marked Defendant's Exhibit HSL-10-B. It's another corporate resolution designating depositor and officers authorized to sign for corporation.

Q. Does this in fact designate that as what enterprise?

A. KAS Enterprises, Incorporated.

Q. And who had signed that?

A. This is signed, as president, Raymond A. Sinclair.

Q. Do any other names appear on this document, on this side of it?

A. I don't believe so, sir.

Q. What is the date?

A. This form is -- the second page is dated 30 November 1998, bearing the signature Raymond A. Sinclair.

Q. When you blow up the title now of this --

A. The title is secretary.
Q. Are there any other signatures on the document at all?
A. No, sir.
Q. What kind of account is this account?
A. The KAS Enterprises account is a joint account.
Q. Now, going back to Exhibit 10-A, which was a Government's Exhibit --
MR. MORFORD: No, I don't believe it was.
MR. TRAFICANT: I think it was 1-21. I failed to write it down.
Q. Was that -- what is that?
A. This is the corporate resolutions form again provided by Home Savings.
Q. What names does it now carry?
A. It carries President R. Allen Sinclair, signature, and Secretary Kimberly A. Sinclair, secretary.
Q. And what is the date of that?
A. 15 December 1998.
Q. So this became the final document registered with the state; is that correct, sir?
A. Registered with the bank.
Q. Registered with the bank.
A. Yes, sir.
Q. And it is a -- what kind of account is it?

A. It's a joint account, individual bank account, not a corporation.
Q. At some point did you ask for any specific documents of investigatory matters?
A. The bank accounts on -- any and all Home Savings accounts involving R. Allen Sinclair or Kimberly Sinclair.
Q. Did you request any investigatory devices of the government?
A. Directly, sir?
Q. Yes.
A. No.
Q. Does the Secret Service memorialize their witness interviews?
A. Yes, sir.
Q. And how do they do so?
A. Depending on the case type, if there is no case open, it would be in the form of an office memorandum. If it's on an open case, it would be a memorandum of report.
Q. Do you know if the FBI maintains records of their witness interviews?
A. Yes, sir, they do.
Q. And what are those forms?
A. Those forms are called a 302 form.
Q. As a result of that, did you make any requests regarding 302s?

A. I asked if there were any court documents in addition to the bank documents that might be of value for following up on the case.

MR. MORFORD: I'm sorry, any what kind of documents? I have trouble hearing.

THE COURT: He said any court documents.

THE WITNESS: Court documents.

MR. TRAFICANT: 302, 1-24. This is a 302, 1-24, Your Honor.

THE COURT: Thank you.

Q. I want you to look at this document. First of all, identify what it is.

A. It's a form 302 titled at the top, Federal Bureau of Investigation.

Q. Looking through this form, is this investigation -- did you come across something that attracted your interest?

A. When I reviewed the form, from a investigative standpoint, I felt that there were three separate areas that were being covered in the interview.

Q. And what were those?

A. The first was an interest in finding out from Mr. Sinclair the reason for Mr. DiBlasio, who owned the building, and the sale of the building, to Mr. Sinclair. And then an interest on the part of the government to find

out about the name in which the building was secured when Mr. Sinclair bought the building.

Q. What, if anything, did you conclude after looking at the ownership section of the building when it related to the queries into Mr. Sinclair?

A. I felt that the question was quite justified in the FBI trying to find out who was owning what at what time. I thought it was unusual that Mr. Sinclair refused or did not answer the question.

Q. After the query relative to the building, what was the next set of queries?

A. The next set of queries was something to do with Mr. Sinclair's income as a attorney and conversation about any kickbacks, at which time Mr. Sinclair stated that he did not kick back any part of his salary, and he had no interest in, quote, getting Traficant, end of quote.

Q. What was the date when this interview took place?

A. This took place on January 24, 2000, transcribed January 26, 2000.

THE COURT: Congressman, that needs an exhibit number. It has no exhibit number.

MR. TRAFICANT: Defense Exhibit S-27.

THE COURT: Thank you.

Q. Now, when you heard the term "get Traficant," what, if anything, did you proceed to as far as investigating

this matter?

A. Well, we all have our own ways of making comments, of phrasing responses, and he could have, you know, could have phrased it in different ways. I took it as being a fairly strong comment.

MR. MORFORD: Objection, Your Honor, as to how this is relevant or what he took has anything to do with this case.

THE COURT: The objection is sustained.

MR. TRAFICANT: Pardon?

THE COURT: The objection is sustained.

Q. Did you do a -- Government's Exhibit 7- -- is that a 1? 271?

MR. MORFORD: It is 1-27.1.

Q. Do you have a pencil with you, sir?

THE COURT: Thank you.

A. Yes, sir.

Q. I am going to put this on the board, on the screen while you have a copy of it. Can you read whose exhibit it is?

A. Government's Exhibit 1-27, either point or dash 1.

Q. I'd like for you to direct yourself to the years '98 through '99 on the document.

A. Yes, sir.

Q. Now, in moving across, can you see January 8, '98?

A. Yes, sir.
Q. And what is next to it?
A. The name of the bank, Bank One.
Q. Is that what we're referring to (indicating)?
A. Yes, sir.
Q. Moving across, what are we now looking at?
A. Account number.
Q. Moving across, what are we now looking at?
A. The amount of deposit, $800.
Q. The amount of deposit from whom?
A. At the top of the paper it states, "James A. Traficant cash deposits to personal accounts."
Q. I would like for you to count the number of deposits made from 800 down through 700.
A. Sir, are we talking about from January 8th to the bottom?
Q. Yes, we are.
A. There are 12 deposits.
Q. There are how many items?
A. There are 12 items.
Q. I want you to divide that by the years in question, those 12 deposits. First I'd like for you to total the amount, starting with the 800.
A. The 12 deposits total $11,700.
Q. $11,700.

A. Yes, sir.
Q. I want you to divide those 12 deposits by the document that's been presented to you.
A. Could you restate that, please?
Q. I wanted you to divide this $11,700 by the number of months in which this document, these 11 -- these 12 deposits represent.
A. Okay.
Q. How many months do they represent, sir?
A. 24.
Q. What is the average deposit made in the Traficant account in cash in the years 1998 and '9?
A. Not knowing how exactly you want it, sir, it's a little over $480 a month, maybe 485.
Q. Approximately 485?
A. Yes, sir.
Q. Per month. Why did you ask to see that?
A. I'm sorry, sir?
Q. Why did you ask to see that document?
A. I didn't ask to see the specific document. I asked for any Government Exhibits or other, you know, documents that had been submitted to the Court that had to do with numbers and other things that might help with the paper trail.
MR. TRAFICANT: I think this is a Joint

Exhibit, 1-9.

Q. Would you take a look at this, and I'll put it on the board.

A. Yes, sir. The top states, "Generation of cash from U.S. Treasury salary checks by Allen Sinclair." It has a Government's Exhibit sticker on it.

Q. And what does it show?

A. The column that you're centered on right now shows cash received, in most cases at the time of deposit, and I believe on two occasions a separate withdrawal slip for the same amount of $2500 either on the same day or shortly after the check was deposited. These -- in all instances these were government treasury salary checks to Mr. Sinclair.

Q. And how did you know that they were government salary checks?

A. I saw the checks.

Q. How many accounts -- what account was that from, would you know?

A. The checks, sir -- the deposit?

Q. Yes. Do you know where that was deposited?

A. Can we see that? This account would be a joint, for lack of a better word, personal checking account for R. Allen Sinclair and Kimberly Sinclair.

Q. Either/or?

A. Or.
Q. Without permission of either?
A. Yes, sir.
MR. TRAFICANT: This packet, I believe it was given to you this morning as Defendant's Exhibit HSL-1-E --
MR. MORFORD: You gave us a bunch of stuff this morning.
Q. Do you need some paper for notes?
A. No, sir.
Q. Included in this packet, would you just take a look at the first check, and then I will put them on the screen.
A. The first check is a U.S. Treasury check dated, computer dated 9-9-99, in the amount of $330.12 made out to payee KAS Enterprises.
Q. Okay. Is that $330.12?
A. Yes, sir.
Q. To you, in your experience as a investigator, what does that represent?
A. Well, in this case, there were -- there was one check issued based on the lease agreement which is in the amount of $656 a month. And --
Q. This went to KAS in the amount of 330 --
A. And 12 cents. Any other checks not in that amount would be for utilities.
Q. And how was this deposited?

A. Pay to the order of Home Savings for deposit only, KAS Enterprises.

Q. This is all a part of HSL-1-E. I'll put the second check up now.

What is the date of this check?

A. The check is dated September 20, 1999.

Q. What was it drawn on?

A. The U.S. Treasury.

Q. What was the amount?

A. $656 and no cents.

Q. And it was --

A. It was pay to the order of Home Savings, for deposit only, KAS Enterprises.

Q. That had -- that $656, what did that represent?

A. That represented one month's rent payment to KAS.

Q. As verified by what?

A. As verified by the amount.

Q. What is the date of this check?

A. This check is dated 10-18-99.

Q. What is it drawn on?

A. U.S. Treasury Department.

Q. And what is the amount?

A. $303.48, made payable to KAS.

Q. And it carries the same depository?

A. Yes, sir, it does.

Q. What is the date of this check?
A. 10-20-99.
Q. And what was it drawn on?
A. The United States Treasury.
Q. In what amount?
A. $656 even.
Q. Is there a difference between these and the lesser amount checks?
A. I'm not -- I don't understand.
Q. You said these are even. Were any of the other lesser amount checks even?
A. So far, no.
Q. What is the date of this check?
A. November 15, '99.
Q. And what was it drawn on?
A. United States Treasury.
Q. What was the amount of the check?
A. $134.66, same stamp, for deposit stamp.
Q. In your experience as a investigator, what did you conclude that these lesser amounted checks were for?
A. That they would be for a proportional share of utilities for the office space rented by the government.
Q. Now, what is this check?
A. November 22, '99.
Q. And what was it drawn on?

A. United States Treasury.
Q. To?
A. To KAS Enterprises, in the amount of $656, bearing the KAS deposit stamp.
Q. What is the date of this check?
A. December 20, 1999.
Q. And what was it drawn on?
A. United States Treasury.
Q. What was the amount?
A. $656, no cents.
Q. And what does it signify?
A. It signifies a rent payment, bearing the same stamp, for deposit only.
Q. What's the date of this check?
A. January 21, 2000.
Q. What was it drawn on?
A. United States Treasury.
Q. How much?
A. $656 and no cents, again, bearing the same deposit stamp, KAS.
Q. What is the date of this check?
A. February 8, 2000.
Q. And what is the amount?
A. $103.72.
Q. And what was it drawn on?

A. The United States Treasury, payable to KAS.
Q. How was it negotiated? How was it negotiated?
A. It was deposited into the KAS account.
Q. What is the date of this check?
A. February 18, 2000.
Q. What was the amount?
A. $656 even.
Q. Drawn on?
A. United States Treasury, made payable to KAS Enterprises, bearing the KAS deposit stamp.
Q. What is the date of this check?
A. March 20, 2000.
Q. And what's the amount?
A. $656 and no cents.
Q. And how is it negotiated?
A. Deposit only for KAS Enterprises.
Q. What was the date of this check?
A. March 16, 2000.
Q. What was it drawn on?
A. United States Treasury.
Q. What amount?
A. $112.52.
Q. To?
A. KAS Enterprises, bearing the KAS deposit stamp.
Q. What is the date?

A. April 20, 2000.
Q. Drawn from?
A. Drawn from U.S. Treasury in the amount of $656 even, payable to KAS Enterprises, and bearing the KAS stamp.
Q. The check?
A. The check is dated May 5, 2000.
Q. Drawn on?
A. In the amount of $164.48.
Q. And it was drawn on what?
A. Drawn on the United States Treasury, payable to KAS Enterprises.
Q. What is the difference between the lesser numbered dollared amounts and the $656 amount?
A. The lesser amounts would be for proportional share of utilities at that location.
Q. Is there any difference between the amounts?
A. There are differences between the amounts of the utilities.
Q. How many years have you paid utilities yourself, sir?
A. Personally?
Q. Yes.
A. Over 40.
Q. How many times have you paid a utility bill that was zero-zero without no pennies on it?
A. I probably have, but I don't recall. I probably

have.

Q. This one here is very hard to see on the screen. I think you might be able to identify it. You have it in the packet. What does it appear to be?

A. A poor quality copy of a U.S. Treasury check.

Q. In the amount of?

A. In the amount of $656, no cents.

MR. MORFORD: Can we get a date on that?

MR. TRAFICANT: I got it from you. I think that's --

MR. MORFORD: You got what from us?

MR. TRAFICANT: 132 ninety -- it must be 90. I can't see the date.

Q. In looking at this now --

THE COURT: What was that poor quality U.S. Treasury check, what exhibit number?

MR. TRAFICANT: It's all a part of Defense Exhibit (pause) I'm trying to find it. I think I stated it for the record. Perhaps we could go back in the record. I do not have the copy here.

THE COURT: I'll go back. Is it part of HSC-1-E? I'm sorry, HSL-1-E? Is it part of that, Congressman?

MR. TRAFICANT: I think it's HSL-1-E, dash 1 E, Your Honor.

THE COURT: Let me just go back and see if it's on the record.

Q. At some particular point did you ask for any other court documents relative to this matter?

THE COURT: Wait just a minute. That last paper, you never established what date was on that check.

MR. TRAFICANT: I can't even make it out.

THE COURT: You can't read it?

MR. TRAFICANT: I would strike it. I can't read it.

THE COURT: All right. Thank you. Go ahead.

Q. After having reviewed this account and the 302, what, if anything, did you request of the court documents?

A. I'm not sure of the exact sequence. If I didn't already have it, I would have wanted the banking information on the KAS account and copies of the checks. I'm not really sure which came first.

Q. Did you ever seek the testimony of the witness?

A. Yes.

Q. In what form and what as a result of that occurred, that request?

A. I was provided transcripts of grand jury testimony, direct testimony and cross-examination testimony of Allen Sinclair.

Q. Did you come to learn of any unusual expenditures

during that examination, both direct or cross?
A. Are we -- sir, are we talking about Mr. Sinclair himself or about KAS?
Q. Now talking about purchases.
MR. MORFORD: Your Honor, I'm going to object to this witness testifying about evidence that the jury already heard. The evidence and testimony is what it is.
THE COURT: Well, there were three different categories, as I understood his answer. There's grand jury testimony, which I don't think they have had exposure to for Allen Sinclair, and then there is the direct and cross-examination.
MR. TRAFICANT: Yes.
THE COURT: Which was during this trial, Congressman?
MR. TRAFICANT: Yes.
THE COURT: They have had an opportunity to hear that testimony.
Q. As the investigator, did you identify certain expenditures and purchases of Mr. Sinclair?
A. Yes.
Q. And what were they?
A. A van, a -- I believe it was a rental of another vehicle. There may have been a note, loan, and after that there was a purchase of a residence.

Q. What was the cost of the purchase of that residence?
A. It was close to, if not exactly, $275,000.
Q. Were there any other expenses relative to lawyer activities?
A. I'm sorry, sir, relative to lawyer activities?
Q. Yes. Advertising?
A. There was an expense that he -- that was in the transcript, something in the vicinity of $50,000 in legal advertising.

THE COURT: Sir, was this in the court transcript of these proceedings in this trial that you're talking about?

THE WITNESS: Yes, ma'am.

THE COURT: I'd like you to limit yourself to the grand jury testimony, if it has not been heard by this witness.

MR. TRAFICANT: This is to be known as Defense Exhibit -- I gave this to you.

THE COURT: I think we should take a morning break and we'll work this out. How is that? It's time. This is a 30-minute break, Ladies and Gentlemen.

THE CLERK: All rise for the jury.

(Jury out at 10:37 a.m.)

THE COURT: We have a half an hour. We have issues that are of some concern right here regarding this

witness, and we have issues regarding the prior witness, Michael Antonoff.

I suggest we take a ten-minute break, let the jurors who go out during the break go out, and then we will come back in.

So gentlemen, you have a ten-minute break, as you do, sir. Very well. We'll reconvene without the jury in ten minutes.

(Recess had.)

THE COURT: Let's begin with this issue of Michael Antonoff. The Court ruled directly on a motion that attached his affidavit to it. To the extent that you're intending to now make inquiries regarding that situation, I've already ruled on it, and I don't want you to bring that up again. If you want to ask him about something else that's not connected to that --

MR. TRAFICANT: I'm going to ask about an FBI agent taking pictures of him and following him around while he was serving subpoenas.

THE COURT: Do you read the docket in this case?

MR. TRAFICANT: I read the docket.

THE COURT: Well, I ruled on it.

MR. TRAFICANT: I want it on the record.

THE COURT: It's on the record. Your motion

and affidavit is part of the record.

MR. TRAFICANT: And I object to you limiting my opportunity to examine witnesses.

THE COURT: Well, you can't now call somebody to the stand and have them do what I've already ruled we won't accept in this case.

MR. MORFORD: Your Honor, I want to bring one thing to the Court's attention, because I don't believe that was unintentional at all. On Friday, the Court asked Congressman Traficant who he intended to call today, and he said he didn't even know, which wasn't true based on the documents we were given this morning and based on the fact he's been preparing this man Mr. Robertson for several days.

Be that as it may, he said, "I will call the government over the weekend and tell you who I am calling." This morning he called and left a message with Mr. Kall saying, "I am calling Melinda Davies and I am calling Robertson." He never mentioned Michael Antonoff because he knew he wasn't allowed to call Michael Antonoff and ask those questions because the Court had already ruled.

And I object to him once again -- this isn't the first time -- doing this stuff in front of the jury to try to create the impression that he's being kept from putting on his defense.

MR. TRAFICANT: I'd like to respond that. I didn't call this morning. I called yesterday and left an answering service for Mr. Kall.

I wasn't sure about Mr. Antonoff being able to make it because he's trying to serve subponeas.

THE COURT: Well, you certainly should be sure you couldn't ask him the questions you asked him since we already ruled on that. It's part of the record in the case, and you know it.

MR. TRAFICANT: Well, I want to proffer for the record --

THE COURT: You have his affidavit already filed in the records of this Court.

MR. TRAFICANT: I want to proffer it now.

THE COURT: All right. Go right ahead.

MR. TRAFICANT: That he was -- his wife, he was separated from, notified there was a man across the street taking pictures of him.

THE COURT: It's all in your affidavit.

MR. TRAFICANT: He ran the man down. He saw the partial flash of a badge. He did recognize the color of the car. He didn't get the license plate because he was not behind the car, the car was in front of another, and the FBI agent -- that he was sure it was told him to "Get out of here, buddy, if you don't want any trouble."

Now look, they've been following my witnesses around. You've been keeping my witnesses from testifying. You've ruled every one out even though I had a consent tape on Manganaro. I certainly have shown with Saadey a situation where under extreme stress a statement was made, clearly an exception to the hearsay rule. You've yet to rule on that.

You've thrown everything out in this case. Then you say I have no witnesses. So just for the record --

THE COURT: Congressman --

MR. TRAFICANT: I'll accept your rulings, but I want to say this.

THE COURT: Today you didn't accept them. You waited until the jury was in the box and then tried to put in front of that jury testimony which the Court has ruled you could not put in front of that jury.

MR. TRAFICANT: You ruled on the strength that he said he couldn't identify the color of that car and that he didn't see a badge.

THE COURT: Congressman, I think the best thing to do now is move to the witness you have here today so we can discuss what it is that you're going forward with him on. The question of Antonoff, you've now made your objection for the record, you've preserved it, and the question of this particular witness is concluded.

MR. TRAFICANT: I want to voir dire this

witness as a expert, period.

MR. MORFORD: First of all, object because under Rule 16, he never provided us any notice that he was going to put on a expert. The first time we even heard of this man was this morning when he walked in and handed us a bunch of charts and evidence that we've never seen before. And he's been notified on several times that this is not how you can proceed in a case.

We gave him advance notice of --

MR. TRAFICANT: The government notified --

THE COURT: Stop interrupting, Congressman. Don't interrupt.

MR. TRAFICANT: He's misrepresenting.

THE COURT: Stop interrupting. Don't interrupt.

MR. MORFORD: I'll point out --

THE COURT: Please be seated so that this gentleman can talk, and then you'll be able to talk. Sit down.

MR. TRAFICANT: Thank you. Just don't have him misrepresent me.

MR. MORFORD: Your Honor, when we called the IRS agent, we gave Congressman Traficant notice. We gave him the charts well in advance.

MR. SMITH: Weeks.

MR. MORFORD: Weeks in advance.

Number two, the Congressman asked for a separation of witnesses and asked this Court to rule that witnesses could not hear or review the testimony of other witnesses. Because of that order, we filed a motion with the Court before our IRS witness testified, and we asked the Court for permission to allow him to review transcripts and then allow him to sit in on the testimony of one particular witness.

Congressman Traficant went ahead without any prior approval by the Court and just gave the witness this stuff as though he had never made the request in the first place, and I believe the reason was, is because he didn't want us to know he was calling this man. Whether that was true or not, the point is we never got any notice, we never got any charts, we never got any summary report, we never got any description of what the supposed expert would testify to.

What we got was we walked in this morning, got handed a bunch of stuff, and suddenly he's on the stand. And I object on the fact that we weren't given proper notice. If he was going to call an expert, he had to give us a preview of what the expert would testify so that we could adequately prepare, which is what the rule provides.

MR. TRAFICANT: Your Honor, I didn't get

these charts until this weekend. I gave them Mr. Robertson's name two weeks ago that he would be called.

I gave the name. I didn't give the time. Now, Mr. Robertson --

THE COURT: How did you give the name?

MR. TRAFICANT: I told them I'd be calling a Michael Robertson, and I didn't get the documents. The documents came late from, in fact, Home Savings & Loan. As soon as I got the documents I needed -- I still didn't receive all the documents -- we put together a partial scenario that was presented to me just last night, and gave it to them this morning. And that is the status of it.

MR. MORFORD: He --

MR. TRAFICANT: Let me --

THE COURT: You be seated now, please. Go ahead, Mr. Traficant.

MR. TRAFICANT: It is a misrepresentation of the facts to say I did not give them the name of Michael Robertson and I'd be calling Michael Robertson. He is a 17-year veteran of the Secret Service.

THE COURT: We know --

MR. TRAFICANT: He has taught and instructed.

THE COURT: We know some of his credentials. I'm going to let you put him on the stand if you want to so you can elicit further credentials. If you want to elicit

further credentials from him, we'll do it without the hearing of the jury. But there is a more important thing we have to address, I believe, and that is that to have this person review transcripts after you asked for a separation of witnesses and then also to have him apparently asked to testify on things that are the jury's responsibility to determine in this case is the real area of difficulty.

MR. TRAFICANT: Is he an expert --

THE COURT: So if you -- I don't know if he's an expert.

MR. TRAFICANT: And does he give an opinion?

THE COURT: I don't know what his opinion is going to be elicited on.

MR. TRAFICANT: Well then, let's voir dire this man.

THE COURT: What sort of expert are you proposing we see him as?

MR. TRAFICANT: He has handled fraud cases and money cases for 17 years. He headed the division of the Secret Service in the Canton region.

THE COURT: But what --

MR. TRAFICANT: He was in fact assigned by Judge Aldrich in a particular court.

THE COURT: But as to --

MR. TRAFICANT: He's testified --

THE COURT: What is he going to testify to as an expert in this case? What --

MR. TRAFICANT: Into the method of the investigation that had taken place and what had not taken place, and to what has been offered into evidence --

THE COURT: What investigation, Congressman?

MR. TRAFICANT: The government's investigation, and lack of investigation. And what are standard procedures to meeting a burden of proof.

THE COURT: Well, that's a legal question. He can't answer that question.

MR. TRAFICANT: No, but he can speak to an investigation and his background in dealing with money and the handling of money, and investigating fraud, and transfers of accounts, he could testify to those matters. And he is an expert in those affairs.

THE COURT: Okay. Let's just delineate exactly what you want his expertise to be elicited regarding.

MR. TRAFICANT: What the government did.

THE COURT: Well, we can't have -- there is no such thing as an expert on what the government did.

MR. TRAFICANT: Did not the fellow from Philadelphia simply add up numbers? Did he do any

investigation? Have you brought before this Court anyone to investigate or show the corroboration of any money between Cafaro and any of these people?

THE COURT: Well, I didn't bring anyone before the Court.

MR. TRAFICANT: But what I'm showing, and attempting to show, is that there has been no investigation and no corroborative evidence of any sort to take this beyond the preponderance of the evidence presented in this case.

THE COURT: Okay. Would you be seated now and we'll let the government respond to this description of what expertise you're relying on here?

MR. MORFORD: Yes, Your Honor.

The government's investigation is not on trial in this case. What is on trial are ten specific offenses with which Congressman Traficant is charged. It's up to the jury to determine whether or not the evidence that the government has placed into evidence sufficiently proves each of those charges beyond a reasonable doubt, period. And all this other stuff he's talking about is irrelevant, it invades the province of the jury as the finder of fact, and it gets into legal conclusions that are -- all of which is totally inadmissible.

MR. TRAFICANT: I can't offer an expert to

state that when you find a witness that has no physical evidence attached to their statement, that there should not be an effort made to, in fact, corroborate that statement. Is that the statement of the prosecution in this case?

THE COURT: Well, is that what you're asking him?

MR. TRAFICANT: Yes, I am.

THE COURT: To testify to? Very well. Now I know what you're asking him to testify to. All right? Now I know, so you will not be allowed to go forward and qualify him as an expert to do that. He clearly has areas of expertise that you've already elicited from him, but as an expert witness to decide that, no. So we'll continue our recess and bring the jury back at the time that we're going to bring them back.

You may have other things you want to ask this gentleman.

MR. MORFORD: Your Honor, if he does, I would ask that he advise the Court so that we don't get into more inadmissible stuff.

MR. TRAFICANT: Why don't I just hand you the case. I've had enough of this.

MR. MORFORD: Why doesn't he read Rule 16.

MR. TRAFICANT: I want an opportunity to voir dire this witness as an expert and have him testify into

investigatory matters since this case does not meet the standard of burden of proof beyond a reasonable doubt.

THE COURT: Well then, the jury will so find, sir. It's their responsibility.

MR. TRAFICANT: But I should have the right to present that to a jury. And I should have a right to have an expert testify as to what he has uncovered in his investigation.

THE COURT: Well, that you may be able to do.

MR. TRAFICANT: And that I will do.

MR. MORFORD: But if he's going to do that, I believe he needs to tell the Court what those things are or we're going to lapse into all this inadmissible stuff in front of the jury again.

THE COURT: Well, I don't think we'll be lapsing into it.

MR. TRAFICANT: Listen, I've given you enough.

MR. MORFORD: Sir, please address the Court and not me.

MR. TRAFICANT: I am.

THE COURT: Congressman. Congressman. Turn around and address the Court. I'm the Judge here. He's just your colleague.

Turn around.

MR. TRAFICANT: He's not my colleague. I'm the son of a truck driver. I have no oath and I can go on the street with my First Amendment right and say exactly what you've just done.

THE COURT: Well, if you'd like to go --

MR. TRAFICANT: I think I'm going to.

THE COURT: -- go out and do it.

MR. TRAFICANT: I will. But you are denying me the right to defend myself.

THE COURT: I think you've made your point for the Court of Appeals, and now we will continue our recess.

MR. TRAFICANT: The Court of Appeals? Am I convicted already in the mind of the Judge?

THE COURT: No.

MR. TRAFICANT: Then why do you keep saying that?

THE COURT: Because there's a rule.

MR. TRAFICANT: I don't plan to go to the Court of appeals. I plan to win here.

THE COURT: There is a rule in this courtroom which we've gone over with you time and time again, which is, after you've made your objection and made it in such a way that you could make an appeal if you wish to, you will not continuously go back and reargue the point. And this

is a good example of your trying to do that.

MR. TRAFICANT: Your Honor, you just passed out six motions denying everything. You have given them everything in this case. All they have is a paper trail. Cafaro never even checked to see if that money was spent on a boat, for crying out loud. They didn't even bring the investigators in. They brought a guy in who couldn't even divide and cost the taxpayers hundreds of thousands of dollars.

THE COURT: Congressman? We're going to continue our break now. Take ten minutes. We'll be back.

MR. TRAFICANT: Give me 15. I've got to go to the bathroom.

MR. TRAFICANT: I'll give you 10.

MR. TRAFICANT: I might be late.

THE COURT: Well, the jury will be in here waiting. (Recess had.)

(Jury in at 11:19 a.m.)

THE COURT: Thank you, sir. You're still under oath.

THE WITNESS: Yes, Your Honor.

BY MR. TRAFICANT:

Q. Mr. Robertson, how many accounts did Mrs. Sinclair have total?

A. At Home Savings, there were five accounts.

Q. Did we receive any information from any other banks?
A. No, sir, no responses from any other banks.
Q. Did you prepare a document relative to deposits of Mr. Sinclair?
A. Yes, sir, I did.
MR. MORFORD: Your Honor, I'm going to object to portions of this document which are clearly argument that can't be testified to by this witness, and I'd like to ask you to take a look particularly at the things at the bottom in the bold.
THE COURT: Did you make this yourself, sir?
THE WITNESS: Yes, Your Honor.
THE COURT: Is this your own? All right. The objection is overruled.
Q. I'm going to put this up on the screen. Would you identify its number for the jury?
A. Yes, sir. Defense Exhibit 8901.
MR. TRAFICANT: That would be S-901, Your Honor.
THE COURT: Okay.
Q. As a Secret Service agent, did you investigate matters of fraud?
A. Yes, sir.
Q. Did you investigate matters of paper trail of dollars?

A. In my private practice, yes, sir.
Q. What is the exhibit number on this? S-901?
A. Yes, sir.
Q. What in fact does this document signify?
A. In reviewing the documents, the figure of $2500 based on the withdrawal from the joint savings account of Allen and Kim Sinclair had come up on another exhibit, and one of many tasks of going through paper documents, such as deposits and withdrawals, is to look for like and similar numbers.

This happened to come up, and I plotted it out as the exact dollar, $2500 deposits into Allen Sinclair's IOLTA account, being his interest on lawyers trust account, and it turned out that during this same time period, as the other chart which showed his withdrawals of $2500 based on his treasury check deposits, that during this same time period there were nine deposits into his IOLTA account, as they're called, on average four days after the $2500 was taken out of the other account.

And other than that, the numbers were significant from the standpoint that we were talking the same numbers. There's been no value placed on this as far as determining intent or anything else. It's showing an unusual pattern that happened shortly after the money was withdrawn from this other account.

Just as unusual, that after Mr. Sinclair left the government employment and for the 22 months subsequent to that, up through February of 2002, there were no deposits into his IOLTA account totaling exactly $2500. This needs -- this is the type of stuff that you do to pursue further and do the legwork to find out where the trail actually leads. It's very likely, in fact, the bank was running quite short on time, not to get into the procedures involved, but I was told that this requires quite a bit of hand searching and they're difficult to research these accounts, but in fact, two or three of these do appear to be legitimate deposits.

But the key is, is that we're having the same numbers appearing, and that's a point of departure for an investigator to resolve it either in favor or against the person or the subject of the investigation.

Q. Now look at 22 December 99. Next to it is $2500; is that correct?

A. Yes, sir.

Q. After that, was there ever $2,500 put into his account?

A. In the months immediately following, and I believe through February of 2002, there were no exact amounts of $2500 deposited into that account.

MR. MORFORD: Sir, between what dates?

THE WITNESS: Between --

MR. TRAFICANT: Would the court reporter repeat it?

THE COURT: "In the months immediately following, and I believe through February of 2002"?

THE WITNESS: Yes, Your Honor.

THE COURT: Thank you.

MR. MORFORD: Your Honor, can I ask he speak into the microphone? I'm having a hard time here.

THE COURT: Okay. And the folks in the back also need to hear you.

MR. MORFORD: You can actually pull that out.

Q. In your work as a Secret Service agent, was your methodology that of seeking and looking at patterns of behavior?

A. Yes. Similarities and dissimilarities, changes in patterns, inconsistent changes in patterns.

Q. Of the five accounts, how many accounts had the government shown the jury?

MR. MORFORD: Objection.

THE COURT: Sustained. The jury has been sitting here. They know what's happened.

Q. Did you arrive at any conclusion after having reviewed this evidence the government has presented?

MR. MORFORD: Objection.

THE COURT: Which are you talking about? Just this right here (indicating)?

MR. TRAFICANT: That which he had talked about and testified and presented documents about today.

THE COURT: Oh. We had a hearing outside the presence of the jury. At the end of that hearing it was concluded that this gentleman could not testify to that. He didn't qualify to testify to that. So we won't be able to go forward, as you well know.

Q. As a Secret Service agent, would you attempt to corroborate the words of a witness with physical corroborative evidence?

MR. MORFORD: Objection. This is argument, Your Honor.

THE COURT: All right. It is argument, Congressman.

Q. Were you able to identify any corroboration of physical evidence associated with this witness?

THE COURT: Congressman, we've had a long trial here. There will be evidence submitted to this jury, and they'll be in position to make determinations that they're required to make under the law.

Q. Were you ever asked to testify in federal courts?

A. Yes, sir.

Q. How many times have you testified in federal courts?

A. Including magistrates hearings, dozens of times.
Q. Were you ever requested by a Federal Judge to appear in a court?
A. No, sir.
Q. In your role as a Secret Service agent, did you testify on behalf of the government in most cases?
A. When I was with the government, all my testimony would have been for the government.
Q. In examining this pattern, what did you determine?
A. Are we talking about this pattern on the screen at this time?
Q. Yes.
MR. MORFORD: Objection again, Your Honor.
THE COURT: Sustained.
Q. As a Secret Service agent, are you familiar with treasury laws?
A. I would be familiar with the treasury laws that I was involved with -- in which I was involved with the investigation of. There were many laws that surfaced on rare occasion, and we'd have to go back and relook up the laws and the elements of the crime.
Q. In your investigation, did you uncover any disciplinary action against this witness?
MR. MORFORD: Objection. It would be hearsay, Your Honor.

Q. Do you have knowledge of any disciplinary action taken against this witness?

THE COURT: What witness are you talking about?

MR. TRAFICANT: Mr. Sinclair.

THE COURT: Do you have any firsthand knowledge?

THE WITNESS: No, Your Honor.

THE COURT: Thank you.

Q. Did you review the grand jury testimony?

A. Yes, sir, I did, on Mr. Sinclair.

Q. Was there mention of --

MR. MORFORD: Objection.

Q. -- disciplinary actions?

THE COURT: The objections are sustained.

Q. Was it your impression that any fraudulent act could cause Mr. Sinclair to lose his license?

MR. MORFORD: Objection to his impressions.

THE COURT: His impressions won't help this jury. And this jury did hear about disciplinary, various disciplinary actions weeks ago in this trial.

Q. Mr. Robertson, were you ever denied the opportunity to testify as you are being denied today?

MR. MORFORD: Objection.

THE COURT: Well, that's a statement, not

really a question.

MR. TRAFICANT: No further questions.

THE COURT: And it depends on what it is you're asking him.

MR. TRAFICANT: No further questions.

THE COURT: To the extent he's being asked to testify to things which are in the province of this jury to decide, we've been over that during the break, and he cannot supplant the jury in this case.

MR. MORFORD: Your Honor, at five minutes to 9:00 this morning, I was just handed charts and evidence and this testimony. I would like to ask if we could take an early lunch so I can actually look at this stuff and prepare my cross-examination.

MR. TRAFICANT: I object.

THE COURT: Overruled. If you'll give them proper notice, we wouldn't have to do that, but we will have to go forward with the cross-examination and take an early lunch. It will just mean you have until 1:30, jurors, for your lunch today. So you'll have more time. We'll bring this gentleman back for cross-examination. Thank you. We're in recess.

(Jury out at 11:33 a.m.)

(Whereupon, at 11:33 a.m., the luncheon recess was had, to reconvene at 1:30 p.m., the same day.)

MONDAY, APRIL 1, 2002, AFTERNOON SESSION, 1:37 P.M.

(Jury in at 1:37 p.m.)

THE COURT: Sir, you are still under oath.

THE WITNESS: Yes, Your Honor.

THE COURT: Mr. Morford.

CROSS-EXAMINATION OF MICHAEL L. ROBERTSON

BY MR. MORFORD:

Q. Good afternoon, sir.

A. Good afternoon.

Q. I'm going to ask you if you could take that microphone out and hold it, because I've had a little bit of trouble hearing you today.

You and I have never met before, correct?

A. I don't believe so. You do look familiar, but I don't really recall for sure, sir.

Q. We certainly have never met and spoken about this case, correct?

A. No, sir.

Q. Now, as I understand it, you spent 17 years working with the Secret Service, is that correct?

A. Yes, sir.

Q. And what year did you actually leave?

A. It would have been, I believe it was 1988 -- late '87, '88.

Q. And how old were you when you left?

A. 45, 46.
Q. Now, the way the retirement system works for law enforcement officers, if you'd worked 17 years and were 45 or 46, you would have what, about four or five years left before your full retirement would have vested?
A. No, sir.
Q. How long?
A. I'm not really sure exactly how long. With Secret Service you work until age 55 unless you have ten or more years of protection, and then you can qualify for a straight 20.
Q. What was your particular situation? How much longer would you have had to work to get your full benefits?
A. My new assignment was in the criminal records section in Washington, D.C., which in an effort to provide continuity in that unit. They, for the lack of a better word, protect you from protection assignments. In other words, you strictly work your investigative hours, and in there you're not exposed to the protection hours which you need to accumulate.
Q. You said your next assignment. They were going to transfer you to that unit?
A. Yes, sir.
Q. And why was that?
A. I had finished a unique wiretap case here in the

Northern District of Ohio, and I had developed it from scratch, and based on the experience of learning all this material, I was asked if I wanted to transfer to the criminal records section in order to do more work in the areas of the wiretaps.

Q. Were there any problems that you encountered in that wiretap case?

A. What sort of problems, sir?

Q. Any problems in terms of your own performance.

A. No, sir.

Q. Were there any -- were there any things done wrong in that case that you recall?

A. The only thing that was done wrong, in my estimation, was after we had the wiretap up and running for 30 days, I went to your office, not you personally, but to the U.S. Attorney's Office, and felt that we had pretty much done everything we could do as far as the wiretap. It was becoming quite repetitive, we were getting no new information, and I attempted to get it shut down.

Q. Have you personally ever had any type of disciplinary actions during the time you were with the federal government?

A. No, sir.

Q. So why did you leave after 17 years? What was the reason?

A. My middle boy was entering his senior year in high school here in Ohio, and three years before that I had uprooted the family to go to Miami when my oldest boy was in his senior year in high school, and I thought long and hard and I made a very difficult decision that I had to place the family first, and I decided to remain here in Ohio.

Q. And then when you left the service, did you set up your own private investigation firm right away?

A. Within -- yes, sir, within two or three months.

Q. And did you set that up as the way that you could support your family and make a living?

A. Yes, sir.

Q. So this is something you do for profit, correct?

A. Yes, sir.

Q. And it's a business that you do in order to make profit, correct?

A. That's correct.

Q. And in the normal case, you would be paid to conduct the investigation that you've conducted in this case, correct?

A. Yes.

Q. And then you would also be paid for your testimony, correct?

A. Yes.

Q. And what do you charge per hour currently?
A. I have two different fees. When I'm working on fraud cases that involve questioned documents, my standard published fee is $150 an hour. When I'm doing extensive, long investigations involving a lot of legwork, the cost would really have to be brought down. I charge $75 an hour.
Q. Are you being paid in this case?
A. Yes, sir.
Q. And how much are you being paid per hour in this case?
A. I am being paid a total of $1.
Q. And why would you take this case -- if you do this for a living, why would you take your time and put your time into this case for really no real compensation?
A. I've had an interest in the congressman, not knowing him personally but having seen him on television, and I had an interest in the case from the standpoint that how, in fact, it was pursued, how the case was developed, you know, where, you know, what all is involved other than having people make one statement against somebody and is there more to it than that.
Q. From what you're telling us, you're a fan of Congressman Traficant, is that fair?
A. I'm sorry, sir?

Q. Would it be fair to say you are a fan of Congressman Traficant?
A. I'm sorry?
Q. A fan? You're someone who is favorable towards Congressman Traficant based upon what you've seen on TV and read?
A. I belong to a different party than he does.
Q. That's not my question.
A. But yes, I've been intrigued and interested in many of the things he's had to say.
Q. And as a result of that, you said you followed this case in the media, correct?
A. Yes, sir.
Q. And that at some point you reached out and actually offered to come and do some work for the Congressman for free, is that correct?
A. Yes, sir.
Q. Have you ever had any discussions with Congressman Traficant that maybe there could be some more work for you down the road?
A. No, sir.
Q. You mentioned during an answer to one of Congressman Traficant's questions that there was a lawyer who had actually referred you to him. Is that correct?
A. That's correct.

Q. He didn't ask you the name of that lawyer. Would you go ahead and tell us who that is?

A. Mark Colucci.

Q. Were you aware at the time you were talking with Mr. Colucci that Mr. Colucci has been performing and providing legal services to Congressman Traficant in this case?

MR. TRAFICANT: Object.

THE COURT: You can answer.

A. Not at that immediate time, no, sir.

Q. You know that now as you sit here today, don't you, sir?

A. Yes, sir.

Q. In fact, didn't Mr. Colucci help to prepare you for your testimony here today?

A. No, sir.

Q. Did he do anything to assist you in any way or assist Congressman Traficant in any way in the work you've done in this case?

A. The communications mostly by e-mail that we've had have been very much one way, coming from me to Mr. Colucci, giving my input to be passed on, you know, with the Congressman, and at no time was I prepared or rehearsed by Mr. Colucci.

Q. Well, but the answer to my question then is you have

been communicating with Mr. Colucci as part of the preparation of your testimony here today, correct?

A. My communications with Mr. Colucci has been forwarding requests to him as far as obtaining more information, like bank records.

Q. Have you sent any e-mails or communications to Mr. Colucci regarding your findings or what you would testify to or things that you testified to here today?

A. No, sir.

Q. Have you made any written statements whatsoever?

A. Regarding my testimony?

Q. Regarding any matter that you've testified to here today.

A. There -- I'm sure there would have been perhaps an e-mail that would have gone into preliminary findings as far as paper trails.

Q. So you did send some, at least one e-mail, you're saying, to Mr. Colucci giving him your preliminary findings. Is that what you're testifying?

A. I can't say for sure. I believe that I probably would have included that in one of my e-mails, yes, sir.

Q. Of the two people, Mr. Colucci and Congressman Traficant, who did you communicate with the most regarding your findings?

A. The Congressman.

Q. Why were communicating with Mr. Colucci at all?
A. Most of it had to do with him obtaining the subpoenas. I would send the information that we need certain documents for certain months or whatever it might be. That was the thrust of my communication with Mr. Colucci.
Q. Now, the Congressman showed you two documents today, I think it's S-903 and S-904. Does that ring a bell? Do you recall those documents?
A. Perhaps just a little description of it, sir, I should.
Q. Well, I'll put them right up on the board here.
A. I recognize them now, sir.
Q. Where did you obtain these from?
A. From my computer.
Q. And when did you do that?
A. I believe it was obtained this last Friday or Saturday evening.
Q. This past weekend?
A. Yes, sir.
Q. Now, you testified on direct examination about a chart. It's been put into evidence, Government's Exhibit 1-27.1.
A. Yes, sir.
Q. Do you see that there?

A. Yes, sir.
Q. And I'd like to ask you a few questions about this. First of all, you don't in any way contest the fact that based upon the documents in this case, $26,600 cash was deposited into Congressman Traficant's personal account at Bank One, correct?
A. I take that document as accurate.
Q. Well, did you as part of your duties for Congressman Traficant, did you go through and compare the evidence in this case with that document to see if that was, in fact, correct?
A. Since it had already been presented as evidence, I did not go back and do it.
Q. Okay. Now, you testified on direct examination that one of the things you do as a former Secret Service agent, current private investigator, is you like to kind of hone in on patterns, correct?
A. Yes, sir.
Q. And as you look at this document, isn't it true you see a pattern of large cash deposits, generally $2,000 to $3,000 to $1,000?
A. Yes, sir, at the beginning of the table.
Q. And as it gets down into 1999, there continues to be cash deposits in the amount of $1,000, correct?
A. Yes, sir.

Q. And these would be considered large cash deposits for someone that's not in some kind of a cash business, correct?
A. If a person is not in a cash business, yes.
Q. Now, because these deposits were made in cash, as an investigator, you can't go back and determine the actual source, correct?
A. At this late time, no, sir.
Q. Well, how about a year ago?
A. The closer you are to when the transaction took place, the more likely you could go back and track cash sources.
Q. If you get a bank account and the bank account shows $2,000 deposited on September 19, 1995, and $2,000 deposited on August 27, 1996, isn't it true it is hard to conclusively trace the cash that went into that bank account without any specific source, sir?
A. I'd say it depends on which side of the case you'd be on. If, in fact, you're working with someone and they can say that, you know, here were the sources and you can go out and verify them independently, corroborate what, in fact, was within the document, then it is possible.
Q. I'm not talking about corroboration. I'm talking about when you see a cash deposit into a bank account and all it shows is cash, there's no way to conclusively prove

that that same cash came from a particular place, correct?
A. That's correct.
Q. It's not like a check, where if you have a check that's deposited in the amount of $2,000, you can get the check and run back and show exactly where it came from, correct?
A. That's correct.
Q. And as somebody who's done these kind of investigations, you understand that's the problem when people use cash, correct?
A. That's correct.
Q. And so as you sit here today and you look at that chart with all that cash coming in, you can't tell where it came from, can you?
A. That's correct.
Q. It could have come from any one of a number of sources, correct?
A. That's correct.
Q. And it could have come from kickbacks for all you know, correct?
A. For all I know.
Q. Now, as someone who has testified in other cases and does so for a living, your job as a witness is to answer the questions that are put to you, correct?
A. Yes, sir.

Q. You were asked a question by Congressman Traficant during his direct examination, you were asked to take the figure 11,700 and divide it by 24. Do you recall that?
A. Yes, sir.
Q. And what was the point of dividing it by 24, do you know?
A. No, sir.
Q. You just did what you were told, correct?
A. I was asked to do the math, yes, sir.
Q. Let me ask you this: If Congressman Traficant had asked you this question which he asked Mr. Hess, would you divide 11,700 by 12 months, would you go ahead and do that for me?
A. Yes. My first attempt comes up with $975.
Q. Is there anything wrong with what you just did?
A. Mathematically?
Q. I asked you a question. I asked you to divide 11,700 by 12, right?
A. That was a reasonable request, and that's what I did, yes, sir.
Q. But that's not what Congressman Traficant asked you to do. He asked you to do it by 24?
A. That's correct.
Q. I'd like to ask you some questions about your testimony in response to Congressman Traficant's questions

about the January 24th 302. Do you recall he asked you a series of questions about that?

A. Yes, sir.

Q. And I believe you said one of the things that you highlighted and noticed on there was that there were questions reflected on that 302 regarding the ownership of the building at 11 Overhill Drive or Road, correct?

A. That, if I recall, that was at the beginning of the 302, yes, sir.

Q. And you said that that was a reasonable area of inquiry, I think it was your testimony, correct?

A. Well, I'm basing my opinion on what the questions were asked. I in looking at what was important to the questioner --

Q. Meaning you were looking at what's important to Congressman Traficant in his case, correct?

A. I'm looking at what was important to the person asking the questions, eliciting the responses that were on the 302.

Q. Isn't it true, sir, that from the 302 you can tell that it was important to them to try to figure out who owned the building during the entire time that Congressman Traficant's office was renting the building, correct?

A. Yes, yes.

Q. Now, after you read that and decided that was

important, did you go out and start pulling records and subpoenaing bank records for Henry DiBlasio?

A. No, sir.

Q. Well, sir, wouldn't it be important to do that if you were going to determine what the relationship of the building ownership was prior to the time that Allen Sinclair purchased it?

A. There wasn't time.

Q. That's just not something you did, in other words.

A. That's correct.

Q. You testified on direct to some documentation that showed that Allen Sinclair had signature authority over the KAS account, correct?

A. Yes, sir.

Q. I'd like to show you now what is marked as Government's Exhibits 1-53, 1-54, and 1-55. Do you see those in front of you?

A. Yes, sir.

Q. Starting with the first exhibit, 1-53, that's a check for Trumbull Land Company, correct?

A. From, yes, sir.

Q. And it says Trumbull Land Company, d/b/a, meaning doing business as, Newport Professional Center; is that correct?

A. Yes, sir.

Q. In your research for Congressman Traficant to prepare for this case, are you aware that the building was previously held in the name of Trumbull Land Company, d/b/a Newport Professional Center?

A. The name Newport Professional Center rings a bell, but I didn't focus on anything before '98.

Q. Well, who did Allen Sinclair or KAS buy the building from, sir?

A. From Mr. DiBlasio, and I believe that was a d/b/a involved. I just didn't get into that part of it. We didn't have time.

Q. Let me ask you this: Who signed this check for Trumbull Land Company?

A. The signature appears to be -- the last name appears to be DiBlasio.

Q. How about Exhibit 154, which is another Trumbull Land Company check?

A. Yes, sir.

Q. August 26, 1996?

A. Yes, sir.

Q. Who signed that one?

A. The same signature, Mr. -- or whoever it is, DiBlasio.

Q. How about Exhibit 1-55, it was a check on Trumbull Land Company account dated 10-5-98, payable to Nations

Bank. Do you see that?
A. Yes, sir.
Q. It's also Mr. DiBlasio's signature, correct?
A. I'm not sure what his signature looks like, but the signature is DiBlasio.
Q. Well, sir, did you look to see if Mr. DiBlasio had signature authority on the nominee company that owned 11 Overhill Road just as Allen Sinclair did with respect to KAS?
A. No, sir.
Q. And why not?
A. There wasn't time.
Q. There wasn't time or Congressman Traficant didn't ask you to look into the Henry DiBlasio aspect of this case?
A. No. There wasn't time. It was to concentrate mainly on the activities of 1998, 1999 involving the checking accounts as Mr. Sinclair was the witness in these particular counts.
Q. Well, sir, I believe your testimony on direct examination was that you were bothered by some of what you understood was happening here and you wanted to get involved and help, correct?
A. That's correct.
Q. Wasn't it true there was a lot of testimony about Henry DiBlasio's finances?

A. There was testimony, yes, sir.
Q. And his ownership of the building?
A. Yes, sir.
Q. But you didn't think it was important to get involved in those things, did you, sir?
A. Mr. DiBlasio was removed from the -- at the point where I was interested in picking up the investigation, being 19 -- end of 1998, 1999.
Q. And why were you just interested in looking at '98 and not the prior years, if you're so interested in getting to the bottom of everything here?
A. I wasn't able to get to the bottom of everything. I was interested in finding out Mr. Sinclair's veracity and credibility as a witness to see if, in fact --
THE COURT: That is exactly a question which only jurors address. The Judge doesn't address that, the parties don't, and neither do the witnesses.
MR. TRAFICANT: I object to that.
THE COURT: You may well object, sir.
Q. Now, sir, you testified you got involved in this case in mid February; is that correct?
A. February 23rd.
Q. February 23rd through the 28th was what, five days?
A. Yes, sir.
Q. Now we have how many weeks of March?

A. Five.
Q. So during the five or six weeks you've been involved in this case, it's your testimony that you didn't bother to look at any of the evidence or information about Mr. DiBlasio, correct?
A. During the last five or six weeks, I haven't spent full time working on this case.
Q. That's not my question. My question is during those five or six weeks, you haven't bothered to look at any of the evidence as it related to Henry DiBlasio, have you?
A. That's correct.
Q. And when you were looking at the building records of Allen Sinclair, were you looking to see if he was really the true beneficial owner of the business and that KAS was merely his nominee? Is that what you were looking for, sir?
A. No. There, as far as the building itself goes, there wasn't any more effort spent on Mr. Sinclair's acquiring the building. Once it was done, I didn't go back and see exactly how that was done. Once it was in his name, then that was the person that was of interest to me as far as doing an investigation.
Q. So the building itself, once you took a look at what you looked at, you set that aside. It really didn't affect the outcome of what you testified to here today, correct?

A. That's correct.
Q. So we can set the building testimony aside completely, right? Doesn't that sound --
A. Yes.
Q. From what you're telling us, it's really not relevant, correct?
A. Not from what I was told.
Q. Okay. Let's go to the main thing then that you did testify. You testified that you looked at some deposits into Mr. Sinclair's IOLTA account in the amount of $2500, correct?
A. That's correct.
Q. And you said you saw a pattern of these $2500 deposits, and you thought that that was -- what was the word?
A. I don't recall, sir. Unusual or --
Q. Unusual, okay. And so it's your testimony that -- well, do you know what an IOLTA account is?
A. Yes, sir.
Q. What is an IOLTA account?
A. An IOLTA account is an account used by attorneys where they have to deposit money, such as settlement checks and retainers. IOLTA stands for interest on lawyers trust account.
Q. And it's your testimony that you thought it was

strange that a lawyer who does personal injury work would make deposits into his IOLTA account in the amount of $2500?

A. That's only half the picture. Yes, sir.

Q. What's so strange? Let's just start with that. What's so strange about a lawyer who does accident cases making deposits into his IOLTA account in the amount of $2500?

A. That in itself isn't the unusual part. It's the fact that that stopped then in the next spring, after my chart that showed you that $2500 deposits for a 22-month period ending in February of this year, there were no deposits for $2500.

Q. Well, on that point let me ask you this, sir, because you testified that one of the things you did as a law enforcement officer and now as a private investigator is you like to look for patterns, right?

A. That's correct, sir.

Q. Isn't it true that one of the patterns that you saw in this case was that from the time Allen Sinclair received his very first full congressional paycheck from Congressman Traficant, every single month for the next 13 months he withdrew $2500 cash?

A. That's correct.

Q. Would you say that's an unusual pattern, sir?

A. Yes.
Q. And would you say that that stopped almost immediately after the FBI questioned Mr. Sinclair?
A. If the 302 reflects the initial date of the first contact with Mr. Sinclair, which would have been January 24th, that would be correct.
Q. And so as someone who specializes in patterns, that's a very important pattern, is it not, sir?
A. It certainly is. It certainly is.
Q. Do we have a pattern in which a lawyer goes to work for Congressman Traficant and every single month that he gets a full paycheck, he takes out $2500 cash, correct?
A. That's a large cash withdrawal from a deposit of roughly $3500.
Q. Then immediately after the FBI asks him if he's kicking back on January 24th, they stop, correct?
A. Within a reasonable time, yes, sir. I can't give you the exact dates.
Q. There's no other check from which he withdraws $2500 cash after the FBI talks to him, is there, sir? You've been through these records.
A. The only checks we looked at were the treasury checks.
Q. And that's what I'm asking you about.
A. Yes.

Q. The first treasury check after the FBI asks him about kickbacks, suddenly there's no $2500 cash withdrawn, correct?

A. That's correct.

Q. Congressman Traficant asked you about physical evidence. Those cash withdrawal records are physical evidence, are they not?

A. Yes.

Q. And they prove that every single month from the time he was hired until the time the FBI talked to him, physical evidence, that Allen Sinclair was taking out $2500 cash, correct?

A. That's correct.

Q. And all you're saying is that having seen that pattern, you also wanted to look to see other patterns, if they existed, right?

A. In addition to the $2500 patterns.

Q. That when you found that other $2500 pattern, that's what you were looking for, other patterns, correct?

A. Well, sir, yes. We see two patterns of $2500, but in your instance of the $2500 going into an account, you can't say, you know, where the money is coming from, and the same thing when you withdraw money of $2500, you can't say where it's going. It's one person saying I gave it to somebody else.

Q. Well, let's go with that then.
A. Okay.
Q. Let's take the first pattern, the pattern of Allen Sinclair taking $2500 cash out of every paycheck.
A. Yes, sir.
Q. That's documented by bank records and testimony that that is cash, correct?
A. That's correct.
Q. There's no mistake about that at all, right?
A. That's correct.
Q. Now, the other pattern that you've pointed out, which you call a pattern, is that there were a number of $2500 deposits into an IOLTA account during that same period, right?
A. Yes. Not saying what they are, but they were $2500 deposits.
Q. And you have no idea whether those are cash or checks, correct?
A. We haven't had time to research them all, but the ones -- two or three we did, they did happen to be checks.
Q. Well, you didn't testify to that on direct, did you, sir?
A. Yes, sir. Yes, I did.
Q. Oh, you did?
A. Yes, sir.

Q. Let me ask you this, sir: If, in fact, Allen Sinclair regularly received checks from insurance companies for clients he was representing in the amount of $2500 during this period that you call that a pattern --

A. Right.

Q. -- that would answer the whole question, right?

A. Except for the fact that the pattern for whatever reason then stops, and there are no more $2500 checks. So it's quite a coincidence that during this time period you have money coming out of one account and within, on an average of four days, going back into another account.

Q. Well, let's go back then and talk about what you're suggesting here.

A. I'm suggesting, sir, it needs further investigation.

Q. Why?

A. That --

Q. What's the relevance of the $2500 going into an IOLTA account whatsoever?

A. It's as much relevance as the $2500 coming out of Mr. Sinclair's account that we can speculate whether it went here or there. We don't know.

Mr. Sinclair had a lot of debt. We don't know what he's doing with the cash. And as far as I know, there was no corroborative evidence to show that anybody tried to find out what, in fact, he did with that cash, other than

taking his word for it.
Q. And you're suggesting that one possibility might be that he took some of that cash and deposited it into his IOLTA account, correct?
A. I'm suggesting we don't know what happened to that money.
Q. Isn't it true, sir, you're suggesting that is a possibility, that maybe some of that cash got deposited into the IOLTA account?
A. Until there is further investigation into those deposits, that has to be an assumption. It can be ruled out, but it should be investigated.
Q. But my question to you is: That's the only possibility that would help you in what you're testifying to here today, correct?
MR. TRAFICANT: Objection to the speculation.
THE COURT: Overruled. You can answer.
A. Okay. If, in fact, there are cash deposits, then that would be another alternative for where that money could have gone.
Q. Okay?
A. There has been no claim that that is cash.
Q. Right. And if that's not cash, if those are checks, then that rules that out entirely, correct?
A. That particular theory.

Q. Yes.
A. But it's still -- it's still -- I can't figure out why in the world all you have is $2500 deposits. So in other words, taking a check and saying, this check came from so-and-so, that isn't enough. You have to go one step further and make sure that that check actually came from whoever it may have been.
Q. But sir, my question is this: If, in fact, these were check deposits as opposed to cash deposits, then it doesn't matter, does it?
A. Not that particular aspect of it, that's correct.
Q. In fact, if all of these deposits that you've testified here to today were the deposits of checks from settlement proceeds or client payments, or insurance companies, then everything you've told the jury here today is irrelevant as to the charges in this case; isn't that true?
A. It's irrelevant as to what happened to go into those accounts with the $2500, as far as the deposits go.
Q. So as to your chart and those deposits into the IOLTA account, if, in fact, those are insurance checks and not cash, then we can set that chart and that testimony aside because it really doesn't relate to the charges in this case anymore in any way, right?
A. I agree. If, in fact, it's taken one step further

and not just to take the information at face value, but to verify that, in fact, they are checks, all it does is eliminate the hypothesis. In other words, not everything that you do as an investigator proves out one way or the other. That's why you're doing an investigation. You're trying to find out what's true and what's not. The truth is very important.

Q. Okay. And the truth, sir, is that all you've given the jury is a hypothesis that maybe some of these $2500 deposits are cash that Allen Sinclair took out of his paycheck and for some unexplained reason ran over and deposited into his IOLTA account, correct?

A. It is no more a hypothesis than the money was taken out in the first place and given to the Congressman.

Q. That's not my question. My question is: That's the hypothesis you presented to the jury, correct?

A. That is the hypothesis that was being investigated in determining whether it is true or not.

Q. Now, let me ask you some questions. You said you pulled two or three of the checks or two or three of these deposit items and found checks, correct?

A. That's correct.

Q. Which ones?

A. This was done last Friday. I talked to the lady that testified this morning, Mindy Davies, and I either picked

the three months or I told her to pick three months. Now, if you want me to --

THE COURT: Which ones, is the question.

Q. I definitely want you to show me which one of these $2500 figures are not cash that you've already concluded conclusively from documents are checks.

A. The October 13th --

Q. Is what?

A. A check.

Q. Then it would be okay to go ahead and cross that one off, correct?

A. Yes.

Q. But you didn't do that before you testified, right?

A. No. I was showing the pattern. I wasn't saying that the pattern was complete.

Q. Well, that's not part of the pattern. You already know that's a check, correct?

A. The pattern is the pattern. There's $2500.

Q. Let's look for a pattern that would show the possibility, because isn't it true you're suggesting here when you say number of days after cash was withdrawn from the government check, that you're implying that because it was only a couple days after that, perhaps the cash that was withdrawn from the check was deposited into this account?

A. I'm saying that this pattern was as unusual as the other pattern and just has not been proven that the money taken out of the account was put into a different account. I'm still saying that no matter whether these come back as checks or whatever, it's unusual that you have these deposits, and I can't explain it because we haven't investigated any further. Mindy only had a little bit of time on Friday, and I said, "Let's pick out three and see."

Q. Well, sir --

A. And in fact --

Q. When you put up here days after cash withdrawal from government check, what's the point of that entry?

A. The point of that entry is to show that it's a pattern that's unusual shortly after the withdrawal of the money from the other account.

Q. Because you're suggesting that perhaps this deposit came from the cash that came out of Allen's check just a couple days earlier, correct?

A. I'm saying the $2500, that has to be reconciled regardless of where it came from.

Q. But you're trying to suggest by saying days after cash withdrawn from government check, that that's where this deposit came from, correct?

A. I'm trying to show that with this chart, that, in fact, it doesn't prove any more or any less than the chart

that the government provided that stated that the withdrawal of the money went to the Congressman.

Q. Well, you've just told the jury that as to October 13th, that's not true, because you now know that was a check and it wasn't cash, correct?

A. That's true.

Q. Okay. What's the next one?

A. I don't have it in front of me.

Q. Well, why don't you look for it for a minute.

A. I'm not sure I have it with me, sir.

Q. You said there were two or three.

A. There were two or three. This was done on the phone last Friday or -- yes, last Friday, and I believe it would be August the 2nd.

Q. And you mean to say that after you found out that several of these checks were -- deposits were checks, you didn't bother to correct your chart, sir?

A. The chart is making no allegations that this money was coming -- the chart is showing a pattern. It was showing that, in fact, I come up with a pattern that shows the $2500 is going back in regardless of the source. It's an unusual pattern.

Then after January the next year, we don't see $2500 in any form, way, shape or manner going into the IOLTA. It's only raising the specter of a question about looking

for patterns. It's not accusatory.
Q. Sir, do you have something with you today that you could look at so you could tell us what other ones we could cross off of this supposed pattern?
A. I'm checking, I'm checking. The dates are May 5 --
Q. I can cross that one off?
A. Yes, sir. (Pause) Sir, there appears to be 8-2.
Q. We can cross that one off, too? Is that correct?
A. The way the days correspond, that would be the closest one, yes, sir.
Q. Now, sir, what was it that you actually received that causes those to be knocked out of your pattern? You received the actual checks, deposit items?
A. On -- yes, sir, on Saturday. Mindy did a hand search just briefly. The way the system is set up at Home Savings is that certain types of deposits and the like, they have to go through the entire day's activities looking for check amounts. So it can be quite time consuming, so I suggested let's pick out three, and that's what we did.
Q. Okay. And on all three of them you picked out, it just so happened they weren't cash; they were checks?
A. That's correct.
Q. And you didn't look at any others; you just had her pick out three, right?
A. That's correct.

Q. Now, again as I understand your hypothesis, sir, your hypothesis is that one of the things Allen Sinclair could have done with this unusual pattern of taking $2500 cash out of every paycheck is he could have deposited it into his IOLTA account, because we see some unknown deposits, right?

A. That's correct.

Q. And then you list how many days after his last paycheck was cashed and he got $2500 cash before there's a deposit, right?

A. That's correct.

Q. And then that would knock these three out, so we're down to one, two, three four, five, six, right?

A. Yes, sir.

Q. Let me ask about number six and number four. Isn't it true, sir, that Allen Sinclair received a paycheck on 11-30, 1999, which was deposited on that date and got $2500 cash that day, and didn't make his next deposit until December 29th, 1999? Correct?

A. I don't see it on that chart, but I believe that sounds --

Q. Well, let me tell you what, let me show you what's marked Government's Exhibit 1-4.1. That is a check to Allen Sinclair in the amount of $3,067.65, correct?

A. Yes, sir.

Q. And it indicates at the top that that was deposited on 11-30-99, correct?
A. Yes, sir.
Q. And that only $567.65 was deposited, leaving Allen Sinclair with $2500 cash, correct?
A. Yes, sir.
Q. The next one shows a deposit of the paycheck on 12-29-1999, correct?
A. Yes.
Q. And the difference between the deposit and the check shows he got $2500 cash on that date, correct?
A. Yes.
Q. Now then, you have two checks, December 7th, do you see that one there?
A. Yes.
Q. $2500. And you say that that deposit was made five days after Allen Sinclair got $2500 cash, which would be, again, this check on 11-30-99, correct?
A. Yes.
Q. But then down at the bottom you also list a deposit on December 22, 1999, correct?
A. Yes.
Q. Coming out of the same check on 11-30-1999, correct?
A. I don't see the connection.
Q. Well, sir, there's one check where he got $2500,

correct?
A. Yes.
Q. And you said that he could have made this deposit on December 7, five days after he got that $2500, correct?
A. Yes.
Q. And then on December 22nd, before he's received another paycheck, you're saying he could have made another deposit, and you put a question mark there because you can't answer the question where the $2500 came from, right?
A. The December 22nd, the deposit went in, and there was no connection back to a particular check, that's correct.
Q. So you can't suggest that some of the cash came out of the check and went into that account because there's no check, right?
A. We're not saying that specifically, that the cash had to come out of a particular check.
Q. But that undoes your hypothesis, it shows how many days after a check is cashed before it's deposited, right?
A. I left a question mark and I don't know if the person would have other cash available from other sources or -- we haven't accounted by any means, of course, for all money. If, in fact, it is cash, all we're trying to do is prove our hypothesis or disprove our hypothesis.
Q. But that would tend to go against your hypothesis that he gets a check, converts it to $2500 cash, and then a

few days later deposits it into his IOLTA account, correct?
A. All we're saying, there was a 2500 deposit regardless of the source.
Q. That's not what you're saying. You're saying days after cash withdrawn from a government check. That's what you're saying.
A. I'm saying a question mark after December 22. I don't know.
Q. Down at the bottom you're saying these $2500 deposits were made on average of four days after receiving the $2500 in cash, right?
A. That's correct.
Q. You're trying to suggest by saying that that he's getting a check, taking out $2500 cash, and then he's taking that cash and putting it in his IOLTA account, right?
A. I'm trying to say we have a hypothesis, and once we -- once we have all the data to either prove it or disprove it --
Q. But the fact that you've got two deposits for one check tends to disprove your hypothesis, does it not?
A. No, sir. It's $2500. If, in fact, on Friday, when I made up this chart, if I thought that I wanted to make it look like we're trying to get, you know, the goods on Mr. Sinclair, I wouldn't have presented this chart.

The purpose of the chart is to show, looking for patterns and eliminating or establishing the fact that they exist. This is actually a very forthright chart, because one third of it is not showing that it happens to be cash. But the purpose was to show that charts cannot be completely trusted. Having a chart that shows $2500 was withdrawn, no way can you point it towards where that cash went.

Q. So it's your testimony it was a very forthright chart not to show on the chart that the May, August, and October 2500 deposits that you've listed there were actually checks that you'd established weren't cash?

A. There was no intent to deceive anybody. The very fact that the case -- that the chart was presented is showing how the hypothesis works, not the results of it.

Q. Let me ask you this, sir: When you looked at that IOLTA account, isn't it true that there were many other deposits, frequently multiple deposits on those same days that you didn't put on your chart?

A. Such as? I'm sorry, sir, as far as amounts?

Q. Such as -- here, we'll take a minute.

I've marked these on the -- during the lunch break, I went ahead and marked these on all the monthly statements, and I'd like you to compare what's marked Government's Exhibit 1-50, which is a listing of all deposits on these

different dates, and compare them and make sure they're accurate with the bank records. Could you do that please, sir?

THE COURT: What Government's Exhibit is this?

MR. MORFORD: 1-50, Your Honor.

MR. TRAFICANT: May I ask it be made a Joint Exhibit?

MR. MORFORD: The chart is our chart. The documents are Congressman Traficant's raw documents that he gave us.

MR. TRAFICANT: I ask it be a Joint Exhibit.

THE COURT: Well, is everything numbered? The exhibit I have is simply a chart. The raw documents need to be identified for the record with a number.

MR. MORFORD: The raw documents are HSL-F, and they were Congressman Traficant's exhibits.

THE COURT: Thank you.

A. Sir, may I ask or answer your question without going through everything as far as this list goes? I can maybe speed things along a little bit.

Not every deposit by any means was taken from the IOLTA account records and put into the chart. That was not the purpose. The purpose was to get the ones for $2500.

Q. Well, I'd like you to go ahead then and look at that

chart and make sure it's accurate, because then I want to ask you some questions about that chart.

A. Okay.

Q. They're all flagged. It shouldn't take you long, sir.

A. Yes, sir.

Q. And is that chart accurate?

A. Yes.

Q. Now then, sir, to go back to your chart, you showed what you called an unusual pattern?

A. Uh-huh.

Q. With some $2500 checks being deposited, correct?

A. Yes, sir.

Q. And the truth of the matter is that there were a lot of checks deposited into that account, correct?

A. Yes.

Q. In fact, on February 12, the same day as the $2500 deposit, there was a deposit for $1400, correct?

A. Yes.

Q. On 3-17, there wasn't just one, there were actually two $2500 deposits; is that correct?

A. Yes.

Q. I'm sorry. Did you say yes?

A. Yes.

Q. Where are they on your forthright chart, sir? For

March 17, 1999, you only show one. How come?
A. I'm not sure. Evidently the other March 17th -- is it March -- evidently the other March 17th wasn't put in the spreadsheet.
Q. And there wouldn't have been a corresponding check with a withdrawal of $2500 cash for both of those March 17, 1999 items, would there, sir?
A. Well, again, we're not making a direct correlation back to the withdrawals. We're trying to show the pattern of the $2500. I wish I had the 2500.
Q. Then I'm going to ask again, sir, why does it say days after cash withdrawn from government check?
You are not trying to make the correlation?
A. I'm trying to make a pattern.
Q. And it doesn't fit the pattern to have two deposits of $2500 on the same day when there's only one check, does it, sir? That doesn't fit the pattern you're trying to make, does it, sir?
A. If we were taking apples and apples, no. We're not. We're taking $2500 deposits, period.
Q. Okay.
A. And accounting for them.
Q. Moving down, on May 5th, in addition to the $2500 deposit, you show there's also a $1500 deposit, correct?
A. That's what your paper shows, yes, sir.

Q. Well, sir, you just looked at the bank records and said it's accurate based on the deposits?
A. Yes. I thought you said I had it on my chart.
Q. Okay. September 7th, there's a deposit for $2500, there's a deposit for $518, and a deposit for $7,000, correct?
A. That's correct.
Q. And on 10-13 -- actually on 10-13 there wasn't even a $2500 deposit, was there, sir?
A. No, sir.
Q. There were three separate deposits that you added up to come to $2500, correct?
A. That's correct.
Q. And you've now corrected yourself and said those were actually checks, correct?
A. That's correct. That was presented to the bank to research as three instruments.
Q. But again on your chart, you didn't list those out as three separate deposits. You listed them as though it was one $2500 deposit, correct?
A. I'm going by the day and the amount of the deposit that happened to total $2500.
Q. But you make it look like there's one $2500 deposit there when actually there were three separate deposits on that day, correct?

A. Totaling $2500, yes, sir.
Q. On 12-7, in addition to the $2500 deposit, you show there was a deposit for $9,000, $3500 and $5,000, correct?
A. Yes.
Q. And on December 22nd, 1999, in addition to the $2500, there was a deposit in the amount of $11,500, correct?
A. That's correct.
Q. And on December 29, in addition to the $2500 deposit, you showed there was a $10,900 deposit, a $4500 deposit, an $8,000 deposit, a second $2500 deposit, and a $20,000 deposit, correct?
A. Yes.
Q. And once again, if we look at your forthright chart, on December 29th, 1999, you only list one deposit in the amount of $2500, correct?
A. That's correct.
Q. Why did you leave the other one off?
A. It must have been -- I thought one of them was 2550. I'm not sure. I'd have to look at that again, sir. Let me just take a quick look.
Q. It's there. Take a look.
A. Okay.
MR. TRAFICANT: What date are we talking about?
MR. MORFORD: December 29th.

A. You're correct. There were two on the 29th. That would actually bring us up to 11.
Q. And it would also bring us to a point where there's two checks, two different checks for which you have to account for two $2500 deposits, right?
A. That's correct.
Q. And you don't list either one of those on your chart.
A. That's correct.
Q. Now, you also said that you've already conceded that there's nothing particularly unusual about a lawyer making a $2500 deposit into his IOLTA account, correct?
A. That's correct.
Q. And as you look at the real pattern now of multiple deposits into this IOLTA account, isn't it true that just off of these deposits alone, one could draw the conclusion that these are simply the deposits of client fees and insurance checks, and things like that?
A. I had no predisposition anyway. It was a matter of doing the search. In fact, because of the method of the searching, if a $2500 check isn't recorded for a particular date, it's still going to be found in the search by Home Savings because they're looking for $2500 checks.
Q. Except you only asked them to look for three and no more, correct?
A. On what date -- oh, yes, sir. They didn't have time

to do any more.
Q. But what you've asked them to do is look for three, right?
A. That's all we had time for for me to be here today.
Q. And the three you looked for did turn out to be --
A. I'm sorry?
Q. I'm -- the three you did get were insurance checks, correct?
A. They were checks, yes, sir.
Q. Okay. And as to these other figures, what is your hypothesis on those?
A. They didn't connect at this point in time as far as any pattern goes, so again, because of time they weren't checked. You can divide any number of checks and the ones for like $718 or $10,000.
Q. Let me ask you this, sir. I want to show you some documents and ask you if you ever saw these documents or how they affect your hypothesis.
A. Okay. Okay, sir.
Q. For the record, these are Government's Exhibit 1-51.
The first is a check payable to Christa Castellucci and her attorney, R. Allen Sinclair?
A. Yes.
Q. In the amount of $2500?
A. Yes.

Q. On January 19th, 1999. Do you see that?
A. Yes.
Q. Is this a check that you looked at in putting together your hypothesis?
A. This was a check that I believe we provided to the government. I didn't go back and look at them. I got the information from Mindy off the telephone.
Q. You provided it to the government when?
A. I'm assuming as far as the, you know, any kind of a deposit goes.
Q. Why are you assuming that we were given a copy of this check, sir?
A. I'm assuming that you are given a copy of the check since it was part of the exhibit that you have all the checks.
Q. Okay. Let me show you the next one. That's one. Next is a check, loss date 10-21-98, $2,500, full and final release of all claims, Alfonso Hackett and Allen Sinclair, Esquire.
A. Yes.
Q. Dated April 30th, 1999. $2,500.
A. Yes, sir.
Q. Was this one of the checks that you looked at in putting together your hypothesis of this pattern?
A. As I said, I didn't look at the checks. I talked to

Mindy, and she gave me the types of checks. I didn't know whether they were insurance checks or whatever. I've already stated we knew they were checks.

Q. Let me show you a third check. This one, settlement fund, claimant demand deposit account, $2,500.

A. Yes.

Q. Pay to the order of Lou Ann Miller and R. Allen Sinclair. Do you see that?

A. Yes, sir.

Q. Date, 7-7-1999.

A. Yes.

Q. Amount $2500.

A. Yes.

Q. Did you take that check into consideration when you put together your hypothesis?

A. This is more dates than we were able to get. We were told that they could only do three in a day. I'm just -- I don't know how we weren't able to get them.

Q. Here is a check from Nationwide Insurance payable to Kimberly Irving as parent and natural guardian for Jamar Irving and their Attorney Allen Sinclair, dated 8-6-99 in the amount of $2500.

A. Yes.

Q. Was this a check you looked at?

A. I didn't look at the check. I didn't look at any of

these checks.

Q. Next, check payable to Rose Davies, final settlement of claim. Payable to Clarence and Viola Martin individually and as husband and wife and R. Allen Sinclair, their attorney, dated September 28, 1999, in the amount of $800. Do you see that?

A. Yes.

Q. And then there's also a similar check in the amount of $700?

A. Yes.

Q. And then there's also a check in the amount of $1,000. Those are the ones you already testified to that you did see, correct?

A. Yes.

Q. The three of them totaled $2500?

A. That's the October 13th?

Q. That's the one we crossed off your chart earlier, right?

A. Yes.

Q. Okay. Next we have a check from The Prudential Company, payable to Laurie Becket Peterson and R. Allen Sinclair in the amount of $2500 on November 12th, 1999, correct?

A. Yes.

Q. Next we have a check, Ohio Mutual Insurance Group.

The date is 7-6-99. Pay to the order of Danny Chance, and R. Allen Sinclair, his attorney, $2500, full and final settlement of bodily injury.

A. Yes.

Q. You didn't look at this check in putting together your hypothesis, did you, sir?

A. I was not provided any of these, that's correct.

Q. Next there's a check from Allstate Insurance dated November 17th, 1999, in the amount of $2,571, dated 3-12-99, correct?

A. I see it on another date. I wasn't sure which one. 11-17.

Q. 11-17-99. You're correct.

A. Yes.

Q. Next there's a check from Presque Isle Insurance, payable to Andrew Chambers and R. Allen Sinclair, his attorney, in the amount of $2500, and the date is 12-14-1999, correct?

A. Yes.

Q. Next we have a check payable to Michelle McAuley and her attorney, R. Allen Sinclair, $2500, November 10th -- I'm sorry, that's the date of loss.

MR. SMITH: The check date is right below the check number.

Q. There we go. 12-7-1999. Correct?

A. I can't see it very well. I'm sure it is.
Q. 12-7-99. Can you see that? Here?
A. I can see the 12 and the 99. I couldn't see the 7 or 17.
Q. Do you see that now?
A. I see it. I'm still not sure if it's 7 or 17.
Q. But it's December of '99?
A. Yes, sir. Yes, sir.
Q. Okay. And finally one last check to show you -- what's the amount of that check?
A. $2500. Dated 4 -- it looks like 4-5-99.
Q. That's the date of the loss. It is dated December 9, 1999; is that correct?
A. Yes, sir.
Q. So now you've had a chance to look at one, two, three, four, five, six, seven, eight, nine, ten, ten $2500 checks which are lawyer's settlement fee checks in the amount of $2500 during 1999, correct?
A. That's correct.
Q. What does that do to your hypothesis that you presented to this jury that possibly there's some weird pattern going on here with Allen Sinclair making $2500 deposits to his IOLTA account?
A. Well, fortunately since you were able to get the documents, it resolved a hypothesis that had not been

solved by us, because we didn't have the checks available.
Q. So basically, based on these documents, what you testified to in your chart would pretty much be irrelevant, correct, in view of these checks?
A. Yes, sir, as far as the -- I'm sorry -- the deposits and the dates following the withdrawals.
Q. And one last thing. You said that the other thing that had caught your eye was that it was very unusual to you that as soon as Allen Sinclair stopped taking out $2500, the checks stopped, correct, or the deposits stopped, correct?
A. In the IOLTA for about a 20 or 22-month period ending in February of 2002.
Q. Well, we've already -- you've already testified that Allen Sinclair got his last check and took his last $2500 cash withdrawal on December 29th, 1999, correct?
A. Yes.
Q. And isn't it true, sir, that -- again, this is, Your Honor, Defendant's Exhibit HSL-1-F, which is one of the documents that you had when you prepared all of this, sir?
A. Yes.
Q. Isn't it true that on February 10th, 2000, Mr. Sinclair did, in fact, make a deposit in the amount of $2500?
A. That would have been -- is that on the IOLTA, sir?

Q. Yes.
A. Yes. That would have been at the very end there and been sometime in March or April that no more $2500 deposits were uncovered through to February of '02.
Q. Sir, this is a $2500 deposit two months after he'd stop taking the $2500 out of his checks, correct?
A. I said at some point after he started taking the $2500 out of his checks that the checks stopped. I never gave an exact date on when that happened. I'm saying that it ended in February of '02.
MR. MORFORD: May I have a moment, Your Honor?
THE COURT: Yes.
(Pause.)
MR. MORFORD: I have nothing further.
THE COURT: Thank you. Congressman?
REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON
BY MR. TRAFICANT:
Q. The prosecutor talked a lot about patterns. He talked a lot about hypothesis. Now let's talk about the hypotheses of this case. In your investigation, was there any corroboration that any of these checks that were written were actually investigated by the IRS or any other body?
MR. MORFORD: Objection as to relevance.

THE COURT: Sustained.

Q. After February 10th of 2000, up until what point did you find not one $2500 deposit?

A. It would have been either March or April of 2000. It was ending February of this year.

Q. So almost two years now, no $2500. Now, as an agent of the Secret Service, are you familiar with check kiting, sir?

A. Yes.

Q. Wouldn't a prudent investigator assure that these accounts were, in fact, documented by a corroborative investigation?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Well, how can you tell if, in fact, money is coming from one account, going to another, in hypotheses if you do not corroborate where the money ends up?

A. During the process of the hypotheses, many of them will not pan out because it's very difficult when you're monitoring multiple accounts.

Now, if it happened to be, for instance, in the Sinclair Vending account, there wasn't too much activity. In the other accounts, it was considerable activity. And to go through and plot day by day all of the various activities -- in other words, the hypothesis was based on a

presumption that perhaps somebody might actually redeposit the exact amount of money.

When you start extrapolating the possibilities of redepositing $2500, if that would have been the case, you can go through multiples of many, many numbers, such as combining $300 in cash with an X amount of legitimate deposit. It's a mind-boggling process. So we started with the simplest to look for that possibility.

The other possibilities are virtually endless even with a database. It takes a lot of time and a lot of searching to find that pattern of moving money around.

Q. But would you agree that all of a sudden you have a pattern of $2500, and then bingo, almost two years no $2500?

A. I say it's an unusual pattern that has yet to be explained, why, in fact, they would -- why, in fact, they would stop. Could it be a coincidence that for a ten-month time period, that they were the $2500 --

THE COURT: Let's not get into hypotheticals.

THE WITNESS: Sorry, Your Honor.

MR. TRAFICANT: Excuse me. Your Honor, the whole questioning by the prosecution was on hypotheses. Now --

THE COURT: Congressman. Congressman. Excuse me. But the jury has to disregard this last part.

Q. Under your hypotheses, would you not verify the source of funds in an investigation?

MR. MORFORD: Objection.

THE COURT: He can answer that.

A. Yes.

Q. And what would be the purpose of attempting to verify the source of funds?

A. To corroborate any information that regards the distribution of those funds, to see if, in fact, the money is either coming or going as it is supposed to.

Q. Doesn't, in fact, now a hypothesis deal with motive?

A. Not particularly, but it certainly can, intent and motive and opportunity.

Q. Well, at some particular point we know that an attorney takes an oath. Isn't it a fact --

MR. MORFORD: Objection to the leading questions, Your Honor. He's now testifying.

THE COURT: Yes.

Q. Is an attorney who fails to report a crime committing a felony?

MR. MORFORD: Objection.

THE COURT: Excuse me. But you have to disregard this. This is not the witness to ask that question to.

Q. As a former treasury agent, would it be a crime --

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Would it certainly be grounds for further investigation, Mr. Robertson?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Do you know if there were any IRS investigators involved in any of this money transaction?

A. Yes.

MR. MORFORD: Objection unless he has firsthand knowledge, Your Honor.

THE COURT: Do you? Do you have some firsthand knowledge of that?

THE WITNESS: Your Honor, I'm not sure what firsthand knowledge would include.

THE COURT: Well, ask him questions at the next break and find out whether or not there was --

Q. Are you familiar with the fact that there was a summary IRS agent who testified in this trial?

A. Yes.

Q. What does a summary agent do?

MR. MORFORD: I'd like to find out how he knows, Your Honor.

THE COURT: How do you know that?

THE WITNESS: From a news story.

THE COURT: Okay.

THE WITNESS: And from -- I know it was a news story and probably also from a television report.

THE COURT: You see, the jury was able to actually hear the testimony, and so we're going to just leave it to the jury who heard the testimony and not bring in media reports through this witness.

Q. Now, did you have knowledge after reviewing the documents submitted to you in this case as requested that there was supposedly money transferred between myself and Mr. Sinclair?

A. In the indictment? Yes.

Q. No. In any documents that were presented to you for your investigational purposes.

A. Yes, sir.

Q. And do you know if there was any action taken relative to the investigation to memorialize any admissions?

MR. MORFORD: Objection. This is all going to out-of-court hearsay.

THE COURT: Are you talking about his investigation?

MR. TRAFICANT: His investigation and the hypothesis of his investigation.

THE COURT: Of his investigation?

MR. TRAFICANT: Yes.

A. Would you rephrase that or ask me again, sir?

Q. Under the hypothesis that we've been discussing, finding only oral testimony backed up by checks and the pattern of checks, would not the hypothesis lead one to attempt to memorialize either an admission by the defendant or some corroborative evidence?

MR. MORFORD: Objection.

THE COURT: I object to this. I don't understand where we're going, Congressman. This is a witness you have on the stand and he's been able to testify to a good number of things.

Q. As a Secret Service agent, after having reviewed this case, would you have presented it to a United States Attorney?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Now, the prosecutor was talking to you an awful lot about DiBlasio, is that correct?

A. There were some questions, yes, sir.

Q. Was DiBlasio a focus of the '98-'99 investigation?

A. No, sir.

THE COURT: Is that something you know of your own personal knowledge?

THE WITNESS: I know from review of documents

and --

THE COURT: Well, you see, we have evidence that's been presented in the case, so we'll rely on that. And the jury was here for that. You weren't involved in that investigation, right?

THE WITNESS: No, ma'am. No, Your Honor.

THE COURT: Thank you.

Q. Mr. Robertson, did you conduct an investigation relative to the activities of '98 and '99 concerning this case?

A. Yes, sir.

Q. And in reviewing that, did you look at the 1-24 FBI report 302 of Mr. Sinclair as being interviewed by the FBI?

A. Yes, sir.

Q. Did you have grand jury testimony of Mr. Sinclair?

A. Yes, sir.

Q. Were you aware that he had already been suspended for one year --

MR. MORFORD: Objection.

THE COURT: We went through this this morning.

Q. Are you familiar with the tactics of investigatory procedures?

A. Yes, sir.

Q. Now, on the hypotheses as a treasury agent, on a

money trail, what would be the most important thing that you would attempt to verify?

MR. MORFORD: Objection as to relevance, Your Honor. He can testify as to what he's done, but as to what somebody else should have done, it's not relevant.

THE COURT: That, and the fact that this witness is not in the position or you haven't shown him to be in a position to do any of those things, and the further fact it's not really relevant to this case.

Q. Did you do a thorough investigation in the 1998 and 1999 activities regarding 11 Overhill Road?

A. I worked with what I had available, and it was strictly based on paper. There was no outside investigation conducted by me.

Q. Do you know if there was any other outside investigation involving this case at all?

A. No, sir.

Q. Now, is that an unusual pattern?

MR. MORFORD: Objection.

THE COURT: Well, was the answer no, I don't remember, or no, there was no other -- no outside investigation? Which one did you mean?

THE WITNESS: On my part, there was no outside investigation.

THE COURT: Okay. So you made no other

outside investigation. Okay. Thank you.
Q. Do you have any knowledge that there was any outside investigation performed by the government regarding 11 Overhill Road and KAS Enterprises?
MR. MORFORD: Objection.
THE COURT: The objection is sustained.
Q. As a former treasury agent, what do the summarizers do?
A. A summarizer?
Q. Yes.
A. Usually, for the lack of a better word, to analyze data that's been compiled and to make it in a usable, manageable format for consumption by whoever is interested in reading it or hearing about it.
Q. Would it be your testimony that they add and subtract?
MR. MORFORD: Objection.
THE COURT: Well, he just testified as to what it was.
Q. Would it be, in fact, that this person would simply add or subtract that which was given to him?
MR. MORFORD: Objection to what they do in other cases, Your Honor. It has no relevance to this case.
THE COURT: All right.
Q. We're talking about summaries. Are you familiar with

summarist agents?

THE COURT: There are all kinds of things that can be summarized, Congressman. Let's talk about his expertise.

Q. To your expertise, did the treasury agents have a summarist specialist?

MR. MORFORD: Objection.

MR. TRAFICANT: I object to their objection.

THE COURT: Just rephrase what you're looking for. Remembering who you have on the stand here.

Q. As a treasury agent, what was the sole purpose of someone who did a summary chart in any of your cases that you had knowledge of?

MR. MORFORD: Objection to what relevance that has to this case, Your Honor.

THE COURT: I don't think we had a treasury agent, so to speak here. I don't know really what you're asking him to describe. If you want to know what he did in his cases, that's not going to help us in this case, Congressman.

Q. Mr. Robertson, is this a money trial?

A. Yes, sir.

Q. Have you seen through any documents you received any money investigation other than charts?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. As a result of having received documents subject to subpoena, subject from the bank, and grand jury testimony, have you been able to see or identify any outside corroboration of witness testimony?

MR. MORFORD: Objection without laying a foundation that he's watched all the witnesses and looked at all the documents.

THE COURT: Right.

Q. Have you read the testimony of Allen Sinclair?

A. Yes.

Q. And you are familiar, there was a summary agent that was brought in by the government?

A. Yes.

Q. Through all the documents that you received, was there any other money investigator that offered evidence in this case?

MR. MORFORD: Objection, Your Honor. This is all argument that can be made to the jury, but not through this witness.

THE COURT: Yes. You can talk to the jury about that yourself in closing argument as long as you're talking about the evidence in the case, but unless this man -- well, it wouldn't even work if he'd been here every day and heard all the testimony because he's not on the

jury and he hasn't seen the evidence.
Q. Now, you were asked by the prosecutor if you wanted to give me a hand. Is that correct?
A. Something to that effect, yes, sir.
Q. What was it that caught your attention that wanted you to look into this matter?
A. The fact that the evidence appeared to be testimony and not corroborative physical evidence.
MR. MORFORD: Objection to his opinion on that, Your Honor. Again, this goes to argument. We'll have a chance to do that.
THE COURT: Right.
MR. TRAFICANT: I object to that.
THE COURT: Well, I know, but you were basing that on what at the time that you made that decision? What were you basing that decision on?
THE WITNESS: On information that I had heard from other sources, such as Associated Press, the Internet.
THE COURT: Okay. So you've gone to outside sources to decide that.
THE WITNESS: Yes.
THE COURT: All right. The objection is sustained.
Q. After you had heard of such matters, did you inquire and request specific documents to pursue your concerns?

MR. MORFORD: Objection. This is what he went over on his direct exam. This is just replowing the same fields.

THE COURT: Sustained.

Q. Why did you use the term "veracity"?

A. In relation to a witness or a source.

Q. What is a source?

A. A source is also known as an informant.

Q. What are they known as on the street?

MR. MORFORD: Objection.

THE COURT: Well, you can answer if you know some of those words people use on the street.

A. There are numerous terms. Probably the most popular would be a snitch.

Q. Do you know from 302s if Mr. Sinclair was a source in this trial?

MR. MORFORD: Objection. Again, Your Honor, this goes to hearsay, his opinion, relevance.

THE COURT: The objection is sustained.

Q. How much are you being paid for your assistance?

A. $1.

Q. Would not that in itself express your concern relative to physical evidence?

THE COURT: That might be something you want to discuss in closing argument, Congressman.

Q. Let me ask you this: In all of the investigation that you did regarding your requests, did you find any corroboration of physical evidence?

A. No.

Q. Do you find that an unusual pattern?

MR. MORFORD: Objection, because he said he had a short time to work. This is irrelevant --

THE COURT: You'll be able to cross-examine him. Go ahead.

MR. TRAFICANT: I object to these objectionable objectors.

THE COURT: Thank you, Congressman. It's mid afternoon. Let's move along. You have more questions of him. Would you ask the questions?

MR. TRAFICANT: Would the court reporter please repeat my question that has been objected to repeatedly?

(Record read.)

A. I find it inadequate.

Q. What was inadequate?

A. Relying --

MR. MORFORD: Objection to his opinion, Your Honor.

THE COURT: No.

Q. What was the --

THE COURT: This is not the proper evidence to put in front of this jury. The jury has to decide the quantity and quality of the evidence as adduced in this case. So far we're off on some kind of a side trip with this gentleman's opinion based on news reports and TV and other things, in an earnest desire to assist.

Now, let's move on and get the information that he has that is valuable to the jury because it is evidentiary.

Q. Mr. Robertson, were you asked a series of questions about hypothetical situations in this case by the prosecutor?

A. Yes.

Q. Did he not seek a hypothesis that was not objected to by the defendant?

A. I don't recall any objections by the defendant.

Q. Now, in pursuing your hypothesis, do you not look at motive --

MR. MORFORD: Your Honor, can I ask what hypothesis he's talking about?

THE COURT: Yes. I don't understand which hypothesis either of you are talking about.

Which hypothesis are you talking about, sir?

THE WITNESS: I'm using the term literally, actually to form the basis for a theory or an approach.

THE COURT: In a scientific way?

THE WITNESS: Yes. For any investigation.
THE COURT: Okay.
THE WITNESS: For any case.
Q. Did you find a hypothesis that supported a scientific base to develop a conclusion?
A. Sir, did I find one that was suitable or did I find one that had been executed?
Q. Did you find one suitable?
A. For my use?
Q. Yes.
A. To the extent possible. There wasn't a lot of time spent on it because we weren't going to have time to follow through on an external extension of an investigation other than the -- mainly the paper trail.
Q. But in the examination that you made, were you satisfied with the execution of, in fact, the investigation that was conducted?
MR. MORFORD: Objection.
THE COURT: Well, he can answer if he's satisfied.
MR. MORFORD: His opinion of this investigation?
THE COURT: Let's let him answer. Then we can move along.
Q. Were you satisfied with the execution of the

investigation that was conducted?
A. Based on my --
THE COURT: By you, right? The investigation he conducted. Is that what you're talking about?
MR. MORFORD: He's talking about ours.
THE COURT: Congressman, which investigation?
Q. Based on the investigation that you conducted, did you find it a suitable investigation that was conducted in this case?
THE COURT: Oh. No. We've already ruled he can't testify about that because he doesn't have a basis on which to testify.
Q. Was there a difference of opinion as to the amounts of money owed between Mr. DiBlasio and Mr. Sinclair?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Do you know if there were any audits performed in this investigation?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. As a treasury agent, was Kimberly Ann Sinclair my employee from your experience?
MR. MORFORD: Objection. What does that have to do with him being a treasury agent?
THE COURT: Sustained.

Q. Was Allen Sinclair my employee?

MR. MORFORD: Objection unless --

THE COURT: Sustained.

Q. Must an individual report the commission of a crime?

MR. MORFORD: Objection.

THE COURT: Sustained. We've been over that quite a few times.

Q. What graphic evidence in your examination did the government produce?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Did you look at all elements of the Sinclair account?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Do you find that your questioning is being sustained quite often?

THE COURT: It is not up to him, Congressman --

Q. Let me ask you this: No matter where the money is coming from -- the horse is running the mile, okay, in 120. Then all of a sudden ten months later he runs the mile in 2 minutes. Is that an unusual pattern?

THE COURT: You know what? You've just seen a part of closing argument long before we have all the evidence on in the case. Congressman, let's move along.

Q. Did you look for any evidence when you examined the 1998-99 accounts of Sinclair?
A. What sort of evidence?
Q. Physical evidence.
A. I wasn't in a position to find physical evidence other than paper trail, which doesn't really suffice to corroborate what you're seeing on the paper.
Q. So you saw a paper trail; is that correct?
A. I saw possible paper trails.
Q. On five accounts?
A. Mainly on four, but yes. There was an anomaly or unusual deposits on the vending account, but it was minimal.
Q. So after a certain period of time it seemed that clients just didn't seem to pay $2500 settlements. Is that your testimony?
MR. MORFORD: Objection.
THE COURT: That's a statement. That's a statement. That's not a question.
MR. TRAFICANT: I asked if that was his testimony.
MR. MORFORD: It's also been asked and answered. It's leading.
THE COURT: Congressman, move along.
Q. As a treasury agent, isn't it a fact that an attorney

is the toughest to investigate?

MR. MORFORD: Objection as to relevance to this case.

THE COURT: Sustained.

Q. Now, after the last $2500 deposit, how many months went by when there were no more $2500 deposits?

THE COURT: We've been over and over that.

Q. Under the theory of a hypothesis, would you not delegate any and all deposits that would add up to $2500?

A. Depending on time and resources, you would probably want to validate deposits over $2500, also.

Q. On the January 24th 302, isn't it a fact that Mr. Sinclair failed to comment --

MR. MORFORD: Objection. This is asked and answered in his direct.

THE COURT: We went through it in the first round of direct.

Q. Was he quoted as having said --

THE COURT: Congressman, Congressman. Let's move to something new here.

Q. What is the basis for forming a hypothesis in an investigation?

MR. MORFORD: Objection. This has been asked and answered.

THE COURT: Sustained.

Q. Don't you find the objections to be a pain in the assets?

A. Do you want to rephrase that?

Q. As an investigator, was this a properly corroborated investigation?

THE COURT: The objection is sustained.

Q. When was your last year, did you say, of working as a treasury agent?

A. I believe it was the end of 1987 or early 1988.

Q. Did you instruct at any schools or seminars?

A. I was an instructor at the Secret Service Training Academy for two years.

Q. And where was that located?

A. In Washington, D.C.

Q. Did they highlight any specific cases of fraud and money handling?

A. It was a basic agent training course, and they would cover all the requirements needed for both, you know, conducting criminal investigations and the other requirements for the agents to fulfill their roles as agents, including, of course, investigation.

Q. Is that when they asked to recruit you into the criminal division?

A. This is several years before that.

Q. Now, when you talk about the wiretaps, were you asked

to ever share your methodologies at these seminars relative to wiretaps?

A. Both wiretaps and investigative techniques. The Secret Service was getting into these new types of frauds in the -- by this time in the early '80s, as was the FBI getting involved in these types of crimes, so there had to be some adjustment, some adaptation to techniques.

Q. Did treasury agents work with FBI agents?

A. Yes.

Q. Was it a common practice to attempt to memorialize the admissions of a particular target?

THE COURT: Are we talking about 22 years ago?

MR. TRAFICANT: We're talking about investigations, Your Honor.

THE COURT: Okay. But you had him back 22-some years ago when he was training Secret Service agents. Let's keep the time up front so we know what we're talking about.

Q. Let's come up to the present. Do you now serve on the other side of the aisle?

A. In the defense side?

Q. Yes.

A. On occasion.

Q. And you also serve on the government side?

A. Yes.
Q. So your skills are utilized by both sides of the government?
A. I just finished an assignment overseeing -- I was serving as the compliance officer appointed by the bankruptcy court in St. Louis to oversee a telemarketing, fraudulent telemarketing operation for about three years, to make sure they complied with the government requirements.
Q. And has the process of investigatory procedures, including wiretaps, have they changed over the last 17 years or have they become more important?
A. Technology has changed everything, of course, and it has to some extent made electronic eavesdropping, Title IIIs, legitimate access to, you know, other people's conversations, and videos, has been easier, and investigative styles, of course, are tweaked as progress is made in the technology fields.
Q. Would you agree then that the electronic surveillance and technology is greater today than ever?
MR. MORFORD: Objection. Leading --
THE COURT: Sustained.
MR. MORFORD: Relevance.
THE COURT: Sustained.
Q. Is it your impression that today electronic

surveillance is so prevalent that it is utilized in nearly all cases to corroborate evidence?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Now, in your own investigation, and in any investigation you conducted, when you questioned the veracity of a witness --

MR. MORFORD: Objection. It has no relevance to this case, Your Honor.

THE COURT: Sustained.

Q. Did you ever have any question of the veracity of a witness in this case?

THE COURT: Congressman, the jury has the responsibility of deciding that issue.

Q. Did you do any study of my income, cash income?

A. Only through the documentation provided by the government, which I am sure was accurate and complete.

Q. So you're not familiar with the source of any of where that cash came from either, are you?

MR. MORFORD: What cash?

THE COURT: What cash?

Q. That the government has, in fact, stated through their Government Exhibits.

THE COURT: Are you talking about this one exhibit?

A. If we are referring to Exhibit 1-27-1 --
Q. Yes.
A. Reflecting the cash deposits of James A. Traficant.
Q. They said it was $26,600. Is that the one?
A. Yes, sir.
Q. I'm trying to find it. Can I have your -- may I borrow yours, gentlemen?
MR. SMITH: It's up there.
Q. I'll put this on the screen for you. What is the first date you see?
A. 19 September 1995.
Q. Why did we start in '95?
A. I didn't make the chart. I don't know, sir.
Q. So you considered the year '95 to be a part of their exhibit?
THE COURT: It is on their exhibit, sir. This witness is not in a position to decide that.
MR. TRAFICANT: He can see.
THE COURT: It's a Government Exhibit.
MR. TRAFICANT: He's already been cross-examined, and I'm attempting to do the same.
Q. Is there a 1995 deposit listed?
A. Yes, sir.
Q. Would you have any knowledge if there were any other '95 deposits made?

A. I didn't do any independent verification on any of these documents other than what I was provided.
Q. Now, does it not end in November of '99?
A. Yes, sir.
Q. How many years are we talking about here?
A. Four years and three months, thereabouts.
Q. 51 months?
A. Yes.
Q. Now, if it was a thousand dollars a month, how much would it be?
A. $51,000.
Q. How much is it?
A. A little to the right, please. 26,600.
Q. Now, is that unusual?
A. I'm not sure what you mean.
Q. Doesn't that average out to less than $500 a month?
A. Taking the full time of 51 months, yes, sir, it does.
Q. Now, do you pay taxes, sir?
A. Yes, sir.
Q. And do they come up twice a year?
A. Yes, sir.
Q. And are property taxes something you must pay?
A. Yes, sir.
Q. So in a period of four years, there would be at least eight cycles of property taxes, would there not?

THE COURT: For him?

MR. TRAFICANT: For anyone.

THE COURT: Well --

MR. MORFORD: Objection. For a lot of reasons, including he's testifying again.

Q. Do you pay property taxes?

THE COURT: But Congressman, whether or not he pays property taxes is not an issue in this case.

MR. TRAFICANT: I think it deals with hypothesis, and I'd like to pursue this.

THE COURT: I'm sorry, but you won't be able to pursue that. His tax matters are not germane to what we're doing here.

What is written on the bottom here, Congressman?

Q. Let me ask you this: Does this $26,600 over 51 months differ very much from the 24 months of $485?

A. If we're talking about the time frame, not the entries, but the time frame from the beginning of the first entry in '95 through November of '99, you're talking about fairly equal -- a fairly equal time frame, and very close to the same dollar amount.

Q. Is $485 a month to a treasury agent an unusual pattern of cash deposits?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Did it strike your concern that someone would need five separate accounts?

MR. MORFORD: Objection.

THE COURT: Sustained.

Congressman, it is 3:30. We need to give the jury a break sometime this afternoon. Is this a good time?

MR. TRAFICANT: I second that. I still have more questions, and I'd be glad to take the break. Thank you.

THE COURT: Okay. 20 minutes.

THE CLERK: All rise for the jury.

(Jury out at 3:35 p.m.)

(Recess had.)

(Jury in at 3:55 p.m.)

THE COURT: You are still under oath.

THE WITNESS: Yes, Your Honor.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. Do you remember when the government, the prosecutor questioned you about this pro bono examination?

A. Yes, sir.

Q. What made you take this case on as a pro bono assignment?

A. When I realized there was no physical evidence being presented against you.

MR. MORFORD: Objection.

THE COURT: All right. Unfortunately, sir, you haven't been here for -- we are in the eighth, ninth week.

A JUROR: Tenth.

THE COURT: So this, again, is based on what you read in the papers or television?

THE WITNESS: Yes, what I've heard.

THE COURT: Thank you.

Q. Are you familiar if this is a criminal trial?

A. Yes.

Q. Are you familiar with the burden of proof?

A. Yes, sir.

MR. MORFORD: Objection.

THE COURT: And the Court instructs on the burden of proof, not the witness.

Q. Are you familiar with the differences between a misdemeanor and a felony?

MR. MORFORD: Objection.

THE COURT: The objection is sustained.

Q. Did you get a chance to review the grand jury -- the summary analysis that was given by the IRS agent in this case?

A. No, sir.

Q. What have you seen from the government other than

paper documents that were subject to summary?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Now, you say you dealt with credit card fraud, is that right?

A. Did I investigate those?

Q. Yes.

A. Yes, sir.

Q. And you are familiar with the many different ways to launder and manipulate money?

A. Several of them, yes, sir.

Q. Would it not be a prudent question to ask if this case would require a thorough analysis of that type of investigation?

MR. MORFORD: Objection.

THE COURT: This is not a credit card fraud case.

Q. Does Sinclair Vending do a lot of business?

MR. MORFORD: Objection, unless he has firsthand knowledge.

THE COURT: Maybe you do.

THE WITNESS: From review of bank records.

THE COURT: Okay. He has his review of bank records. He can testify to that.

Q. Does Sinclair Vending do a lot of business?

A. Relatively speaking, no.
Q. Do you derive checks from vending businesses or do you derive cash?
A. The vast majority of income would be from the machines, which would be cash and coin.
MR. TRAFICANT: No further questions.
MR. MORFORD: Nothing, Your Honor.
THE COURT: Thank you, sir. You can step down.
THE WITNESS: Thank you, Your Honor.
THE COURT: Mind the stairs. They're not normal; they're curved.
MR. TRAFICANT: I only have one more witness. Robert Barlow I'm calling.
THE COURT: Okay. Who are you calling, sir?
MR. TRAFICANT: Robert Barlow. Ernestine?
MR. MORFORD: He already testified and he's already been tendered.
THE COURT: We have had Barlow.
MR. TRAFICANT: It's a different matter.
THE COURT: When did this matter come to your attention?
MR. TRAFICANT: No. I had him retrieve some public documents for me that I want to introduce into evidence, and I have the right to, in fact, call this

witness and recall any of my witnesses.

MR. MORFORD: Not true.

THE COURT: Well, if something new has happened --

MR. TRAFICANT: It is new.

THE COURT: You might have a right, but if he's just going to come in as a custodian of records, you have to establish he has something to do with them.

MR. TRAFICANT: I am going to do that.

MR. MORFORD: Your Honor, if these are public records, they can be certified. If they're certified, we'll stipulate to them. There is no need for a witness to testify about them.

MR. TRAFICANT: This is my last witness. I want him to come in and testify on this document.

THE COURT: Well, he would need to have some -- I mean, first of all, certification is an easy process in order to get public documents before the Court.

Let the other side look at these documents.

MR. TRAFICANT: I'm letting him look at them.

THE COURT: Maybe they'll stipulate to them if they were properly certified.

MR. TRAFICANT: I don't want them stipulated to.

THE COURT: This witness is in no better

position to do this than anyone else. You've already called him in the case, and his testimony has been concluded.

Relax a minute and let him see what they are, and I'd like to see what they are, the documents.

MR. TRAFICANT: I'll let you see my copy.

THE COURT: That would be fine.

MR. TRAFICANT: The official documents that I want placed on the record. I asked this fellow to obtain it through the proper sources.

THE COURT: Okay.

MR. MORFORD: Your Honor, rather than waste the Court and the jury's time, we'll stipulate to the authenticity of this document. It's certified.

THE COURT: It appears to be certified, sir.

MR. TRAFICANT: I had it certified and I want it testified to. There's elements to it that I want brought out that are different, in fact, than what has been testified to here in this courtroom, and I call Bob Barlow. Ernestine?

MR. MORFORD: Your Honor, can we discuss this outside the jury's presence? Because the rule is unless there's something new --

THE COURT: We're going to discuss it. Congressman?

MR. TRAFICANT: Would you get Bob Barlow for me?

THE COURT: I'll just release the jury for the day, and we'll discuss it after they're gone so that we have an opportunity to find out why it would be appropriate for this particular gentleman to testify to records that are certified.

In any event, the records can come in; is that correct?

MR. MORFORD: Yes.

THE COURT: So there's no issue about the records coming in.

Ladies and Gentlemen, we're going to release you for the day and have you back at 9:00 tomorrow morning, and remember all your admonitions. Don't listen to anything, read anything, or otherwise have anybody talk to you or get you involved in this case. Just enjoy the beautiful day we're having. Have a nice trip.

THE CLERK: All rise for the jury.

THE COURT: We'll wait for the jury to leave.

(Jury out at 4:03 p.m.).

MR. TRAFICANT: Are you going to do this outside the presence of the jury, have a witness take the stand again for me?

THE COURT: Not necessarily. What we're

going to do -- let the jury go through.

THE CLERK: All rise for the jury

(Pause.)

THE COURT: I don't want to handle this kind of objection in front of jury because it taints the process potentially for them, and so since it is almost time for them to go home anyway, I thought it would be best to let them go. And now you can discuss what it is, the reason why you wish to recall this witness who you had on the stand.

MR. TRAFICANT: I had him pick up a mortgage for $276,000 for Mr. Sinclair, and I thought it was completely appropriate the jury should hear it, and I object to the fact that you completely deny me the opportunity to examine witnesses.

THE COURT: All we have to know is why you need this particular witness --

MR. TRAFICANT: Because he picked up the documents for me, and I want it admitted into evidence. The mortgage is $276,000.

THE COURT: Well, the documents can certainly go into evidence. There's no question about that. They're certified public records.

MR. TRAFICANT: But the jury does not get a chance to hear them and I think you are giving the

prosecutor an opportunity to let the jury hear his side, but not necessarily hear my side, and I object for the record.

But in any regard --

THE COURT: Well, wait, wait, Congressman. There may be something about this particular transaction that you can bring a witness who was involved in the transaction in before the Court, and maybe this gentleman is the right one. We just don't know that. And having this argument in front of the jury is not proper.

MR. TRAFICANT: Well, the bottom line, let me respond --

THE COURT: Who is involved in the transaction? I don't know who it is.

MR. TRAFICANT: I simply had him go to the Mahoning County Recorder's Office and have authenticated the mortgage and supporting documentation of a mortgage of $276,000 for Mr. Sinclair.

THE COURT: Well, then call Mr. Sinclair. He can talk about it.

MR. TRAFICANT: I think I can authenticate this through my witness. Why do I have to call Sinclair? They can call Sinclair.

THE COURT: It doesn't need to be authenticated. It is a public record. It is

authenticated.

MR. MORFORD: Your Honor, he already questioned Mr. Sinclair about the fact that he bought a house. He questioned him about the price; he questioned him about the mortgage. He now wants to put the document in. We said we have no objection. The document does come in.

And this witness knows nothing about this document other than the fact --

THE COURT: The problem is really matching the witness to what it is you want him to testify to.

MR. TRAFICANT: Hear me. He testified he bought a house for $275,000.

I have a document that says he has a mortgage for $276,000. I don't know anybody that gets a hundred percent mortgage.

THE COURT: Bring him in here if you want him to testify to it.

MR. TRAFICANT: That's their witness. I've got a man here just to bring in the document. And I wanted the jury to hear the document.

THE COURT: The document is here. The document is in evidence. You don't have to worry about the document.

MR. MORFORD: And his testimony was in answer

to Congressman Traficant's questions, and he's already gone over that. He had that opportunity. He can argue it in closing.

MR. TRAFICANT: In any regards then, I assume that the prosecutor will then not object and will stipulate to the admission in evidence of Defense Exhibit B-O-B, in its entirety, which on page 2 states, line D, February 11th, 2002, the note states, "The borrower owes lender $276,000."

THE COURT: That's the mortgage.

MR. TRAFICANT: Yes.

MR. MORFORD: Yes, we will stipulate to that.

MR. TRAFICANT: Is that admitted into evidence? I have more, Your Honor.

THE COURT: This is a good time to do evidence. Okay. That will be admitted.

MR. TRAFICANT: Number one, the corporate resolution that designated the first one, it was signed simply by Raymond A. Sinclair, dated November 30, 1998, a corporate resolution designating, known as Defense Exhibit HSL-10-B --

THE COURT: Okay. You'll just show each one of these to the other side. Then we'll be able to see what it is that their concerns may be.

MR. MORFORD: I thought that was 1-D-B.

MR. TRAFICANT: Whatever you want to make it.

MR. MORFORD: I don't want to make it. It's your exhibit. I'm just asking you.

MR. TRAFICANT: We'll make it 10-B.

MR. MORFORD: But I don't think that's how it was referred to.

MR. TRAFICANT: Then we'll make it 1-D-B.

THE COURT: Okay.

MR. TRAFICANT: The second one is a corporate resolution.

THE COURT: We have it as 10-B. So let's try to get this straight.

MR. TRAFICANT: Let's go 10-B.

THE COURT: 10-B. Everybody agree?

MR. TRAFICANT: That has a ring to it.

THE COURT: 10-B.

MR. TRAFICANT: The next --

THE COURT: Sounds like home room.

MR. TRAFICANT: The second one is a corporate resolution designating officers authorized to sign for a corporation known as KAS Enterprises. This one was December 15. It carried the signatures of both R. Allen Sinclair and Kimberly Ann Sinclair. That would be HSL-10-A.

MR. MORFORD: No objection.

THE COURT: That will be admitted.

MR. TRAFICANT: The next one would be the survey performed on the boat as testified by Mr. Al Lange, and from the Virginia Marine Institute, known as Defense Exhibit AL-101.

MR. MORFORD: I believe that's already in evidence.

MR. TRAFICANT: If it is, give me the number.

MR. SMITH: We have it as being in.

MR. TRAFICANT: Then it is a Joint Exhibit?

MR. SMITH: No.

THE COURT: AL-101, it's a defense exhibit, and it's in evidence already.

MR. TRAFICANT: Okay. They said they had it in as well.

MR. MORFORD: No.

MR. SMITH: We had it that the Congressman had previously had that document admitted into evidence.

THE COURT: Right. It's in.

MR. TRAFICANT: It's in as evidence.

THE COURT: Yes, it's in.

MR. TRAFICANT: Well, you know -- it's no walk in the park around here.

THE COURT: That's all right.

MR. TRAFICANT: The next one, Defense Exhibit

MC-100, a letter from Mark Steven Colucci to the Sugar family. It was testified to February 11th, 2000, relative to fees.

MR. MORFORD: No objection.

MR. TRAFICANT: That's Defense Exhibit MC-100. The next one is Defense Exhibit S-903, which deals with KAS Enterprises and Ohio Secretary of State information as testified to by Mr. Robertson on direct.

THE COURT: MC-100 will be admitted.

MR. TRAFICANT: Thank you. The next one was Defense Exhibit S-903. It is brought in by Mr. Robertson from the Ohio Secretary of State, business services queries relative to KAS Enterprises and its activities, and its package therein.

MR. MORFORD: No objection.

MR. TRAFICANT: The next exhibit will be Defense Exhibit S-904, which would be the following year.

MR. MORFORD: No objection.

MR. TRAFICANT: Relative to the same matter with the Ohio Secretary of State.

I now move into evidence Defense Exhibit S-27, the Federal Bureau of Investigation 302 dated 1-24-2000.

MR. MORFORD: Objection. Hearsay.

MR. TRAFICANT: It's been testified by the federal government, and all witnesses, and corroborated for

its veracity.

THE COURT: Not in terms of the admission of that document into evidence. It's a hearsay document.

MR. TRAFICANT: It was read into evidence.

THE COURT: Well, not the entire document.

MR. TRAFICANT: I believe --

THE COURT: There is testimony regarding this 302 that's been elicited, and that's evidence in the case, but in terms of the document itself, it's like any other hearsay --

MR. TRAFICANT: Agent Bushner --

THE COURT: If you can show it is an exception to the hearsay rule or it's not hearsay, you can bring it in.

MR. TRAFICANT: It is not hearsay because Agent Bushner testified to it, and Agent Bushner confirmed it, and he wrote it. He was the author and admitted having written it. And he was extensively examined and cross-examined.

THE COURT: Okay. Well --

MR. TRAFICANT: How can it be hearsay if it is the author of the document who has presented it and they presented him in court to testify to it?

THE COURT: I will go back and review his testimony, and I have no trouble doing that, and we'll look

at it. So you'll have to hear about that one in the morning. I can't do that right now.

MR. TRAFICANT: I would like to have the Defense Exhibit --

THE COURT: S-903 and S-904 will be admitted.

MR. TRAFICANT: -- Defense Exhibit HSF-G, which is Sinclair Vending, admitted into evidence.

THE COURT: Just hand it over to the --

MR. TRAFICANT: They have a copy of it.

THE COURT: -- government.

MR. SMITH: Make sure there's nothing else in it.

MR. MORFORD: I would object on relevance grounds, in that the only witness that I believe has testified about these documents is the last witness, who said he saw minimal activity and didn't do anything more with it.

MR. TRAFICANT: No. So did the banker and so did Mr. Sinclair.

This now is a document that reflects the activities of Sinclair Vending Company, and I move that HS -- Defense Exhibit HSF-G be admitted.

THE COURT: Okay. I'll look at it tonight against the testimony of the bankers -- all the bankers, sir? Bankers -- both bankers?

MR. TRAFICANT: The bank, also Mr. Robertson, also Mr. Sinclair, admitted to Sinclair Vending.

MR. MORFORD: But not to these documents.

THE COURT: But it's the documents at issue that haven't been identified, I don't believe.

MR. TRAFICANT: These were, in fact, discussed with Mr. Robertson.

THE COURT: Okay. Well, there are always steps that have to be taken, and I'll just go through this and see whether the steps were taken in this case. But I have to review the testimony.

MR. TRAFICANT: We have established there were five separate accounts, and now Sinclair Vending was one of those accounts. It's been established to have minimal activity and the cash activity.

THE COURT: Right.

MR. TRAFICANT: It does speak to, in fact, elements of the case, and to leave Sinclair Vending out would deny the defendant an opportunity to establish upon closing argument motive, and having the jury not even be able to see these documents.

THE COURT: I'll just have to see who identified the document. Step one, that's the first step.

THE COURT: Anything further, Congressman?

MR. TRAFICANT: I think we have the -- I'd

like to offer into evidence, if it hasn't been offered in, due to a spring fancy, Defendant's Exhibit HSL-1-E. It may have been established, it is a number of checks to KAS Enterprises, 11 Overhill. They are utility checks and rent checks that have not been brought in by the government, that have been testified to by -- one was stricken, the one that was illegible.

MR. MORFORD: Can I see it?

THE COURT: Just let them look at it. When he was on the stand, I think you went through these with him.

MR. TRAFICANT: Yes, I did. I went over the screen with him.

MR. MORFORD: Your Honor, I have no objection to the actual checks except the last one, which was stricken as illegible, but I do have an objection to the fax from Mindy Davis or Mindy Davies to Congressman Traficant, saying "Please refer to the second page of documents" and whatnot. That's just a communication between the bank and him that would not be evidence.

THE COURT: But you don't have trouble with the checks.

MR. MORFORD: Correct.

MR. TRAFICANT: I ask the Mindy Davies memo be included because it was part of the subpoena, and it was

specifically asked relative to the joint account as to the ability of either/or without the permission of one another, and she did make reference to it in her own writing and did sign it.

MR. MORFORD: And I would object to this statement on this fax as hearsay. The records come in; the fax should not.

THE COURT: Well, first of all --

MR. TRAFICANT: Do you want to see it?

THE COURT: Let's just say that the records are coming in. That takes care of that part. And I'll look at the fax.

MR. TRAFICANT: Take a look at this. There's a specific request along with the subpoena.

THE COURT: Okay.

MR. TRAFICANT: And it has a specific response from a banker.

THE COURT: Okay. She was here several times.

MR. TRAFICANT: Yes. And she acknowledged that was hers.

MR. TRAFICANT: So I not only got the opinion from other outside sources, I also got it from the bank itself. And I wanted to include it in the record. It is a reasonable request.

THE COURT: I'm trying to find what it is she's referring to, because when she talks about a second page of documents within KAS Enterprises --

MR. TRAFICANT: That's already been admitted as a corporate resolution.

THE COURT: So it's not related to these --

MR. TRAFICANT: It is related to those checks and the corporate resolution.

THE COURT: Okay. We'll take the whole thing, Congressman. The whole thing can come in.

She did testify at one point to one of these. We can go back.

It may confuse the jury a little because it's not attached to the place where the corporate resolutions are.

MR. TRAFICANT: If the Court would prefer, I would reidentify the fax and put it on the corporate resolutions and carry that number that you brought in which was --

THE COURT: We can't really do that. I think that's already admitted, isn't it?

MR. MORFORD: Not only that, the fax header shows it was attached to these checks.

THE COURT: Okay.

MR. MORFORD: This is a business record.

THE COURT: We'll just leave it right there.

MR. TRAFICANT: Fine.

THE COURT: It's admitted.

MR. TRAFICANT: This is admitted?

THE COURT: Yes, it is admitted, the whole thing.

MR. TRAFICANT: Thank you. I also would like admitted Defense Exhibit EXP-1, March 2000, April 2000, accounts of R. Allen Sinclair into his 036 account. Defense Exhibit EXP-1.

MR. MORFORD: I would not object as to authenticity or hearsay. They're clearly business records, but they're not relevant. These are all checks that were written after Allen Sinclair had stopped kickbacks, and there has been nothing.

MR. TRAFICANT: After alleged kickbacks.

MR. MORFORD: There's nothing to put any relevant context to the documents.

MR. TRAFICANT: I think it speaks to the testimony brought forward by Mr. Robertson.

MR. MORFORD: But he has to have a relevant basis to put it into evidence.

MR. TRAFICANT: That is a relevant basis.

THE COURT: Just pass them right up here, Congressman, and I'll take a look at them.

MR. TRAFICANT: I'll do just that.

Now, not to interrupt Your Honor, but on Defense Exhibit HSL-1-E there was one illegible check, and it was agreed to be stricken by both parties.

THE COURT: Right.

MR. TRAFICANT: And I have removed it.

THE COURT: Thank you. I have to go back and look at Mr. Robertson's testimony. It will take a minute. You can keep going if you want to. I'm just running the screen.

MR. TRAFICANT: Pardon?

THE COURT: You can keep going if you want to.

MR. TRAFICANT: I thought you were looking at it.

THE COURT: Well, I'm just taking it back, and I don't know how to do it real quickly. There's a way, but I don't know what it is.

MR. TRAFICANT: I don't want you to do it quickly if it's in my favor.

THE COURT: But if you have some more exhibits, go ahead, because I can listen while I do this.

MR. TRAFICANT: Also Exhibit HSL, make it 10-C, it is a KAS Enterprises account dated 11-30-98, and it is an account number form listing Allen Sinclair's signature only, dated 11-30-98, an account agreement

combination, to further corroborate the corroborating resolution.

MR. MORFORD: Has it ever been shown to us?

MR. TRAFICANT: Yes. It has been shown to Mr. Robertson. And part of that testimony -- also, Defense Exhibit --

THE COURT: We don't have that as shown to any witness.

MR. MORFORD: I don't think it was.

MR. TRAFICANT: Your Honor, this is KAS, it's already been introduced as evidence. This is the supporting document that shows in its simple form how it was handled and how it was signed. To exclude it would be to deny that which you already brought in.

THE COURT: Well, but you never had anyone identify it. It was never shown to a witness.

MR. TRAFICANT: It was shown to this witness, and he identified all the KAS material. This was part of the KAS material, and he testified to the signatures and the differences of the signatures.

MR. MORFORD: I don't have a problem, Your Honor, with respect, again, to authenticity. This appears to be a bank record. My only question is relevance then, what is it relevant to. Just because somebody testifies about it doesn't make it relevant.

MR. TRAFICANT: It's additional documentation of the fact that on 11-30-98 there was a KAS started by the name -- under the name of R. Allen Sinclair, and then on 12-11-98 now it's R. Allen Sinclair and Kimberly Ann Sinclair.

It speaks to the two previous that were admitted, and also the lease that has been admitted under Joint Exhibit.

MR. MORFORD: On that grounds, we have no objection.

THE COURT: Okay. If they don't object, we'll let it in, but generally you have to have these things identified.

MR. TRAFICANT: This is Defense Exhibit HSL-1-D and HSL-1-HDC, D as in David.

MR. MORFORD: Your Honor, one of the problems we're having is Congressman Traficant is giving us bulk stuff and then he's marking pages, and later we don't know what the pages are to mark them.

What I'd ask is he give us copies of these things he's now putting in, because to try to find them in this big bulk of stuff and then figure out if it's the same --

THE COURT: Right. If you give them a number, then we'll try and find them.

MR. TRAFICANT: Yes, I will. Your Honor, let me say this: I received a bunch of documents I've yet to

look through just thrown into boxes, and it would take me three months to sort out. I've tried to be as practical as I could with my submission of evidence, and I will continue to do so.

THE COURT: Thank you.

MR. TRAFICANT: I also ask now that you move for mistrial and place all three attorneys in jail, place them in custody, and bind them to a chain link fence, and have them flogged.

THE COURT: It is really getting late in the afternoon, Congressman. I don't think I can find this business in the record that you're asking for, but I'll keep this along with the other things I have to look at tonight, the ones of the checks after February 22nd. Okay? I'm just not able to find --

MR. TRAFICANT: Your Honor, those were the testimony relative to at some point a behavior change occurred.

THE COURT: Right.

MR. TRAFICANT: And they were brought on the screen and brought to the attention of the examiner who was hypothetically able to answer the questions of the prosecutor, but not able to author hypotheses to my questions.

THE COURT: Do you have any more exhibits to

offer tonight?

MR. TRAFICANT: I'm looking. I am looking. I find myself wanting.

THE COURT: Okay.

MR. SMITH: Your Honor, the government has two while the Congressman looks.

THE COURT: Okay.

MR. SMITH: First of all, Exhibit 1-50, which is a summary chart offered under Rule 1006, done by Witness Robertson this afternoon, summarizing certain aspects of I believe it was HSL-F, which is a pretty thick stack of documents.

We offer --

MR. TRAFICANT: Make it a Joint Exhibit.

THE COURT: Okay.

MR. SMITH: And --

THE COURT: It will be admitted as a Joint Exhibit.

MR. SMITH: And also Exhibit 1-51, Your Honor, which was the series of checks shown to Mr. Robertson having to do with his chart and, you know, demonstrating that the $2500 deposits on his chart actually were explained by deposits of checks. And with respect to those checks, we've obtained at lunch time, because this was surprise testimony on direct, we did get a certificate

of authenticity from the Sinclair law firm with respect to those checks, if the Court wishes to see it.

MR. TRAFICANT: Offer them as a Joint Exhibit.

THE COURT: Okay. They'll be admitted as a Joint Exhibit.

MR. SMITH: And 1-50 and 1-51, that's all we have to offer today, Your Honor.

THE COURT: Okay. What do you say, Congressman, do you have some more there?

MR. TRAFICANT: I'm finished.

THE COURT: Okay. I anticipate being able to rule today on your motion regarding defense witnesses Johnson, Terlecky, and Kovachik. I got a lot of work done on it, I didn't quite finish it. I will try to get that out this evening.

Anything else?

MR. TRAFICANT: Your Honor, I'd like to comment on the ruling of Russell Saadey, Jr., where his brother-in-law in a state of nervousness and, in fact, fractured behavior, as evidenced through the testimony, that should have been brought in on the hearsay exception, and that should be allowed, and I object to the fact that you have completely dismissed that evidence. That was made right after an interview with the FBI agent, he was

completely nervous and in an unnerved form, and did make declarations against his interest. That, in fact, should be admissible under the hearsay rule.

THE COURT: I ruled on that. Let me also say that the other outstanding issue which I've also got to simply write down has to do with two photographs that we didn't admit, this is left over from last week, but I think it tidies everything up then. We will have gotten everything ruled on that was out there. But there were two photographs, and so I'll try and get those rulings out.

But I think the ones that would involve you more would be the ones regarding Johnson, Terlecky, and Kovachik.

MR. TRAFICANT: And when will you rule on those? When will you rule those out?

THE COURT: Well, Congressman, I'm going to rule on those.

MR. TRAFICANT: Why don't you save us time and rule them out, and let's get going. You know you're going to rule them out.

THE COURT: No, no. I do have to take my time and consider everything.

MR. TRAFICANT: I'm sure you do.

THE COURT: So I hope it will be this evening. Today, sometime before midnight, it will happen.

Anything further? We'll see you all at 9:00.

MR. MORFORD: One thing, Your Honor. We would like to know who the witnesses are tomorrow, because it will save the downtime with the jury that we had today.

MR. TRAFICANT: I have no idea at this point.

THE COURT: Well, you may want to hold on to Johnson and Terlecky. I don't know, when you get this ruling you ought to go on the computer tonight and look.

MR. TRAFICANT: I'm not going to have Johnson or Terlecky come back up here again until you rule.

THE COURT: Well, that's fine. I'll have to rule. I'm going to rule today regarding them.

MR. SMITH: But that's not his call to make --

MR. MORFORD: Your Honor, there is another thing. In addition to Mr. Barlow, Mr. Marchese or "Marchese" and Ms. Kovachik were both here in the courthouse today telling people they were going to testify again. Again, they've already testified, the Congressman said he had completed his examination. Unless something new and different has arisen they could not have known about or asked them about at the time, under the rules, he's not permitted to call them again.

MR. TRAFICANT: Miss Kovachik is not here as a potential witness. Mr. Marchese is on an unrelated

matter that deals with photographs.

THE COURT: Okay. Well, Ms. Kovachik, she is still --

MR. TRAFICANT: Still is eligible.

THE COURT: Right. She's still eligible.

MR. TRAFICANT: I'm keeping her here in the event he let her in.

THE COURT: Now we need to know who your witnesses are going to be, because even if all three of these people who I'm doing orders on, and the photographs, came in, we still have a day tomorrow, so we need to know who you are going to call.

MR. TRAFICANT: At this point I am trying to reach several people, and I don't know if I will be able to reach them. I will try feverishly tonight to reach them, and if I do, I will have them here.

MR. MORFORD: Can we find out who he's trying to reach? At least then we can save the time in front of the jury tomorrow.

MR. TRAFICANT: I'm not wasting the time of the jury. They took seven weeks. I'm in my fifth or sixth day, Your Honor.

THE COURT: That's true.

MR. TRAFICANT: And I'm moving closer to close here.

THE COURT: Okay. The thing is though that --

MR. TRAFICANT: They will know by tomorrow morning.

THE COURT: Yeah, but if the jury comes down here, we can't have them come down for an hour and then go back home. Some of them come more than two hours each way in order to come here.

So if you have any more witnesses, tomorrow would be a day to get a bunch of them down here.

MR. TRAFICANT: I'm going to do my best. But you keep denying them the opportunity to testify, then you say I have no witnesses.

THE COURT: Well --

MR. TRAFICANT: I know, life is tough.

THE COURT: Trial lawyers have a hard time.

MR. TRAFICANT: I'll tell you, isn't it something?

THE COURT: It is. We'll see you all tomorrow at 9:00.

(Trial adjourned at 4:34 p.m.)

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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.

Heidi Blueskye Geizer, RMR, CRR Date 4-24-02

DIRECT EXAMINATION OF MELINDA MINCHER DAVIES
BY MR. TRAFICANT..... 5450:9
CROSS-EXAMINATION OF MELINDA MINCHER DAVIES
BY MR. MORFORD..... 5456:1
REDIRECT EXAMINATION OF MELINDA DAVIES
BY MR. TRAFICANT..... 5459:1
DIRECT EXAMINATION OF MICHAEL ANTONOFF
BY MR. TRAFICANT..... 5460:10
DIRECT EXAMINATION OF MICHAEL ROBERTSON
BY MR. TRAFICANT..... 5463:21
CROSS-EXAMINATION OF MICHAEL L. ROBERTSON
BY MR. MORFORD..... 5518:6
REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON
BY MR. TRAFICANT..... 5568:17
AFTERNOON SESSION..... 5518:1

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 TUESDAY, APRIL 2, 2002

Jury Trial

Volume 30

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

TUESDAY, APRIL 2, 2002, MORNING SESSION, 9:19 A.M.

MR. TRAFICANT: Your Honor, I have a proffer I want to read into the record of this trial.

THE COURT: I'm sorry, what is it?

MR. TRAFICANT: I have a proffer that I want to read into the record of this trial.

THE COURT: Okay. We'll do that at 4:30 like I usually do. We have a jury here.

MR. TRAFICANT: Fine.

MR. MORFORD: Your Honor, I wanted to bring something to the Court's attention before we bring the jury out, and it's something that's of much concern to the government. We learned for the first time this morning that Congressman Traficant is intending to call James Kerchum and Fred Hudach as witnesses this morning.

In the past, the Congressman has raised allegations of general misconduct by the FBI that had nothing to do with this case through Mr. Hudach and through Mr. Kerchum. This Court, in its previous orders, has ordered Congressman Traficant that this is a trial about Congressman Traficant's misconduct as charged in this indictment, and not a trial on overall allegations that the Congressman has on FBI misconduct.

What disturbs us the most is yesterday on two occasions the Congressman persisted, over the Court's

instructions that he not do so, to bring inflammatory matters before this jury and to basically try to poison this jury. He then went out on the steps of the courthouse last night and said, "I wasn't just flailing around. I know exactly what I was doing. What I was doing is getting matters in front of this jury that this Court won't let me do and I'm going to do it any way I can."

My concern is these two witnesses have nothing to do with this case, and if they're not voir dired ahead of time --

MR. TRAFICANT: Objection.

MR. MORFORD: -- or Congressman Traficant doesn't tell the Court --

THE COURT: Let him finish.

MR. MORFORD: -- what it is they're going to testify to, we are going to have a repeat of yesterday where he asks them inadmissible evidence, the Court says they can't testify after the jury has already heard some of it, and the jury is left with the impression, number one, that this stuff is out there; and number two, that he's not being given a fair defense.

And so I would ask that the Congressman show some relevant purpose for these witnesses before they're brought in before this jury.

MR. TRAFICANT: First of all, I object to the

assumptions made by the Assistant U.S. Attorney as to what is my mindset. And he should --

THE COURT: And you should be addressing me. Thank you.

MR. TRAFICANT: And he should, in fact, address the Court with his own mindset.

Mr. Kerchum and Mr. Hudach will specifically testify only to the matters concerning Traficant and the investigation of Jim Traficant, period. I have the right to subpoena witnesses and, quite frankly, it seems that every one of my witnesses is being voir dired so they have to testify two or three times, and if it doesn't look good for the prosecution, then they can't take the stand.

And I would like the Prosecutor Morford to stop this defensive nature. He's a competent attorney. I don't know what his fears are.

THE COURT: Do you want to talk about the other witness?

MR. TRAFICANT: The other witness is Judge Ann Aldrich. She said she'd be available at 10:00. It will deal with testimony on two issues: This grand jury testimony was leaked relative to my 1983 trial relative to an FBI affidavit dealing with $10,000 in cash, and it was splattered all over the pages.

Two things I want to discuss with Judge Ann Aldrich:

She was interviewed by the FBI regarding the matters of the Buccis. I want that clarified and put on the record. And I want to clarify the record of the 1983 trial that -- no, hear me.

THE COURT: I'm listening.

MR. TRAFICANT: I am also a political figure, and this was very damaging testimony. And unless the government stipulates that they're not going to call Mr. Pearch on some rebuttal, then I want the opportunity to bring forward Judge Ann Aldrich to discuss the matters of the $10,000 in the affidavit submitted by William Pearch.

And that's the status. I called Judge Ann Aldrich's attorney last night at 3:40 a.m., at which he answered very promptly, quite surprisingly, and she is available at 10:00.

THE COURT: And I believe he's here. He can speak for himself.

MR. MORFORD: Your Honor, if I can respond, number one, we have not called Mr. Pearch. Nothing about that matter has come before this jury. The Court has already addressed and ruled on that matter in a pretrial motion. It has nothing to do with this case whatsoever.

Number two, he still hasn't answered the question of what Mr. Kerchum would testify to.

And number three, he hasn't given the Court

any indication of what it is Mr. Hudach would testify to. And as to his complaint that he's being asked to tell the Court ahead of time what these witnesses are going to do, that's because of the pattern of conduct he's shown and what he's done in front of these witnesses and the admonishments this Court has had to make.

He has created that system himself.

MR. TRAFICANT: Your Honor, I just told you explicitly that they will discuss the investigation of Jim Traficant and my case only and their involvement in the Traficant case.

THE COURT: Kerchum as well?

MR. TRAFICANT: Kerchum as well.

THE COURT: Do you have any other witnesses here today, sir?

MR. TRAFICANT: I will have several other witnesses here today.

THE COURT: Tell us who they are.

MR. TRAFICANT: Well, I was told by the Court to have Mr. Terlecky here and Mr. Johnson here, so I assume that you have ruled that they may testify. They've been here six times.

THE COURT: In a limited fashion, they may testify. There was an order put on at 6:00 and faxed to your office last night on that, and I think it's been

handed to you. Have those been handed? We'll give them to you.

MR. TRAFICANT: You can give me a copy now after I've called these people to come, to come all the way up here.

THE COURT: It is good you called them. They can testify for limited purposes in this case.

MR. TRAFICANT: Relative to the O'Nesti matter.

THE COURT: Yes.

MR. TRAFICANT: Thank you.

THE COURT: We'll get to that. So you have Johnson and you have Terlecky available.

MR. TRAFICANT: They'll be on their way up.

THE COURT: Okay. And who else?

MR. TRAFICANT: I will have Linda Kovachik relative to photographs that have been already moved into evidence and shown to a witness that I had enlarged for the purposes of having them placed into evidence. And I will have Attorney Percy Squire and Attorney Mark Colucci at this particular point.

And if we discuss the motion that I submitted this morning, we can get on with the rest of the trial and I would become a witness if you'd allow me a half-hour examination of Mr. Morford.

THE COURT: Have you given a copy of the motion that you filed this morning that was handwritten?

MR. TRAFICANT: As soon as I came in here, I handed a copy to both Edward, I believe, for the Court, and to Mr. Bernard Smith, I believe. And I will allow examination of me on both the 1983 allegations that continue to occur --

THE COURT: We're going to address --

MR. TRAFICANT: -- in court and this trial, if you allow me to examine Mr. Morford on his prosecutorial behavior that has been cited in the motion.

THE COURT: Congressman, as we've done for weeks here, when you file a motion, we give the other side an opportunity, first of all, to have it, to read it, and then to respond to it before I rule on it, and we'll do that in this case. You don't have to respond right now.

MR. TRAFICANT: Let me say --

MR. MORFORD: We can, Your Honor.

MR. TRAFICANT: If he has nothing to hide, he has his chance to get the big kahuna right here. Now, I want to ask some questions of this prosecutor --

THE COURT: Congressman?

MR. TRAFICANT: -- whom I'm investigating.

THE COURT: Congressman, your investigation is a separate matter from this trial.

MR. TRAFICANT: Yes, it is, and I'm willing to put myself right on that stand.

THE COURT: Do I have all your witnesses now? Is this the end of the list.

MR. TRAFICANT: I do not know.

THE COURT: Terlecky --

MR. TRAFICANT: They took seven weeks. I'm in my second week.

THE COURT: We've been over this and over this.

MR. TRAFICANT: I don't know.

THE COURT: Terlecky, Johnson, Kovachik --

MR. TRAFICANT: Listen. There are several people not available.

THE COURT: Congressman, stop interrupting. Don't interrupt.

MR. TRAFICANT: Did you ask me a question?

THE COURT: Stop it. Stop it.

MR. TRAFICANT: Did you ask me a question or not? Could you let me finish my answer?

THE COURT: No, because I haven't finished the question.

MR. TRAFICANT: You said do I have other witnesses, and I said yes, several of them are out of town. If you'd give me the opportunity to reply, which you give

them full license and which I object on the record --

THE COURT: I'm going to give you time right now to say all the things that are on your mind, but not until we've heard from at least another lawyer in this room who's representing someone you subpoenaed today.

MR. TRAFICANT: That's fine. But another thing I'd like to say as a pro se defendant, I am under no legal authority to disclose any of my witnesses to anybody. I'm doing it as a courtesy because they provided me with some courtesy, but they at times tricked me by giving me a sequence of witnesses that they did not offer in that sequence.

Now, from now on you get nothing. Now, from what I've given you, that's all I'll give to this Court. But I'm prepared to take the stand. I want a half-hour examination of Morford, and you can examine me on the '83 trial again, under oath, and this trial. And I want to proffer it into the record.

THE COURT: Congressman, are you ready now to listen while we have the attorney for one of your subpoenaed witnessed say what he needs to say?

MR. TRAFICANT: I would ask you to ask the prosecution to moderate their behavior so I might hear the distinguished counsel.

THE COURT: Mr. Devan?

MR. DEVAN: Your Honor, for the record, if it please the Court, I represent Judge Ann Aldrich, a sitting Judge on senior status in the United States District Court for the Northern District of Ohio. As of yesterday, Judge Aldrich received in the afternoon, early afternoon, a subpoena to appear as a witness in this matter, and I was contacted late yesterday afternoon and appeared over here in the courthouse on her behalf and inquired of Congressman Traficant as to the nature of the evidence that he sought from Judge Aldrich.

At that time he represented, and although I was unable to nail down exactly what he was seeking with any precision, it appeared as though what he was seeking in the terms of testimony or records from Judge Aldrich regarded a matter in the 1983 case of United States versus James Traficant in which Mr. Traficant was acquitted.

In that case, there was an issue, as I understand it, about $10,000 which James Traficant was in possession of, and he notified the government in pretrial discovery and as part of his requirement under -- as reciprocal discovery, that he intended to introduce evidence about this $10,000.

The Court at one point ordered reciprocal discovery, and it appears as though this $10,000 was ordered to be photocopied by the government. Then apparently something happened in terms of a question about the serial numbers in

that matter, and this photocopying became very relevant because the actual dollars and the actual photocopying had a discrepancy in serial numbers, as I understand it.

THE COURT: Would you be seated, please, while someone else is speaking? Thank you.

MR. DEVAN: Understanding that I'm coming to this matter late and trying to rehash a 20-year old history and understanding this as best I can, it's my understanding that in the trial, the $10,000 and the photostatic copy was never introduced at trial, and that is my understanding based upon a discussion with the courtroom deputy who is now retired, William Johnson.

As part of that, yesterday, late yesterday, I retrieved a list of the exhibits from the 1983 trial. And in that list of exhibits, there is no reference to any money actually being identified with an exhibit number either on behalf of the government or on behalf of the defendant in that case, James Traficant.

There is also a receipt for the return of all exhibits following the acquittal of Congressman Traficant, and that receipt is signed by the government Agent Lynch, and what I understand to be James Traficant's signature, so he received back all of his exhibits.

Now, the only thing remaining in terms of exhibits in that case was, in fact, joint exhibits which were

introduced, and as I read this quickly here, I don't see any copy under the list of joint exhibits which would identify an exhibit as being a photostat of this money.

Now, aside from the relevancy of this in this case, and I couldn't possibly address it at this point because I'm coming in as a stranger to this case, in essence, in terms of the evidence. Judge Aldrich has nothing to offer in terms of this that cannot be obtained by way of subpoena to the Clerk's Office. I received a copy of these exhibits yesterday very easily by going upstairs to the fourth floor and getting the list of exhibits, as well as the signed receipts by the government and Congressman Traficant for receipt of the exhibits at the end of the case.

So Judge Aldrich has nothing to offer in that regard.

In terms of this matter of the Buccis or a Mr. Bucci, as I understand it, that came to my attention for the first time this morning --

MR. TRAFICANT: I object to any discussion of that matter since the Buccis are a part of this trial, and that is the reason, part of the reason, for this subpoena. And I want the witness to testify, not her attorney.

MR. DEVAN: In terms of the Buccis, Your Honor, I do not know what the relevance is in this case to Judge Aldrich being called as a witness and testifying. There was, as I understand it, a 302 created in 2000,

September of 2000, in which Judge Aldrich was interviewed by the FBI, and I have a copy of the 302.

Apparently Anthony Bucci was released --

MR. TRAFICANT: I object to this.

MR. DEVAN: -- based on the 302.

THE COURT: Your objection is noted and it's on the record. Now let him continue.

MR. DEVAN: Anthony Bucci was released from prison early, according to this 302. It came as a surprise to Judge Aldrich that he was released early. However, she had no hand in his release, and apparently, as far as we can determine, he was released because of hardship matters, a combination of emotional problems and claustrophobia, as I understand it. He was released to a halfway house, if I understand this correctly.

However, Judge Aldrich had no role in the release of Mr. Bucci, and therefore, I do not know see why a sitting Judge should be subpoenaed into this trial in which she has nothing to offer that either cannot be obtained by way of subpoena to the Clerk's Office, or anything in regards to Mr. Bucci which after he was sentenced in her court, she had no further contact with anyone regarding Mr. Bucci.

And so I ask that her subpoena be quashed. If the Court wishes a written motion and brief on this matter, I'm prepared to work on that today; however, getting involved

late yesterday I did not have an opportunity to prepare a motion to quash.

And so that is our position at this time, Your Honor.

MR. TRAFICANT: I'd like to respond.

THE COURT: You're going to have a chance now to respond to the motion to quash.

MR. TRAFICANT: He didn't say he had a motion to quash. He said he was considering it.

THE COURT: No, sir. You may respond to his motion.

MR. TRAFICANT: There was pretrial publicity.

THE COURT: Congressman, let's get this clear now. He did make a motion to quash, an oral motion to quash.

MR. TRAFICANT: I object to his motion to quash on the following grounds.

THE COURT: Thank you.

MR. TRAFICANT: Citing the Constitution and any law therein that would pertain to said request for quash.

But let me say this: There was great pretrial publicity by a person that was interviewed after the grand jury of this case that brought up the subject of $10,000, and stated there were false serial numbers, and that caused me great political distress. Now, I was compelled to bring

that money to this courtroom. Before that trial, it was photocopied as a discovery process.

THE COURT: Is this in 1983, sir?

MR. TRAFICANT: I want the photocopies of that cash. And I also want on the record that if the government had phony serial numbers before the trial, why didn't the government call Mr. Pearch and Traficant and put me in jail.

THE COURT: Sir, this is a different trial.

MR. TRAFICANT: Yes, but it speaks of the trial insofar as grand jury testimony, in fact, poisoned the voir dire, in my opinion, being utilized by the prosecution. But now that's not the purpose of why we're here.

Judge Aldrich did, in fact, accept and was interviewed by the Federal Bureau of Investigation relative to Jim Traficant and this trial, and I believe that that investigation and showing the scope and length and depth of that investigation to go to the Judge of the first trial speaks to itself.

Second of all, it also speaks to the fact that why are the 1983 trial transcripts not in the archives and present here? No one brought up 1983 before the prosecution after a grand jury witness brought up the 1983 trial. And it put an aspersion on 1983.

Now, I want that cleared up, because I know Mr. Lynch did the photocopying. I want the photocopies compelled to be given to me from the archives, and I want to see the numbers that were illegal, and if they were illegal, why wasn't Mr. Pearch and Mr. Traficant put in jail.

Now, I want his motion quashed, I want Judge Ann Aldrich here on the stand, and I believe that if you deny me that opportunity -- they interviewed her on the Bucci matter. The Bucci matter is part of the overt acts in this RICO case, and it should be allowed.

THE COURT: You can respond.

MR. MORFORD: Your Honor, the fact that a witness was interviewed as part of the investigation that led to an indictment does not mean it's relevant.

Congressman Traficant has not in any way articulated anything that Judge Aldrich would say that is relevant to the evidence that's been put in this case to the charges that are in this case, number one.

Number two, if you've listened to everything he said this morning about Mr. Kerchum, about Judge Aldrich, about Mr. Hudach, Mr. -- all these different people, it all goes to vendetta. The Court has already ruled on these matters. The Court has ruled that the investigation is not on trial in this case. There are ten charges that are being tried,

and it's the evidence that goes to those ten charges, and these other distractions the Court has already ruled are not admissible.

The Court gave Congressman Traficant an opportunity to establish some basis for arguing vendetta and some basis for questioning me. He failed to show the Court any relevant evidence that would justify it. These matters have been ruled on. They're over, they're done with, and we should not be going back and back and back on these things again.

And finally, as to Mr. Colucci, the Court has already ruled that Mr. Colucci was tendered and that he can't be called back again, and yet here we are again today, after the Court has already ruled, rehashing and asking to call Mr. Colucci again.

The Court has already ruled on every one of these matters, and if the Court would allow me, I can very quickly say that we've read this motion that the Congressman filed today, and it is nothing but a rehash of his motion to call me which the Court denied several months ago, and we ask that it be summarily denied.

MR. TRAFICANT: Can I speak? You said I can't pursue a vendetta, but yet I had a man testify that in 1985, he was visited by an agent relative to the transfer and sale of a horse. He was visited in near 2000

on a transaction of a horse 15 years ago.

Now, this is contemporary business. Mr. Kerchum can speak specifically to the investigation of Jim Traficant and matters relative thereto, as can Mr. Hudach.

Now, he also cites Mr. Colucci without knowing the purpose of Mr. Colucci's visit. Once again, he assumes. And if you break that word down into small parts, I think it would define him.

Your Honor, Mr. Colucci is simply called as a character witness, having known the Congressman for a long time.

Finally, let me say this: If Mr. Morford has nothing to hide, he has an opportunity to go after the real big crook that he's been calling all this time. He even told the general counsel's office in Washington, the biggest crook in D.C.

MR. MORFORD: Sir, would you address the Court?

MR. TRAFICANT: I'm not an attorney.

THE COURT: Congressman?

MR. TRAFICANT: I'm not under oath.

THE COURT: Congressman, turn around.

MR. TRAFICANT: I'll stand where I want.

THE COURT: Oh, no. Turn around.

MR. TRAFICANT: Bring the jury downstairs. I

have a right to these witnesses. I have been denied the right to these witnesses, and I want them called, period. And I want Judge Ann Aldrich here.

THE COURT: As to Judge Ann Aldrich, the motion to quash is granted. There is no need to take any further steps. There is absolutely no relevance to this case.

MR. TRAFICANT: I will publicize then the matter.

THE COURT: As to Colucci, he's already been called, testified, and his testimony was finished.

As to Terlecky and as to Johnson, if they're here, they can testify for a limited purpose. You can read about it in that order that you read about.

And there was something filed relating to that this morning by the government, which you should also read before you call either one of those folks here.

I don't know anything about Mr. Squire and whether he's ready to testify.

Mr. Hudach and Mr. Kerchum, the things you say they're going to testify to have no bearing on this case. They are not relevant.

MR. TRAFICANT: They are.

THE COURT: And I've ruled in this case --

MR. TRAFICANT: They are relevant to this

case.

THE COURT: I've ruled in this case over and over again what it is that you have to do if you wish to make a demonstration that some of this might be relevant. You've never made it.

So I don't know about Mr. William Pearch, I think you mentioned that he was a potential witness or --

MR. TRAFICANT: No, wait. Let me see if I understand this. Are you saying Kerchum and Hudach cannot testify in this trial on the strength of what these people told you here? I'm not talking about vendetta.

THE COURT: On the law --

MR. TRAFICANT: I'm talking about my investigation.

THE COURT: On the law of this case, they can't do it. I've ruled repeatedly about --

MR. TRAFICANT: It doesn't deal with vendetta. It deals with the investigation of Jim Traficant. What are we here about? Ronald McDonald?

THE COURT: Are you calling Pearch? I can't understand whether you're calling Pearch.

MR. TRAFICANT: No, I'm not calling Pearch, but they used Pearch in an election.

THE COURT: Do you want to call Terlecky and Johnson?

MR. TRAFICANT: They're not here. I had to call them. They're back home. They have traveled six times. I have Kerchum and Hudach here. That's who I want to proceed with.

THE COURT: We'll do those one at a time. I'm going to release the lawyer for Judge Aldrich for the motion to quash the subpoena.

MR. TRAFICANT: I object to that.

Thank you to counsel for taking my call at 3:40 a.m.

MR. DEVAN: You're welcome.

MR. TRAFICANT: Would you, Ernestine, call Mr. Kerchum? Wait a minute. Are you ready to go forward, Your Honor?

THE COURT: No, not yet. I want to go over something with you.

Have you read that order yet?

MR. TRAFICANT: You just handed this to me.

THE COURT: Well, we faxed it to your office last night at 6:00.

MR. TRAFICANT: I wasn't at my office.

THE COURT: I'm so sorry, Congressman. So here it is. I'll take a recess for ten minutes. You can read that, and you should also read the response that the government filed regarding your wish to -- regarding their concerns about those two witnesses. Okay? So read both

those things. We'll just let the jury wait here. We'll take a ten-minute recess, and then we'll come back out and then you can call -- do you have Terlecky or Johnson here?

MR. TRAFICANT: No, I do not. I have Kerchum and Hudach here, and I want to call Kerchum first.

THE COURT: We're taking a ten-minute recess so you can read the motions.

MR. MORFORD: Your Honor, before we do that, just so the court knows, Kerchum is vendetta, and Congressman Traficant should show the Court what it is he's going to testify about.

THE COURT: Well, we will bring Kerchum in here, put him under oath. You tell me what he is going to testify about.

MR. TRAFICANT: I'm going to ask him when he first started to investigate or be a part of the investigation or have knowledge of the investigation of Jim Traficant.

THE COURT: Right.

MR. TRAFICANT: Now, is that an adequate question for a court of law in a RICO case?

THE COURT: Actually, that's something that we've already treated in this court and ruled on, and if you read the rulings of the Court or follow the docket --

MR. TRAFICANT: I read the rulings.

THE COURT: -- you'll know that. We're speaking strictly about the -- if that's what he's going to testify about, then there's no need to bring him out here. If there's something else --

MR. TRAFICANT: Then I think you should at least voir dire this man.

THE COURT: I don't mind doing the voir dire if you've got him.

MR. TRAFICANT: You don't ever want the jury to see anything on my behalf.

THE COURT: I don't mind doing it if you've got him here. You can bring him out, put him on the stand, swear him in.

But you know in advance there are certain areas we've already ruled he can't testify to before the jury in this case.

MR. TRAFICANT: Listen. You have ruled that I can't put on a defense. That's for the record. Now, I want Kerchum out here; I want him on the stand. It deals with salient points of my defense, and if it is not allowed, you will have absolutely placed me at risk being unable to provide a defense.

THE COURT: Congressman --

MR. TRAFICANT: Who am I to call? Shall I call Jeffrey?

THE COURT: You can call him out here and we'll let him testify. We'll see what it is he has to say.

MR. TRAFICANT: You didn't qualify any of their hearsay witnesses.

THE COURT: Well, actually I did.

MR. SMITH: Two of them.

MR. MORFORD: We didn't repeatedly violate --

MR. TRAFICANT: You have interrupted me. I was speaking.

THE COURT: Congressman, take your ten-minute break, but read those.

MR. TRAFICANT: I can't handle this in ten minutes. I'm not an attorney. I'm a son of a truck driver.

THE COURT: Okay. We'll be back in ten minutes.

(Recess had.)

(The Witness is Sworn)

THE COURT: There is a microphone there, sir, so you'll have to speak up.

THE WITNESS: Like that? How's that?

THE COURT: That's good. Everyone in the back needs to hear you. All the way back. Congressman?

MR. TRAFICANT: Yes. I'll be there in a second, Your Honor.

VOIR DIRE EXAMINATION OF JAMES ANTHONY KERCHUM

BY MR. TRAFICANT:

Q. How are you, James?

A. I'm a little bit tired this morning.

Q. Are you worried?

A. What would I be worried about?

Q. Testifying under oath without a jury.

A. No, it doesn't bother me at all. I'm here to tell the truth.

Q. Are you a convicted felon?

A. Yes, I am.

Q. When were you convicted?

A. In 1999 or -- well, no. Rather, it would be in the year 2000.

MR. MORFORD: Your Honor, for purposes of the record, I don't believe he was identified.

THE COURT: You need to ask your witnesses their full names.

Q. Can you give us your full name and spell your last name for the nonjury?

A. Yes. My name is James Anthony Kerchum. That's K E R C H U M.

Q. And where do you reside, Mr. Kerchum?

A. I reside at 1545 Kale, K A L E, Adams, that's another word, A D A M S, Road, Southwest, Warren, Ohio, 44481.

Q. And how long have you lived at that address?
A. I've lived there now for approximately three years.
Q. And are you currently employed?
A. No, I am not.
Q. When was the last employment you had?
A. I was an FBI agent.
Q. And what status?
A. I was an undercover operative specifically.
Q. Located in what area?
A. I worked with what's called the Mahoning Valley Corruption Task Force, which was based out of the Boardman office of the FBI.
Q. Were you ever at the Boardman office of the FBI?
A. Yes, I was.
Q. Where is it located?
A. Sahara Trail. I don't remember the exact -- I think it was 904 Sahara Trail, to be exact.
Q. Now, how did you become involved with the FBI?
A. I formed a citizen group to try to help stamp out some of what we believed to be a lot of corruption in the Mahoning Valley. I was put in contact with a Mr. Louis Slay, who informed me that he was a supervisor with the United States Department of Justice. He told me that an FBI agent would be calling me. That FBI agent's name was Special Agent Tony Speranza, who was the bureau chief at

the Boardman bureau.
Q. Now, when you met at Sahara Trail, what, if anything, did you discuss?
A. Tony Speranza told me that I --
Q. Let's stop right there. Let's not say who told you what. Just tell us what you were told.
A. Okay. I was told that the Attorney General had appointed me, in essence gave me a field commission as an FBI agent specifically to work with and help form the Mahoning Valley Corruption Task Force, and that I was also to work on that task force as a deep cover operative.
Q. Were you given a code name?
A. Yes, I was.
Q. And what was that name?
A. That code name was Cheese One.
Q. What was the approximate time and date of this first meeting with the FBI?
A. Approximately January, 1998.
Q. And was that the time you were actively involved with the Girard activities?
A. Yes.
Q. Had you formed a committee?
A. Yes, I had.
Q. And what did that committee consist of?
A. That committee consisted of citizens, basically, that

would go to council meetings and complain about corruption, and they were investigating the corruption, I being the leader of that group.

Q. Is that why you were contacted by the FBI?

A. Yes.

Q. What, if anything, did they ask you to do as the leader of that group?

A. They told me not to tell anybody else in the group that I was an FBI agent, but to continue investigating covertly and provide reports.

Q. Why do you state that you were an FBI agent, Mr. Kerchum?

A. Because they told me I was an FBI agent.

Q. Did you get paid?

A. Yes, I did.

Q. Who paid you?

A. I got payments from Special Agent Mike Cizmar.

Q. How many times?

A. Approximately three times.

Q. What was your arrangements for pay and compensation with the FBI?

A. The arrangements for pay and compensation was that I was to receive $250 per week plus an allowance of $250 a week for expenses. However, that was delayed for quite some time, and it was explained to me that it took a while

for the paperwork to get going before those payments started coming in.

Q. Did the payments ever start coming in?

A. Yes, they did.

Q. In what form?

A. Cash.

Q. Where did you receive the first payment of cash?

A. I met with Special Agent Mike Cizmar in a remote location, who handed me cash, and I signed a voucher signing my code name, Cheese One.

Q. Did you get a copy of the voucher?

A. I did not.

Q. Did you ask for a copy?

A. Yes.

Q. And they refused?

A. Yes.

Q. When is the next time you were paid?

A. Approximately a month later.

Q. How many total payments did they make to you?

A. Only three.

Q. When was the third payment made?

A. Approximately two months after that.

Q. Were you asked to perform any types of specific services while you were this Cheese One working with the Feds?

A. Yes, I was. I was specifically sent out on special assignments.
Q. Did they ask you to employ any technology?
A. Yes, they did. They placed a wiretap on my phone that was -- they had told me it required a Federal Judge's signature, and that I was to operate the wiretap, record all incoming and all outgoing phone calls.
Q. Did you do that?
A. Yes, I did.
Q. Did they ever show you the judge that signed the order?
A. No, they did not.
Q. Did you ask for it?
A. No, I did not.
Q. Now, at some point in your opening statement you said you were arrested. What were you arrested for?
A. I was initially arrested by the Girard Police on felony two, possession of bomb-making materials.
Q. And what, if anything, was the disposition of that first arrest?
A. They had no evidence to provide to the grand jury, so I received a no-bill.
Q. What was the next process of your legal consequences?
A. I was indicted by the ATF for a violation of IRS Code 5861(d).

Q. Do you know what 5861(d) is, sir?
A. Yes, because I called the IRS, and I spoke with an attorney there. That is failure to pay an excise tax on a firearm, two firearms, total of $30.
Q. What kind of firearms were they, sir?
A. They were antique firearms, heirloom depression-type firearms, that is my understanding. They were homemade.
Q. Were you incarcerated?
A. Yes, I was.
Q. For how long?
A. I was incarcerated under the federal charge from the end of July, '99 until October of 2000.
Q. So you did 17 months in jail?
A. No. It was house arrest. I had a collar on my ankle.
Q. What was the amount of fines for your violation of the 5861(b)?
A. Well, there were no fines because I tried to pay the $30, but the attorney from the IRS explained to me that that law did not apply to me, it applied to major gun manufacturers, and that the IRS could not accept any money without a form to accompany the money, and they had no form, and he told me -- so there was no way I could pay that. But I did -- I got six months house arrest and five years probation.

Q. And you never did pay the $30?
A. There was no way I could. I never paid it; they never asked for it.
Q. Did the FBI ever discuss Jim Traficant with you when you were known as Cheese One?
A. Yes, they did.
Q. Approximately when was Jim Traficant's name brought up?
A. Approximately June of 1998.
Q. And what, if anything, was asked for you to do?
A. They asked me to do a thorough covert investigation of you, Congressman Jim Traficant.
Q. And was that to utilize all the citizens and groups that you were using throughout the community?
A. Yes, that was.
Q. Did you do that?
A. Yes, I did.
Q. Did you report back to the officers who had, in fact, engaged your services?
A. Yes, I did.
Q. Did you work primarily in that regard?
A. Yes, I did.
Q. At whose direction?
A. At the direction of Special Agent Tony Speranza and Special Agent Mike Cizmar.

Q. Who did you report to?
A. Special Agent Mike Cizmar.
Q. Were you being paid at that time?
A. The payments, I was still being told the payments were slow in coming because the paperwork had not been done, but yes, it looked like they had gotten on track. I had gotten three payments at that time, and he told me they would be coming in on a regular basis.
Q. And these three payments totaled $750?
A. Oh, it was between 4- and $500, each payment.
Q. So you had expense money as well as --
A. Oh, yes, yes.
Q. So what was the total amount of compensation you received from the Federal Bureau of Investigation?
A. No more than $1500.
Q. At some point did that money stop coming?
A. Yes, it did.
Q. When the money stopped coming, did you take any action?
A. Yes, I did. I called Lewis Slay again, the man that told me he was a supervisor in the United States Department of Justice. He told me to continue working covertly and to report on what the FBI agents were doing because they're notorious for stealing money from sources that get paid cash.

Q. What is a source?
A. A source is basically an agent, but I believe it's called a contract agent.
Q. Were you a contact agent?
A. That's contract.
Q. Contract agent?
A. Yes, I was.
Q. Did you sign an agreement?
A. No, I did not.
Q. Were you offered an agreement?
A. Yes. It was a verbal agreement.
Q. Did you pursue any further investigation of the money that you believe was owed to you?
A. Yes, I did.
Q. And what, if anything, happened?
A. I never got the money. I did contact the FBI's Office of Professional Responsibility. They sent two agents to my house from Washington, D.C. The agents told me that they stopped in Youngstown --
Q. Let's hold up right there. Let's talk about what you know, not what you heard.
A. Okay.
Q. Did you do an investigation into Jim Traficant while you were part of that citizens group?
A. Yes, but it was not in regards to the citizens group.

It was in regards to what the FBI told me to do.
Q. Did you do what the FBI told you to do?
A. Yes, I did.
Q. What, if anything, did you discover?
A. I found no evidence of no wrongdoing whatsoever with the Congressman, Mr. Traficant.
MR. TRAFICANT: No further questions at this time.
MR. MORFORD: Your Honor, at this time I move to exclude this testimony as completely irrelevant with the Court's prior order. It has nothing to do with the evidence that's in this case.
MR. TRAFICANT: I object.
THE COURT: The motion is granted. This is not part of what we're involved in in this lawsuit, and so you can step down, sir. Thank you.
(Witness excused.)
THE COURT: Your next witness?
MR. TRAFICANT: I don't have any witnesses. You don't allow them to testify.
THE COURT: You said you had Fred Hudach.
MR. TRAFICANT: I call Mr. Hudach. I will proffer for the record an affidavit of Mr. Kerchum before the day is over, as well.
THE COURT: His testimony is part of the

record in the case, sir.

MR. TRAFICANT: Yes, but I also have an affidavit, and I'd like to bring it in, as well.

THE COURT: You can file things in the regular course of things.

MR. TRAFICANT: Thank you. Fred, come on up through here and go to the left, up to the Judge.

(The Witness is Sworn)

THE COURT: The microphone is there, and it's a big room with a high ceiling, so use it if you need to.

VOIR DIRE EXAMINATION OF FREDERICK V. HUDACH

BY MR. TRAFICANT:

Q. Good morning, Fred. Would you give your full name and spell your last name for the nonjury?

A. My name is Frederick V. Hudach, H U D A C H.

Q. And what is your current employer?

A. Currently I'm a private investigator with a partner.

Q. Were you ever in my employ?

A. Yes.

Q. For how long?

A. Approximately one year and a couple days.

THE COURT: Did you show this to them?

MR. TRAFICANT: No, I didn't. I completely disregarded them.

THE COURT: Take it now and show it to the

other side.

MR. TRAFICANT: Who handles things here?

MR. SMITH: He does.

Q. I would just like you to take a look at this. Are you familiar with this affidavit?

MR. MORFORD: Is it marked for purposes of the record, Your Honor?

MR. TRAFICANT: You can mark it -- do you have a pencil, Fred?

THE COURT: It would be good if you'd mark your exhibits, Congressman.

MR. TRAFICANT: For the purposes of the --

A. Yes. I recognize this, Congressman.

Q. Well, then --

A. It's my affidavit.

MR. MORFORD: Your Honor, we were given a copy called K-4, if that helps.

THE COURT: Do you want to call it K-4?

MR. TRAFICANT: No.

THE COURT: Okay. What are you going to call it, sir?

MR. TRAFICANT: I want to call it BS-2000.

THE COURT: Okay. Do we already have one of those?

MR. TRAFICANT: 2001.

THE COURT: Thank you.

MR. TRAFICANT: I've also handed you another document, Your Honor.

THE COURT: This is an affidavit of Mr. Kerchum.

MR. TRAFICANT: Yes, Your Honor.

THE COURT: What are you going to mark this as?

MR. TRAFICANT: I'm asking if he has knowledge of that.

THE COURT: What are you going to call this one. I just wrote BS-2001 on that.

MR. TRAFICANT: You put 2001 on that?

THE COURT: I did.

MR. TRAFICANT: I'm supposed to write on.

THE COURT: I know.

MR. TRAFICANT: I'll make this 2002. We'll leave that 2001; we'll make this 2002.

THE COURT: Very well. So this is an affidavit of James Kerchum.

MR. TRAFICANT: Yes.

THE COURT: You show that to the other side.

MR. TRAFICANT: They've had it for months.

MR. MORFORD: Well, there are several of them. I don't know which one you're talking about.

MR. TRAFICANT: You admit there are several. And where did you get them?

Q. I want you to look at this very carefully and ask you if you have knowledge of that.

A. I have knowledge of it, Congressman, yes.

Q. Now, at some particular point was our office called by a gentleman by the names of James Kerchum?

A. Repeat that facing me, Congressman.

Q. At some point were we contacted by a man by the name of James Kerchum?

A. No. I contacted James Kerchum, and then I contacted Anthony Traficanti at your office, which in turn I took Anthony Traficanti and you to see James Kerchum. We seen him on April 28th of the year 2000.

Q. Why do you remember that date?

A. I refreshed my memory yesterday.

Q. Do you maintain --

A. I thought it was about May 1st, then my notes revealed it was April 28th, 2000.

Q. Do you maintain notes?

A. Yes.

Q. And --

A. Mental, writing, reference to my activity, copious notes at times. Copious notes at times.

Q. What is your current residence? Your current

residence?
A. 6251 Chestnut Ridge Road, Hubbard, Ohio, 44425.
Q. What tasks did you perform on my staff?
A. I was a congressional lead staff investigator. I reported to you; in turn, you reported to proper authorities, committees and subcommittees, including Donald Rumsfeld, Secretary of Defense, when it became a national security issue.
Q. On the matter of Mr. Kerchum, was there a specific evening where you were to meet with him?
A. Clarify the question, Congressman.
Q. Was there a specific evening when you were to meet with Mr. Kerchum that was very unusual?
A. Yes, there was. Prior to the evening when -- or the day that I talked to Anthony Traficanti, I never knew who he was, but I went down to the Federal Building. In turn, that evening I was called by Anthony to meet with you, and we met at the Ramada Inn on Belmont Avenue. And what I was revealing was that I was led to believe that Jim Kerchum was asked to murder a police officer by an FBI agent.
Q. Did you report that to me?
A. Yes, because after the FBI, where do you go?
Q. Now, what, if anything -- what, if any, steps did we -- did you suggest that we do?
A. I suggested to Anthony Traficanti, and I disclosed

everything I knew based on a lot of different investigations that I have done with regard to public corruption and judicial corruption, I says we have to, number one, save the police officer's life; but if I told the police officer that an FBI agent wants to have him whacked, I start a war here, because this police officer has a short fuse, is what I was led to believe.

Q. Did we come to meet with that police officer?

A. Yes, we did.

Q. Did we attempt to mitigate the problem?

A. Yes, we did.

Q. Did we inquire of any federal authorities that had oversight of this matter?

A. Repeat the question, Congressman.

Q. Did we at some point ask for any federal oversight of the FBI to look into the matter and investigate this?

A. Yes.

Q. And whom did we ask to help?

A. I believe it was Special Agent In Charge Van Harp.

Q. And did we contact any unit in Washington?

A. The information went to -- what I was led to believe, I sent it to Paul Marcone under your direction, and he was to put it on the subcommittee that Dan Burton is the head of, and I believe it is the Reform Committee.

Q. Have you ever heard of the Committee of Professional

Responsibility?
A. Yes, I did, later on. That was after -- after I went to you, Congressman, I learned about the Office of Professional Responsibility out of Washington, D.C.
Q. What, if anything, did we do regarding that agency?
A. I don't recall specifically, but I know the information was given to the Office of Professional Responsibility in Washington, D.C., by either yourself or James Kerchum, that I can recall. The exact document or the specifics of it, I can't recall.
Q. To the best of your knowledge, did the Office of Professional Responsibility come out to investigate the matter?
A. Yes. I was there -- Jim Kerchum advised me that the Office of Professional Responsibility agents for the FBI were coming over to his house, and he wanted to talk to me about what disposition would be after that meeting. So --
Q. Stop there. Did you go to Mr. Kerchum's house?
A. Yes, after that, but I wasn't going there for the meeting that they were going to have.
What I did was, Jim Kerchum was hurting for money at the time, and he wanted something for his children, along with his sister, and it was three constitutional books, Constitution of the United States books that were in your office, and you have a lot of them, signed by you

personally. And that was going to be a gift to his children.

So I had them with me. I went home after working out of your office, I ate something, and I left for Newton Township, where Jim Kerchum lives.

When I pulled up there there was a car at the end of the driveway with two men in it.

Q. Who were the men? Did you recognize the men in the car?

A. Not at first. I later introduced myself.

I walked to the house. They were at the end of the driveway, blocking the driveway. I parked alongside the road. I went in the house, the back of the house, it's an older farmhouse, and knocked on the door, and Jim Kerchum opened it right away. And his sister was there, and there were two gentlemen that were sitting at the table, and I wasn't -- I was planning on leaving, but I says, no, I'm not going to make another trip. It takes a half hour to get there.

I gave the sister the three congressional constitutional books, and then I said, "Excuse me, I'm leaving." Jim Kerchum wanted me to stay. He introduced me to the two agents that were there, and he said they were from the OPR.

Q. Did you meet the agents?

A. Yes, I did.
Q. Do you recall their names?
A. I believe it was Warner.
Q. Warner?
A. Warner, I believe.
Q. Was one of them.
A. And Thompson? I believe Warner and Thompson.
Q. Did they identify themselves?
A. Yes. They said they were with the Office of Professional Responsibility. They were sitting at the kitchen table. I apologized for interfering in their meeting. I was ready to leave. Mr. Kerchum said, "Please stay. Please stay. Give us ten minutes."
Q. What, if anything, did you do when he asked you to please stay?
A. I stayed, and Jim Kerchum wanted me to tell the two OPR agents how difficult it was to report a crime to the FBI in the Youngstown office.
Q. Now, at some point did you leave Mr. Kerchum's home?
A. Yes.
Q. Did you leave before --
A. Well, during the course of time that I was in the house, one of the gentlemen from the car that was parked by the road in the driveway, blocking the driveway, walked up to the house, and then left. But right after that, I was

informed by the agents that these local agents were there to escort the guys from Washington, D.C. to Jim Kerchum's house.

That got me a little upset. Why? I knew the OPR was there to investigate the local office of the FBI. Why are they being escorted by them? That troubled me. So I went outside after I introduced myself to the two FBI agents. One guy was I believe Mike, big man, three syllables. I think his last name starts with a P. The other guy was -- the other FBI agent who was driving the car was Special Agent Harry Wilson.

Q. Do you --

A. Harry Smith -- Harry Wilson. Harry Smith.

Q. Harry Wilson?

A. Either one of those two, very simple name.

Q. Were they -- do you know if they were affiliated with the Youngstown FBI office?

A. Yes, because Harry, who was driving the car, he first said -- I introduced myself. I said, "I'm with Congressman Traficant's office. If we have one thing in common," I said, "we work for the same government."

Q. What, if anything, did they say to that?

A. Nothing. It was an embarrassing moment for them, I believe, by their expression, by their demeanor.

Q. Because?

A. And I went around, and I asked -- I said, "What is your name?" The big man, Mike, he got out of the car real quick. He shook my hand. He almost swallowed it up. He was big.

I went around to the guy who was driving it, and the guy said, "I'm Harry." I said, "No last name, Harry?" And I believe that's when he said, "Wilson, and I've been around forever."

Q. Did you ask them what office they were located in?

A. No, I didn't.

Q. Did they show you their badges?

A. No. They left. Upon that moment, when I was walking to my car, they left, and they were traveling south real slow, but I could see their heads. One was turning around, watching what I was doing, and I left.

Q. Now, when you walked past them to go in, did you say hello to the people in the car?

A. No. I just waved.

Q. Did they wave at you?

A. I don't recall them waving, no.

Q. Did you know who they were?

A. You know, when somebody parks at the end of a driveway, you have some suspicion that they're Fed.

Q. Did you at some point --

A. And I can't blame them. It's a risky business

they're in. I can't blame them for doing that. I don't want to sound vindictive.

Q. The FBI does have a difficult job, don't they?

A. Yes, they do.

Q. And did you report that to me?

A. Yes, I did.

Q. And did we conduct at that point an investigation?

A. I wrote an affidavit on it, and I submitted it to you. I contacted Jim Kerchum again, and I wanted to ask one question that was troubling me: Was the OPR there for damage control for the FBI or were they there for searching out the truth to see if there was any wrongdoing, especially when we're talking about an FBI agent asking a person to kill a police officer, no matter what the reason is.

Q. And what was your impression as to the results of that question?

A. A combination of facts. I was led to believe after talking with Kerchum that they had more questions about you than they had about the situation at hand and the possible wrongdoings of an FBI agent.

I was led to believe after putting all the factors together that's what it's about, that they were there for damage control, and not looking to correct the wrong.

Q. And they were asking questions about Jim Traficant?

A. I was only led to believe because of my conversation with James Kerchum.
Q. Do you know what -- do you have anybody in your family that's currently in jail, Mr. Hudach?
A. Yes, I do.
Q. And who is it?
A. It is my son, who is presently 26 years old.
Q. And where is he now?
A. He is in protective custody within the state of Ohio.
Q. Do you know what he was charged with?
A. He was charged with conspiracy, murder, five different counts. They reduced it to three.
Q. And have you sought help from any and all authorities?
A. I always report to the proper authority because not to do so would be wrong. I did report that I was being extorted by the bag man of the judge, to the proper authority, the FBI; and that I'm not a bleeding heart father, boys, I've got three other families that were extorted by a bag man of the judge, bag men of the judge.
Q. Did the FBI look into that matter for you?
A. Sadly, no. I gave the information as to causation, chronological order, and they were all the family members that were extorted by the bag men of this judge. I gave it to Anthony Speranza, ten minutes after 10:00 one morning.

He called my house. At about ten minutes to 12:00, the same day, my sister took the message and said to call Anthony Speranza at the FBI.

I called back about ten minutes to 1:00. He said you put a lot of work into this, but we can't use this information at this juncture. I was perplexed. I had known previously by my investigation that Anthony Speranza was a personal friend of the prosecutor, Dennis Watkins.

Q. He prosecuted your son?

A. Yes, in addition to the three others that are now out of prison because of my help.

Favorable evidence to the defense was not given, witnesses were intimidated, exculpatory evidence was hidden in some manners.

Q. Were those three released while you were a member of my staff?

A. Yes, they were.

Q. Did we ensue an investigation and attempt to try and bring the sources of the federal government into the picture?

A. Congressman, the information went through the local FBI, the FBI in Cleveland, and is now sitting on Director Robert Mueller's desk, and he's the director of the FBI in Washington, D.C.

It's also sitting on the desk of the Organized Crime

Investigation Commission of the state of Ohio. The director of that is Mr. William McHendrick.

Q. Has the obsession with your son's incarceration brought you to become what you are today?

A. Repeat the question, Congressman.

Q. Is the obsession with the experience of your son and what he endured, is that what has brought you to your situation today?

A. Yes, of course. Yes. No one actually jumps in and says, look, I'm going to investigate the FBI. I mean, get a life. Who does that?

It's when you get involved because of causation, you smell something wrong here, when you start reporting and you see poker faces.

Q. Now --

A. And it keeps on going, Congressman. It just keeps on going, and then you see more and more wrongdoing, more and more suspicion. It drives you deeper and deeper until you're investigating in places that I shouldn't even be here talking to, and these boys are tougher than what you think to find out. And my goal is to find out how many judges who are on the payroll of La Costa Nostra.

Q. Was it your impression that the local FBI and the representatives from Washington were more concerned about me than they were the concerns of James Kerchum?

A. Factoring everything in as of today, I couldn't get the FBI to concentrate on wrongdoing with regards to what happened to me and three others families. So I don't choose their work for them; somebody else does. So I can only be led to believe they have their cards; well, now I have mine. We'll put everybody on jump street. There's not going to be misprision. I'll take people into a Federal Court, but they're going to do their job completely because I have --

Q. My question was: Was it your impression that the agents from Youngstown and the visitors from Washington were more concerned with questions about me, Jim Traficant, than they were for the reason they were brought in, to investigate Kerchum's allegations?

A. I'm led to believe, yes, that you were the most important part. You were number one priority. I'm led to believe that, yes. More than Kerchum. More than me.

Q. Did you find yourself having difficulty being on my staff, starting to get investigation material from witnesses?

A. You're a pretty popular guy across the United States. I couldn't keep up with all the mail that was coming in. It came in at the rate of a quarter an inch to a foot high a day.

Q. How many --

A. I couldn't even read that much.
Q. How many affidavits did you take from around the country?
A. From Florida, Louisiana, a lot locally within your district, Canton. Totally, I believe I submitted somewhere between 33 and 35 affidavits for the Congressional Record, and some of the people were in fear for their life, and they told me things that could get them harmed. So when they told me the information, I had the affidavit from them, but to protect their interests and their lives or their families' lives, I wrote that affidavit that I had this affidavit, and I don't think it would bother me doing that. Risky. You're doggone right, it's risky.

I wouldn't advocate a 40-year old person with three kids and a mortgage to do what I was doing. My children are raised. I've got some things to do yet, but I wouldn't advocate them doing what I was doing.

Q. Are you a private investigator now?
A. Yes. My partner is in Harrisburg, Pennsylvania. That's where he presently resides.
Q. Are you familiar with any animosity directed towards me by the local FBI?
A. They don't exactly like me, Congressman. I have no -- it's not personal with me that I'm saying I hate you or I hate you or I hate you. Everybody has a boss. When I

look at even Anthony Speranza or these fellas here, everybody has a boss.

I represent the truth. I want to go for the truth. And if you have animosity towards me because I seek the truth and present the truth in open court, that's their headache.

Q. Did you detect an animosity towards me? Was it your impression there was an animosity towards me by the local FBI?

A. Yes. I was -- in my conversations with different people --

THE COURT: No. We can't -- this is all very interesting, but leading him is one thing; another thing now is having him try to talk about what other people said to him.

Q. Did we investigate the matter of Debbie Campbell?

A. Yes, we did.

Q. Did we meet with her?

MR. MORFORD: Your Honor, I'm going to object at this point. None of this has been relevant, but now he's getting into something the Court has already rejected completely in its prior orders.

THE COURT: Congressman, we've been over this and over this. Do you have any other questions to ask this witness that don't go against things we've already ordered

can't be brought up in this case?

Q. As a private investigator, do you believe that motive is key to any defense?

MR. MORFORD: Objection as to his legal conclusions. We've got a jury waiting, Your Honor.

THE COURT: I instruct the jury on what the elements of offenses are, and it really isn't possible for him to give information to the jury about what kind of question --

MR. TRAFICANT: There's no jury here.

THE COURT: No, no, but it's a complete waste of time for you to ask him questions --

MR. TRAFICANT: I don't think it's a waste of time. This is a man, private investigator, with many years of experience.

THE COURT: Congressman, move on to another question, please.

Q. Do you believe that a defendant should be able to establish the parameters that surround his case?

MR. MORFORD: Objection.

THE COURT: Sustained. The law speaks to all of those issues, Congressman, as you know.

Q. Is this the first time you testified under oath without a jury present?

MR. MORFORD: Objection. Relevance.

THE COURT: Sustained.

Q. Do you believe the local FBI and the Cleveland FBI were owned by the mob?

A. Yes.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: Your Honor, I ask that this testimony be ruled inadmissible on the grounds of relevance, speculation, hearsay, and the Court's prior orders.

THE COURT: And we will so rule, Congressman.

MR. TRAFICANT: I expected that.

THE COURT: Well, then you wasted everybody's time if you understood all of that.

MR. TRAFICANT: No. I want to put on the record that this man is fighting for his son's life.

THE COURT: Well, there are a lot of interesting things here.

MR. TRAFICANT: And he's been viewed by the FBI --

THE COURT: But it's not part of this case, and that's what's important. Thank you, sir.

THE WITNESS: Thank you.

(Witness excused.)

MR. TRAFICANT: Your Honor, I'd like to take

a break and find out what, if anything, I have back there at this point.

THE COURT: Do you have Linda Kovachik here?

MR. TRAFICANT: Yes, I do.

THE COURT: Can we go forward on the photographs?

MR. MORFORD: We don't know what the photographs are.

THE COURT: No, I know. Would you just show the government what it is that you're bringing her in again for?

MR. TRAFICANT: Why don't I bring her in and let her bring it in. We don't have the jury here. Are we going to do it without the jury?

THE COURT: I was going to bring the jury in.

MR. TRAFICANT: Then why don't you bring the jury in?

THE COURT: Because you already had this witness on the stand, and in order to call her back, you indicated that there's something new. Therefore.

MR. TRAFICANT: I had her make an enlargement of a photograph that was identified by Mr. Kidwell.

MR. MORFORD: We can stipulate to that if it's --

MR. TRAFICANT: No. I don't want it

stipulated to. I want to bring the witness in here.

THE COURT: Did she make the enlargement herself?

MR. TRAFICANT: Yes.

THE COURT: Is she a photographer, sir?

MR. TRAFICANT: She went and had it done.

THE COURT: Well, then, you don't need her if they'll stipulate to bringing it in.

MR. TRAFICANT: What you're doing is you're not allowing me to present witnesses.

THE COURT: You had plenty of time when you had her here.

MR. TRAFICANT: No. There's a reason why she was asked to do that. And I did that last night for a particular reason. And I want the opportunity to bring that witness before a jury. What the hell is going on here?

THE COURT: Well, you've had this witness before this jury. You don't have the right to call people back again and again unless something new has happened, and going to a studio and having an enlargement made is not something new -- good-bye, Congressman.

(Mr. Traficant left the courtroom; then reentered.)

THE COURT: Do you have the photographs here?

MR. TRAFICANT: I'm going to give them to my

witness.

MR. TRAFICANT: Let me get the door for you. Are you going to bring in the jury or are we going to voir dire her without one?

THE COURT: First, you're going to show the photographs on the other side.

MR. TRAFICANT: This was one that was identified, taken by Marchese, testified to by Kidwell.

MR. MORFORD: What else?

MR. TRAFICANT: That's it.

MR. MORFORD: We'll stipulate to the photos.

MR. TRAFICANT: I want her to testify regarding this relative to the jury.

MR. MORFORD: We object on grounds of relevance and the fact that she was called and tendered and there's nothing new that this witness would add to the jury that's in any way relevant.

MR. TRAFICANT: No. This identifies the machine that the government can now, who has the burden of proof, can deal with the welder that they charged me with.

THE COURT: Could I see the other picture?

MR. TRAFICANT: This is a smaller one. You cannot identify the numbers which clearly indicate, and if you don't let this witness in, you go find the damn welder.

THE COURT: Which numbers are you showing on

this? You mean the numbers on the side, the 250?

MR. TRAFICANT: Yes, that that can be identified; also shows the condition of the machine, that it can be so identified by the government, and they can do what they want. They've charged me with particular physical crimes, and I want to establish that, in fact --

THE COURT: Well, they have no difficulty having that admitted, right?

MR. TRAFICANT: I have difficulty having it admitted without a jury. I have difficulty when anything is favorable to the defense being carried out without the presence of the jury, but that which is favorable for the prosecution has the full view of about 30 eyes.

THE COURT: Do you want the larger picture to be marked so that it can be submitted to the jury or do you not want it marked?

MR. TRAFICANT: Yes. I am going to mark it.

THE COURT: Okay. Well, give it a number. We'll tell the court reporter.

MR. TRAFICANT: Does anybody have an indelible pen? Would any of you government bureaucrats have something that can write indelibly? Thank you.

The original was Defense Exhibit 0-0101, so this shall be known as Defense Exhibit dash 0101 parentheses A.

THE COURT: The original was C-7.

MR. TRAFICANT: There were a bunch of them. This one here shows the sides of it. It's 0101 parentheses A.

Do you have of copy of it, sir?

MR. MORFORD: Not of this thing you just marked.

MR. TRAFICANT: You do now.

MR. MORFORD: Thank you.

MR. TRAFICANT: If you want to excuse the witness, it's up to you.

THE COURT: Yes, it is up to me, but I want to see what it is you have.

You're giving me this?

MR. TRAFICANT: Do you want a copy of it?

THE COURT: I saw it.

MR. TRAFICANT: Do you want to put it into evidence?

THE COURT: You're the one that puts things into evidence when the time comes.

MR. TRAFICANT: Fine. I have no further questions of this witness unless there's a jury here.

THE COURT: Okay. Well, you don't need this witness apparently because you don't need it to put this into evidence, and so we'll dismiss you although you were never really brought here. You were never sworn. So the

witness was never sworn, but you understand now, and now we still have time and we still have the jurors waiting.

So if you have Mr. Johnson or Mr. Terlecky or Mr. Squire here, this would be a good time to bring them in.

MR. TRAFICANT: Ernestine, would you please get Mr. Squire? Are we going to voir dire this witness, Your Honor?

THE COURT: I don't believe so. We'll have to wait and see. He's never been called before.

MR. MORFORD: I would ask that Congressman Traficant be reminded that he cannot get into with Mr. Squire Mr. Squire's theories about government vendetta and that type of thing.

THE COURT: Let's just wait and see what Mr. Squire has to say.

MR. TRAFICANT: This man is objecting before a witness appears.

MR. SMITH: With good grounds.

MR. SQUIRE: Good morning, Your Honor.

THE COURT: Why don't you have a seat and we'll bring the jury in.

MR. SQUIRE: Thank you, Your Honor.

THE COURT: You're in a familiar place.

MR. SQUIRE: Yes, ma'am.

(Jury in at 11:10 a.m.)

(The Witness is Sworn)

THE COURT: I know your voice is big. Make sure everyone can hear you in the back. There's a mike if you need it.

THE WITNESS: All right, Judge.

DIRECT EXAMINATION OF PERCY SQUIRE

BY MR. TRAFICANT:

Q. Good morning, Percy.

A. Good morning, Congressman.

Q. Did you stay overnight or drive up from Columbus?

A. I drove up this morning.

Q. Would you give your full name and spell your last name for the jury?

A. My name is Percy Squire, S Q U I R E.

Q. And what is your occupation?

A. I am an attorney.

Q. And how long have you practiced law?

A. I was admitted to practice in 1981. I began to formally practice law following my discharge from the active military in 1982.

Q. Could you give us your educational background?

A. I graduated in 1968 from Youngstown East High School. I graduated in 1972 from the United States Military Academy at West Point. I completed law school from the Ohio State

University College of Law in 1981.
Q. And where do you currently reside?
A. I live with my family in Columbus, Ohio.
Q. Do you have other business pursuits?
A. Yes, sir, I do.
Q. Are you still active in the representation of clients?
A. Yes, sir, I am.
Q. Are you familiar with a Greg Tyson?
A. Yes. Mr. Tyson on occasion has been a client of mine.
Q. And in what regard did you represent Mr. Tyson?
A. I've handled three or four matters for Mr. Tyson. The one that was the most involved concerned an action filed against him in the 1995-1996 time frame in Trumbull County Court of Common Pleas by a company in which the principals were Anthony and Robert, and I believe a Daniel, Bucci. They filed an eviction action against Mr. Tyson concerning an alleged failure to pay rent at a concrete plant located on North River Road in Trumbull County in Warren.
Q. Did you represent him in that matter?
A. Yes, I did.
Q. And what was the resolution of that matter?
A. The case was a very convoluted situation because of

the way the deal was structured. Mr. Tyson had a company in Youngstown called Big G Construction. He was approached by the Buccis concerning expanding his business into the area of manufacturing concrete, and so forth, in order to qualify for different types of contracts. They set up a corporation in which Mr. Tyson had a majority interest, and there was another individual who was a minority shareholder along with the Bucci brothers.

They put together financing so that Mr. Tyson could purchase trucks. He had no previous experience in the concrete business, although he had extensive experience and had done quite well as a general contractor.

There came a point in time, however, where there was acrimony between the parties because Mr. Tyson was behind on rent payments.

Well, when I got into the deal and looked at it, it was a very unusual deal, because Mr. Tyson was renting from his partners, in effect, in a corporation, and the corporation had been unsuccessful in landing any contracts. The notion had been that by forming this company, the company would be able to compete for minority set-aside contracts. However, Mr. Tyson was saddled with all the liability. He was paying very exorbitant rent to his partners, and there was no equity put into the company by his partners. In effect, Mr. Tyson's funds were drained.

And then when he became unable to pay the rent, then his partners, in effect, foreclosed on him. His financial difficulty really stemmed from a lack of financing individually through his other company, Big G.

What we did at the time, because of the problems that Mr. Tyson had encountered and because I advised Mr. Tyson that I thought it was inappropriate for his partners in a company to sue him under these circumstances, because they all had a fiduciary duty to the corporation, and the Buccis in effect were taking all the benefits from the deal and they weren't putting anything in and were basically just draining Mr. Tyson, we filed a third-party complaint in the case and brought in the United States, because Mr. Tyson's problems stemmed from the failure of the government to pay him a loan, a 108 loan that he had qualified for, because the federal government didn't want to release the money to the city of Youngstown.

They didn't have a problem with Mr. Tyson, but they wouldn't deliver the money to the city of Youngstown because of problems they had in their loan program.

So we were filing a detrimental reliance claim against the government. We brought in the third-party claim. The government then removed the case to U.S. District Court, and ironically, as soon as the case hit the

U.S. District Court, the Buccis wanted to settle. And Mr. Tyson ended up settling with them for payment of a minuscule amount, much, much below what they claimed he had owed them.

And my own opinion is that they didn't want to litigate in Federal Court.

Q. Do you know whom, if anybody, helped Mr. Tyson on the 108 loan in Washington?

A. Yeah. The 108 loan -- and 108 refers to a particular provision of the federal statutes, and I am at a loss now to tell you the precise citation. But the 108 loan program was designed to benefit companies such as Mr. Tyson's, and you and your office were extremely instrumental in Mr. Tyson obtaining this loan. It was of particular note that he was able to qualify for the loan because he was the only minority entrepreneur that I'm aware of in the Mahoning Valley who was able to qualify for funding of this nature, and he was employing people, like I said.

He's a native of the area. He was doing quite well, I believe, until he got mixed up in this concrete plant over there in Warren, and he was the victim of circumstances, and the funding had been acquired through the government. The government made a commitment to lend him the money. Then the government had issues because of problems with the administration of various federal

programs by the city of Youngstown.

So the government didn't want to release any money to Youngstown, but Tyson had relied upon the commitment -- they had issued a commitment letter to him and entering into these other deals and so forth, so he was in a classic Catch-22. He had an approved loan that wouldn't be funded because there was a problem with the intermediary source, which was the city of Youngstown.

Q. So the city of Youngstown and their failure to implement their programs properly became the subject of a federal inquiry, is that correct?

A. Yes, sir, that is correct.

Q. And that impacted upon the timeliness that forced, in fact, Mr. Tyson to not receive the moneys that was guaranteed through the 108 program?

A. He had a commitment from the federal government in writing stating that he had been awarded the money, but the government doesn't disburse the money directly to the borrower. It goes through an agency that the city set up, and there had been problems. There were a number of prosecutions, and so forth, connected with Youngstown's administration of this program, and as a result, the federal government would not release the funds.

So Greg Tyson was left in a classic Catch-22, and, frankly, his company went bankrupt while he was awaiting

these funds.

Q. Do you know if Greg Tyson is my personal friend?

A. I don't have personal knowledge of your relationship with Mr. Tyson. I do know, however, that he credits you with having been instrumental in his ability to get an approval from the Department of Housing and Urban Development, which is the sponsor, as I understand it, of the 108 loan program.

Q. Were the Buccis reliable?

A. I had no contact with the Buccis prior to the lawsuit involving Capital Ready Mix. In the course of events, dealing with that case, I became quite perplexed at what appeared to me -- and this is what we alleged in our counterclaim and third-party claim -- that they really had attempted to exploit Mr. Tyson because they wanted to set him up. They wanted him to basically be a front so that they could qualify for minority set-aside contracts, which I personally found very offensive.

We alleged that in our counterclaim. We alleged they breached fiduciary duties to his company, and as I indicated, removed the case to Federal Court. And in the course of my dealings with them, I had the impression that they were not trustworthy.

Q. Is Mr. Tyson the kind of man that would be pushed around?

A. Mr. Tyson is quite a character, but he is a, I think, a very good-hearted person. As I indicated, he was doing quite well in his construction business. He was involved in a number of jobs in the Mahoning Valley, the Trumbull Correctional Institute, the private prison in Youngstown. There were just a number of jobs in town that he handled general construction tasks on.

And he had been doing quite well until he became involved in this spin-off in order to, you know, set up this construction business.

So he's a take-charge-type of person. He ran his own company. He was not consciously, in my opinion, establishing or agreeing to act as a front for anyone, but it was clear to me once we got in and we examined the deal, and looked at how it was set up and looked at the fine print, that that is what the intention of his partners was, was just to exploit him.

Q. Is that when Mr. Tyson fell out?

A. Well, he really -- I guess the last straw was when they sued him. He had a five-year lease on real estate at 425 North River Road where the concrete batch plant was located, and he had paid some 40 or -- 40 months or something like that while he was awaiting for this other funding from the government. They never qualified for any jobs. They never got a concrete job that I'm aware of.

And once his money was exhausted, then they turned around and sued him, which as I indicated, I thought that was a breach of fiduciary duty to the corporation.

Q. Are you familiar with the Bank One loan?

A. Yes. What happened, as time went on and the 108 funding was delayed, there were efforts made to obtain what amounted to a bridge loan for Mr. Tyson. And because he had a commitment letter from the federal government, he approached Bank One and attempted to obtain a bridge loan against the eventual proceeds that he expected to come through the 108 loan.

Initially, he was not successful, and again, you became involved, and they structured a deal in such a way that based upon the commitment from the federal government, Bank One made a bridge loan, but the city of Youngstown guaranteed the loan.

Q. Did the city of Youngstown fulfill its commitment of its guarantee?

A. Once the litigation started between the principals in Capital Ready Mix, that is, Mr. Tyson and the Buccis, everyone was brought into the lawsuit. Bank One was at risk because the delay in funding the 108 was creating problems with them getting their loan repaid.

What eventually happened was, Bank One abandoned its collateral to the Buccis for some ridiculously low amount,

candidly, and then the city refused to honor its guarantee. The bank was fully secured, but for reasons of prudence or relationships, or I don't know why, they did not enforce the guarantee against the city, and so the bank just absorbed the loan.

But the city was really liable to pay that loan off and never did.

Q. Was it unusual for a black man to get a loan in the city of Youngstown?

A. You know, my impression -- and I'm a native of Youngstown and am involved in businesses in addition to the law practice of my own, and I can tell you from personal experience I have partners, and we established the first urban-oriented formatted radio station in the Mahoning Valley back in 1993, and all of our funding has come from sources outside Mahoning County with the exception of some very small personal loans.

But the majority of the capital, and it's been necessary to raise considerable amounts of money, has come from sources outside of the Mahoning Valley, banks and so forth that have worked with us. And I'm sad to say that we've received virtually no support in Youngstown, and I think that experience is common to minority entrepreneurs in the Mahoning Valley.

Q. As a native of Youngstown, were you involved in

Youngstown activities?
A. Yes, sir, I've been involved in Youngstown activities quite extensively. I maintain a residence in Youngstown.
Q. Did I ever ask your assistance to participate in any specific activities?
A. Over the years, I have worked with you on a number of initiatives. I could sit here and list them one by one, but I've worked with you on the establishment of a Federal Courthouse in the city of Youngstown.
Q. Did it occur?
A. It did occur. The courthouse project was something that had been bantered around in the city for many, many years. No one was ever able to bring the funding in. Sometime in the late '80s, you prevailed upon one of the subcommittee chairmen in Congress at that time, a Congressman Roybal from California --
MR. MORFORD: Your Honor, I'm going to object unless he has firsthand knowledge of these things. I don't know if he was actually involved in those conversations.
Q. Were you at the meeting?
THE WITNESS: I was there, Judge.
THE COURT: Okay.
A. I was at a meeting. I was at a meeting held at the Colonial House on Market Street in Youngstown in 1986, as the representative of the Chief Judge of the Northern

District of Ohio, who add made a commitment to take Youngstown as his place of assignment if the congressman was successful in obtaining an appropriation to construct the Federal Courthouse.

So I went to the meeting. Congressman Roybal came there from California. We toured the city, talked about what could be done, and based upon what Congressman Roybal described as Mr. Traficant's tenacity and persistence, they committed to build that courthouse in Youngstown, and the courthouse is now there at 125 Market Street.

But it was constructed there as a sole result of the tenacity and persistence of Congressman Traficant.

Q. Who was the Federal Chief Judge at the time that appointed you to assist in that process and be at that meeting?

A. It was Thomas D. Lambros, from Ashtabula.

Q. What is the name of that Federal Building now located at 125 Market Street?

A. As a result of the bill that you introduced, the courthouse is now called the Lambros Courthouse, in recognition of Judge Lambros's accomplishments as a jurist and his involvement in having the courthouse project funded.

Q. Are you --

A. I also was involved with you in 1986, myself and a

former member of your staff who is now a judge in Youngstown, Robert Douglas, filed a lawsuit challenging the configuration of state legislative lines in the city of Youngstown, and we held our initial strategy sessions and put together our plan for that action in your offices with your support and assistance, based upon your knowledge of events that led up to the lines that we were challenging.

And that lawsuit resulted in the establishment of what is now the 64th Ohio House District, and resulted in the election of the first African American in the Mahoning Valley as a state representative in modern times. There had been another, W. R. Stewart, back in 1904 or something like that, but in modern times -- and that was attributable in large measure to the Armour case.

Q. Other than Bob Douglas, now Honorable Bob Douglas, and myself and you, were there any other significant forces behind that movement?

A. Behind the Armour case?

Q. No. Behind this legislative remapping and making, creating an opportunity for a minority seat.

MR. MORFORD: Your Honor, I'm going to object just in terms of relevance to the issues in this case.

THE COURT: Thank you. Let's move on, Congressman.

Q. Did you at some particular point become involved in

the second Federal Building?
A. Not as directly --
MR. MORFORD: Again, Your Honor, none of this is relating back to the charge in this case.
THE COURT: Thanks.
Q. Did you become involved in community activities of which I sponsored relating to improvements of the community?
MR. MORFORD: Again, same objection.
THE COURT: We have to deal with the charges in this case. That's why we have witnesses on the stand.
MR. TRAFICANT: I'm moving towards that.
THE COURT: Okay.
Q. Do you recall a -- were you ever offered to be a part of a group seeking to develop an economic development plan for the city of -- in the valley?
A. You established a committee to develop a strategy for the economic revitalization of the Mahoning Valley, and you contacted me to serve as counsel for that committee. It was in the late '90s.
Q. Do you recall any specific meeting relative to that program?
A. Yes, I do.
Q. And what was that meeting and where was it?
A. We attended the kick-off session and press conference

for this committee, and there were a number of local business, labor, and media, and community leaders. It was a 12 to 15-person committee. And a meeting was held on a Saturday morning on the campus of Youngstown University. And you contacted me about being counsel for the committee.

I drove up to Youngstown that morning in order to attend the session where you answered questions for the press concerning the mission of the committee, and so forth, and I drove up to attend the meeting as well as discuss other matters with you that we were working on in Youngstown.

Q. Do you know a man by the name of J.J. Cafaro?

A. Yes, sir, I do.

Q. And do you know what he does?

A. Well, I have an understanding, yes.

Q. Do you know if I left that meeting with J.J. Cafaro?

A. To my knowledge, you did not.

Q. And why do you say that?

A. When I arrived at the meeting because I was traveling from out of town, there were a number of people already there. As soon as I got to the meeting, you pulled me over, we went into a side room, and we talked about what you intended to accomplish at the press conference.

I had indicated to you that I understood what the purpose of the committee was, but there were other matters

that were going on in town that while I was in town I wanted to discuss with you, particular matters affecting various projects that I was working on. And you indicated to me that you didn't have time to talk about it then, but that we could get together afterwards, before you took off.

So after the press conference was held, as you were walking out of the door, I walked with you. We talked over the other projects that I had an interest in, and then you departed the building.

Q. Do you know if I departed and talked with anybody else?

A. I did not see you depart and talk to anyone else, and I was at the meeting the entire time.

Q. Do you know if I left in a Cadillac?

A. I did not see you leave in a Cadillac.

Q. And that was quite a lengthy meeting, wasn't it?

A. The meeting lasted, oh, I'd say 60 to 90 minutes or so. It was -- there was a lot of discussion about what the committee was going to do, how it would be accomplished, and so forth. The room was packed with people. It was, you know, there was a lot of interest in what was going on.

Q. Have we worked together on many projects in the city of Youngstown?

A. We've worked on a number of projects.

Q. In closing my direct, what was the last most

significant one we were walking on?

A. The last project, it would be a toss-up in terms of what occurred chronologically between the additional courthouse that's going up that's going to be named in honor of Judge Jones, and the baseball stadium where the Mahoning Valley Scrappers now play.

At your request, I was engaged by the owner of that baseball team to assist in trying to put together the package to construct that station -- I mean that stadium up in Niles.

Q. Is the courthouse being built?

A. Yes, it is.

Q. Is it going to carry a name?

MR. MORFORD: Objection, again as to relevance to that, Your Honor.

THE COURT: He can answer. You can answer. You said Jones.

THE WITNESS: Yes, Your Honor.

THE COURT: Nathaniel Jones.

A. Judge Jones is a native of Youngstown. He is a native of Youngstown, Ohio. He is an African American, former general counsel to the NAACP, and the congressman has again introduced legislation to name the new Federal Courthouse after him.

Q. Is there a semi-pro baseball team now?

A. Yes. The Youngstown Scrappers, sir, now in Mahoning Valley.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

CROSS-EXAMINATION OF PERCY SQUIRE

BY MR. MORFORD:

Q. Good morning, sir.

A. Good morning.

Q. We've never met or talked, have we?

A. No, sir, we have not.

Q. This meeting that took place at YSU, approximately how long ago was that?

A. Sir, that was roughly four years ago.

Q. And as I understand your testimony, there were a lot of people there; is that correct?

A. Yes, there were.

Q. The press was there?

A. Yes.

Q. There were a lot of things going on in that place that day; is that correct?

A. That is correct.

Q. And four years later you really don't remember exactly who Congressman Traficant left with, do you?

A. When you say I don't remember who he left with, I'm

not testifying who he left with. My testimony is I did not see him leave.

Q. You didn't see him leave at all?

A. No. I didn't see him leave at all until the meeting was over. As soon as I came in, the Congressman pulled me to the side. The committee was being seated at the table. He pulled me into a coat closet and began to talk to me about what he wanted to accomplish.

We then went into the press conference. I had things I wanted to talk to him about, so I hung around the meeting until he finished -- when he goes into a room, it is his practice, and I've been to meetings with the Congressman a number of times, early bird breakfasts for the Chamber of Commerce and things like that, he is generally the last one to leave, because he goes and he talks to the waiters, he talks to the custodians, he talks to everybody in the room, pats them on the back, puts his arm around them, you know, gets feedback and interacts with them.

That was what I witnessed that day, and then as he was leaving, I walked with him to discuss the projects I wanted to talk to him about, and then he left the building.

Q. Right. My question is: As he left the building, you don't know who he left with or you didn't actually see what vehicle he got in, or anything, did you?

A. I was standing at the door when he left, and I

answered on direct that I did not see him leave in a Cadillac.

Q. But you don't recall what he left in this four years later, do you, sir?

A. I recall that it was not a Cadillac.

Q. But you don't recall -- you weren't -- that was not something you were paying attention to at that time, was it?

A. No.

Q. It wasn't something that was important to you four years ago, was it?

A. No. The only thing that was important to me was spending the time with him to discuss the things I wanted to talk to him about.

Q. And also as a lawyer who practices business law, there were a lot of important mover and shaker businessmen and political heavyweights from the Mahoning Valley that were there that day, correct?

A. Yes, sir.

Q. And isn't it true that during the time you were there, you not only talked to Congressman Traficant, but you worked the room and talked to other people there?

A. What I did was I sat myself at the table, and I remained at the table until I saw him leaving, and then when he got up, I walked with him so I could discuss the

things with him I wanted to talk about.
Q. But during that time, from the end of the meeting until the time you actually went back to Youngstown, you're not suggesting that you never talked to any of the people in the room, are you?
A. Oh, no. I talked to people there.
Q. You went around and there were some big names of the movers and shakers of Youngstown, right?
A. I didn't walk around the room. I stayed seated at the table. And my point simply is, he was up moving around the room. I stayed at the table until it was clear to me he was about to exit, and then I got up and walked with him down to the door.
Q. And my question to you is: You were not there watching him and watching his every move the entire time, were you?
A. No.
Q. That wasn't your job, to keep an eye on Congressman Traficant to figure out who he talked to or who he walked outside with, or anything else, right?
A. Well, I viewed my job that day as going to Youngstown at his request and then talking to him while I was there, because I drove there from Columbus, so I wanted to make sure that I didn't let him get away. I wanted to make sure that while I had his time and had his attention, that I was

able to discuss with him the things that I wanted to discuss with him. So I was watching him in that connection. I didn't want him to get away without having an opportunity to talk to him.

Q. My question is: Four years later, though, you can't say exactly who he left with or what vehicle he got into, can you, sir?

A. I can say that I didn't see him leave and that I was paying attention to his movements because I didn't want him to get away without the opportunity to talk to him.

Q. No. But as he did leave, you didn't even see what vehicle he got into, did you?

A. As I -- I saw what vehicle he got into.

Q. What was it?

A. It was not a Cadillac.

Q. What was it?

A. You know, my recollection is that he got into a truck.

Q. Have you read any of the reports about this case and the testimony in this case?

A. Yes.

Q. Did you read the testimony of Mr. Kidwell in the papers?

A. Yes.

Q. So you read prior to today that Mr. Kidwell had

gotten into a truck and driven off?
A. Yes.
Q. That the Congressman -- he testified the Congressman did so as well?
A. Yes.
Q. But on direct you didn't testify that you recalled Congressman Traficant getting into that truck. How come?
A. He didn't ask me that.
Q. Did he ever ask you that before you testified here today?
A. No.
Q. Did you talk to him about your testimony before you testified here today?
A. Yes.
Q. And you didn't tell him, "Jim, I saw you get into that truck, I can say that"?
A. No.
Q. Why?
A. He didn't ask me.
Q. Sir, you're a lawyer. You're trained in the law, correct?
A. Yes.
Q. Wouldn't that be a very significant, substantial point to make given what you read in the paper that Mr. Kidwell had testified to?

A. Not in my mind.
Q. You've been a very strong supporter of the Congressman over the years, correct?
A. Yes, I have.
Q. From what you've testified, you feel that he's someone that has really been supportive of a lot of the causes you believe in, correct?
A. He has been.
Q. And you're very loyal to the Congressman, correct?
A. I have reciprocated with I think the loyalty and the fairness that he has shown to myself and other members of the community whose interests I've had authority.
Q. When did you first discuss with Congressman Traficant what you've testified to here today?
A. About 9:00 a.m. this morning, 9:15.
Q. When was the first time you told him that you could testify about that meeting at YSU?
A. This morning.
Q. And that was after you'd read the report of Mr. Kidwell?
A. Well, I read -- I have read every article that has appeared in the Business Journal, The Plain Dealer, the Tribune Chronicle. I've followed this case quite closely. And when he asked me to testify as a character witness, it was not clear to me that that would be the nature of

testimony that I could give in this case. And I said to him that I believe I could testify to certain items that I have firsthand knowledge of, and one of them was that I attended that meeting at Youngstown University. The other was that I represented Greg Tyson in the matters involving the Buccis.

And so he asked me to come here as a character witness, and it did not appear to me as a lawyer at this stage of the proceeding that that would necessarily be the appropriate type of testimony for me to give.

Q. When you -- did you read about J.J. Cafaro's testimony that he had gotten in a car and gone around the block with Congressman Traficant?

A. Yes, sir.

Q. And that was several weeks ago, correct?

A. Yes, sir.

Q. Probably five, six weeks ago. Why didn't you call Congressman Traficant at that time and say, "Congressman, I was there at that meeting, I can testify about that"?

A. Because I didn't feel compelled to do that.

Q. Well, you're somebody that is very supportive of the Congressman, correct?

A. Correct.

Q. And you're somebody that's followed this case very closely, correct?

A. That is correct.
Q. And isn't it true that you're hoping that the Congressman will be acquitted in this case?
A. I'm hopeful that justice prevails, and that if there is something that I can say truthfully to assist the jury in making their determination, that that occurs. I view this process as a quest for the truth. I think the Congressman has been a fair-minded, loyal and just person in his dealings with me and a lot of other people that I know about. So I wish him no ill will.

However, I don't have firsthand knowledge of everything that's been alleged, so I'm not going to try to do the Judge's job or the jury's job. But I am going to say what I know to be the case if I'm asked to do that.
Q. Let me ask you something else with regard to Mr. Tyson. During -- when was it exactly that you first began representing Mr. Tyson in these matters against the Buccis?
A. I relocated my residence to Youngstown in September of 1995. I actually opened an office in Youngstown because my law firm was setting up an office here in Cleveland, and I was reassigned, so to speak, to Northeastern Ohio to assist in the establishment of the Cleveland office.

While I was there, because I had relocated to Youngstown, Mr. Tyson came to my office when he was sued by the Buccis, and that was sometime during that '95 to '97

time period. My recollection, it was late 1995.
Q. So you began representing him in late 1995, and at the time you got that referral from Congressman Traficant, is that correct?
A. No.
Q. Did you ever get the referral of Mr. Tyson from Congressman Traficant?
A. No. I've known Mr. Tyson for most of his life. We grew up in Youngstown.
Q. So Congressman Traficant did not refer Mr. Tyson to you?
A. No, he did not.
Q. Okay. When you began -- you're friendly with Mr. Tyson, correct?
A. Oh, absolutely.
Q. And you're friendly with Congressman Traficant, correct?
A. Yes, sir.
Q. And were you aware that Congressman Traficant was very friendly with the Buccis?
A. No, I really wasn't. I didn't know his relationship with them.
Q. Once you started representing Mr. Tyson in the matter with the Buccis, isn't -- didn't Mr. Tyson tell you that Congressman Traficant was tight with the Buccis?

A. No, he didn't tell me that.
Q. Did there ever come a time where you advised Congressman Traficant about some of the things you were learning about the Buccis and their treatment of Greg Tyson?
A. I've never dealt with the Congressman on the circumstances with the Buccis.
Q. Were you aware that at the same time you were suing the Buccis or they were suing you and you were countersuing them, that Congressman Traficant was going to bat for the Buccis with the U.S. Department of Labor, the Ohio Department of Transportation?
A. I am aware of the fact that Mr. Traficant had some dealings with the Buccis from a phone call that I received prior to undertaking the representation of Mr. Tyson. When I -- prior to moving to Youngstown in 1995, I received a phone call one morning from the Congressman. He indicated that he was representing a company in Girard that had problems with the Ohio Department of Taxation. I was not familiar with this company.

The paving company had gone through all of the administrative steps to obtain forgiveness of some state tax liability. They were right at the final stage, and things had not gone well for them.

He asked me if there was anyone in my law department,

in my law firm, in our tax department, who could be helpful to this company. It turns out the company was one of the many companies that the Buccis owned. I didn't know who they were at that time.

I talked to the head of our tax department. We took a look at it. We determined that it was too late in the day, and we passed on the case, elected to not become involved, because through all the stages the Buccis have been represented by Baker & Hostetler. We got right to the end of the line; they asked for our firm to get involved. We decided to pass. So we just passed.

Well, then a year or two later, when I sued or counterclaimed against the Buccis, one of the Buccis called me and wanted to allege that I had a conflict of interest because I had previously represented them at the behest of Congressman Traficant. I told them that I disagreed with that, I thought it was nonsense, and we continued to prosecute it.

So it was only in that connection that I knew that there was some relationship, but I didn't have any idea about the extent of it.

And once I began to represent Mr. Tyson, I felt my primary obligation was to him, not to the Congressman, not to the Buccis or anybody else.

Q. Now, did you have anything to do with the referral of

Mr. Tyson to a lawyer by the name of Rinehart --
A. Yes, sir.
Q. -- when he was contacted?
A. Yes, I did.
Q. And isn't it true that you advised Mr. Rinehart that in your opinion the entire investigation was political?
A. I am not -- I don't recall if I told him that. You see, my recollection is when -- Mr. Tyson received subpoenas on two different instances. He received --
Q. My question was quite simple. I hate to interrupt you, but I just want to ask you: Isn't it true you told Mr. Rinehart you believed this was a politically motivated investigation?
A. Well, what I'm trying to get to, sir, is I'm not sure which investigation you're referring to.
Q. The one on Congressman Traficant.
A. I was not aware that there was an investigation of Congressman Traficant until Mr. Tyson got subpoenaed.
Q. And after Mr. Tyson got subpoenaed, isn't it true you told his attorney that you believed that this was a politically motivated investigation?
A. I told Mr. Rinehart that I thought that all of the headlines that appeared in the Plain Dealer around the time of the -- it must have been the 1998 or 1999 primary election, were curious, and I thought that there was a

motivation other than pure law enforcement in the manner in which the investigation was proceeding.

Q. Have you ever practiced criminal law yourself, sir?

A. Yes, sir, I have.

Q. And then you're aware that the grand jury witnesses have a First Amendment right to go out and tell people what they were asked before the grand jury, correct?

A. I've always been a little un -- because I practiced for the Ohio Public Defender in state court, I've always been a little bit unclear as to exactly what can be divulged when a person talks to the grand jury and what can't be.

Q. Have you ever read Rule 6(e)?

A. 16 of the Ohio or Federal Rules?

Q. 6(e).

A. I don't practice criminal law. That's the reason I referred Mr. Tyson to Harry Rinehart. My familiarity with Rule 16 would be general at best.

Q. Were you aware at the time you made that statement to Mr. Rinehart that the first person to ever disclose that Congressman Traficant was being investigated publicly was Congressman Traficant in a press release?

A. I'm not saying I said that to Mr. Rinehart, so I can't be aware of that.

Q. Were you -- when you had these suspicions, were you

aware of all the facts about the investigation?
A. No.
Q. Were you aware of the allegations that the government was receiving?
A. I was not aware of the specifics of the investigation until I read the indictment, which I took -- when it was issued here, I obtained a copy of the indictment and looked at it. And that's when I saw the names of the various parties, it's alleged these things happened. But prior to that, my only knowledge of the investigation was a product of Tyson being subpoenaed.
Q. But immediately without knowing any of the facts of the investigation, you jumped to the conclusion that this must be for improper motives, correct?
A. Incorrect.
Q. You certainly had those suspicions, you said?
A. I had those suspicions, absolutely.
Q. And that's partly based on your loyalty and liking of Congressman Traficant, correct?
A. No. It was based upon the press coverage and the timing of the investigation in relation to the primary election and the fact that these headlines appeared in close proximity to the primary. And the reason I felt that way is because I saw the same thing happen when Jessie Jackson was a candidate for president, and Arnold Pinkney

was indicted.

The day of the primary there was a big headline in the Plain Dealer about the Jackson campaign manager. And I felt that this was calculated in part to affect the electorate in how they exercised their vote on election day.

Q. Despite the fact that Congressman Traficant had issued a press release on January 30th two months before the primary announcing that he was a target of a government investigation, right?

A. Well, I don't understand the question.

Q. In other words, that was your suspicion despite the fact that it was Congressman Traficant who brought this investigation public on January 30th in a press release, correct?

A. That is correct.

Q. Now, sir, you can't sit here today and say that throughout that entire time of the meeting at YSU, from the time the meeting ended until the time Congressman Traficant left, that you can say conclusively there is no way possible that Congressman Traficant could have ducked out with J.J. Cafaro for two minutes, can you?

A. No, and I don't think that's been my testimony. My testimony, sir, has been that I was there. I was there to see him. I maintained what I believed to be an awareness

of his movements, and I did not see him leave with Mr. Cafaro. That is my testimony.

Q. And four years after the fact on a point that was not important at the time, it's your testimony that you can't say conclusively that he could not have gone off and met with?

MR. TRAFICANT: Objection, asked and answered.

Q. J.J. Cafaro for a couple of minutes, correct?

A. My testimony --

Q. Yes or no.

THE COURT: Go ahead and answer.

Q. Just a yes or no on that one.

A. I'll answer the question, sir, with your permission. My --

Q. I'm not asking the question -- if you could just answer yes or no.

A. I think my understanding of the obligation of a witness is to answer the question truthfully, not how he's instructed by the prosecutor.

And my recollection is that I did not see him leave. That's all I'm saying.

Q. And my question, again, is a very simple one. So therefore, you can't say that he couldn't have gone off with Mr. Cafaro for a couple minutes quickly, can you? Yes

or no.

A. I can't say that? I could say it. I don't know if it would be true.

MR. MORFORD: Thank you.

THE COURT: Redirect?

MR. TRAFICANT: It's almost 12:00. Do you want to continue or --

THE COURT: Well, I think we should break for lunch. We'll see you at 1:30. Again, remember all your admonitions.

Thank you very much.

THE CLERK: All rise for the jury.

(Jury out at 12:00 noon.)

(Whereupon, at 12:00 noon, the luncheon recess was had, to reconvene at 1:30, the same day.)

TUESDAY, APRIL 2, 2002, AFTERNOON SESSION, 1:39 P.M.

(Jury in at 1:39 p.m.)

THE COURT: You are still under oath.

THE WITNESS: Thank you, Your Honor.

REDIRECT EXAMINATION OF PERCY SQUIRE

BY MR. TRAFICANT:

Q. Good afternoon, Percy.

A. Good afternoon.

Q. The prosecutor asked you about four years ago, and if that was too long of a period of time for you to be able to recall certain events. Is that a fact?

A. Yes, I was asked that question.

Q. And did he ask you about leaving the building?

A. I don't recall the prosecutor asking me that.

Q. Did you testify to having left the building?

A. I testified that after I was able to get your attention at the conclusion of the conference, that I walked out with you, and then I departed.

Q. Where were you seated at the time the meeting was being conducted?

A. The meeting was held in a room at Youngstown University on the second floor in sort of a multipurpose location, and there was a large head table set up. I was in the last seat on the extreme right, and there were other members of the committee who were seated to my left down to

the end of the table, where there was a rostrum set up from which you were speaking from.

Q. Did you notice Mr. Cafaro at that meeting?

A. Yes, I did.

Q. And is he a distinguished type of persona figure?

A. Well, I mean he has traits I recognize. I know him over the years, you know, from coming in contact with him in the Youngstown area.

Q. Now, when you exited that building you exited -- your testimony was you exited with me; is that correct?

A. That is correct.

Q. And how did we exit that building?

A. We walked down the front stairs.

Q. Were there still people muddling around back in the multipurpose room when we left?

A. At the time we left the multipurpose room, there were people still in that room. When we exited the building, of course, I couldn't see what was going on in the multipurpose room, so I don't know if there were people in the multipurpose room at the time we exited the building. But at the time we exited the multipurpose room, there were people in that room.

Q. Yes. Now, when we exited the room, did we go to the sidewalk?

A. My recollection, as I indicated, I sat at the table

because there were things, projects, issues involving the area that I wanted to talk to you about, so I lingered so that as you were able, I would have an opportunity to discuss them with you. And you had suggested that I should wait until the meeting was over, which we did, and I walked with you as we exited the building.

So as we exited, I was talking to you. We were conversing back and forth.

Q. And you had my ear; is that your statement?

A. Yes, sir, that is correct.

Q. Now, you said at some point you'd seen me enter a vehicle.

A. That is correct.

Q. Was it a Cadillac?

A. No, it was not.

Q. Do you know if the vehicle was being driven by Mr. Cafaro?

A. It was not.

Q. When did I call you to testify at this trial?

A. You called me last night.

Q. And what was the purpose of your testimony to be?

A. You asked me if I could appear as a character witness.

Q. And what, if anything, did you say to me?

A. I told you that I questioned whether I could testify

because I really did not have a clear understanding of whether it would be appropriate to talk about issues of character at this juncture or not, but that there were things that I knew, that I recalled, involving certain issues that I knew were being litigated here, and I thought I could talk about those.

Q. Did we have any conversation before this morning relative to what those issues were about?

A. No.

Q. Who initiated the conversation this morning?

A. When you talked to me initially today about what you wanted to examine me concerning, I suggested to you that there were two areas that I was involved in personally. I informed you that I had been representing Mr. Tyson at the time of his conflict over the Capital Ready Mix case, and I informed you that I was present at Youngstown University when the meeting was held on the economic task force -- the economic committee. And those were the two things I brought up.

Q. As the attorney for Mr. Tyson, do you know which side I had taken when it hit the fan?

A. When the litigation began and we began to have disputes, you know, we filed our counterclaims, third-party claims, and so forth, I did not talk to you about that directly. What I can say is that you never contacted me

and said, "Hey, these are my friends, don't do what you're doing," or anything like that.

And my relationship with you throughout that litigation, and I certainly talked to you during the course of that litigation, was unchanged. You never asked me to pull back or not do anything that was harmful to them, and frankly, I'm not sure -- I am sure we never discussed the litigation.

So I can't say whose side you were on. All I can say is you never asked me to do anything that was going to undermine the position of my client.

Q. Have you ever worked on my farm?

A. Well, I just told you jokingly over lunch that ever since we were denied 40 acres and a mule, we got out of the farming business.

Q. Now, in the matter of character, what, if anything, do you know about me?

A. I have known you --

MR. MORFORD: Objection, Your Honor.

THE COURT: I think we aren't in that stage of the litigation. I think you were correct. We're not in that stage of the litigation where that's proper.

Q. Have I ever misrepresented anything to you, Percy?

A. No, you have not.

Q. Have I ever failed to respond to any request you've

ever made?
A. You have been very accessible and very responsive to me in connection with the issues that I have come to you with over the years.
Q. Have you come to me specifically in the Mahoning Valley with the serious issues that you felt were important to you and to the community that you were most concerned with?
MR. MORFORD: Your Honor, I object to the leading. You can't tell who's testifying now.
THE COURT: Just ask him open questions, and he can give his answers.
Q. Did you come to me with serious matters?
A. I have come to you on a number of occasions with matters that I considered to be of great importance, and generally to the city of Youngstown, and the African American community in particular, but in general to the city of Youngstown.
Q. And even though you live in Columbus, you still hold that kinship as home as being Youngstown; is that correct?
A. Well, Youngstown is my home. I love my home. I mean I love myself, so I would love my own hometown like I love my family, most of whom are still there, and I have a residence and a business in Youngstown.
Q. Who nominated you to West Point?

A. My nomination was made by Michael Kerwin, but it was actually arranged by former State Senator Harry Michelle.
Q. Now, at some point you said on cross that you had heard news accounts. Do you recall that?
A. Yes, sir.
Q. News accounts about this particular case.
A. Yes.
Q. And the prosecutor asked you if you knew who, in fact, made the declaration of the Traficant investigation, who announced the Traficant investigation. Do you recall that question?
A. Yes, I do.
Q. Do you know at that time there was a subpoena served on the Congress of the United States?
A. I did not know that at that time, not when I initially became aware of the investigation. I was not aware that a subpoena had been served.
Q. Would you know if the Traficant statement was made before or after a subpoena was served on the Congress of the United States?
A. As I sit here today, I cannot tell you what the exact sequence of events was. I mean, I recall becoming acutely aware of the investigation by reason of my representation of Greg Tyson, and the reason I am saying that I can't recall the specific time is because, unfortunately, during

that period there were investigations going on in the Mahoning County directed at about 60 or 70 different public officials.

There was a special prosecutor, there were various federal grand juries, so on a daily basis in the media you would learn about a whole array of people being indicted, all sorts of accusations. The Youngstown minority business loan program was being investigated. There were all sorts of indictments.

So it was in that general time frame that I became aware that there was, indeed, an investigation occurring that was directed at you.

Q. Was it your testimony that the timing of the matter seemed suspicious of my indictment -- my investigation?

A. What I said, Congressman, is that I thought it was very peculiar that in the days leading up to the primary election, there were huge headlines discussing various aspects of this investigation, and then as soon as the primary was over, they stopped. And I thought the timing was very curious, and that was the comment I believe that I made.

Q. Was it your impression that Greg Tyson and I were good friends?

A. I was not aware of the precise nature of your relationship with Mr. Tyson. I knew that you had

intervened on his behalf. I knew that you had a role in helping him obtain the various loans, and so forth, with the federal government and with Bank One. However, I was not aware of the exact extent of your friendship with Mr. Tyson.

Q. When was the last time you have spoken to Mr. Tyson?

A. I spoke to Mr. Tyson within the past year because he has continued to want to pursue claims against the city of Youngstown by reason of the impact he thinks their failure to act had on his companies, and the fact that his company went into bankruptcy, and so forth. I've talked to him about that.

Q. Are you still representing him?

A. No, I'm not.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: No questions.

THE COURT: Sir, thank you very much.

THE WITNESS: Thank you very much, Your Honor.

(Witness excused.)

MR. TRAFICANT: Dennis Johnson.

THE COURT: Hello again. Would you raise your right hand, sir?

(The Witness is Sworn)

DIRECT EXAMINATION OF DENNIS CARL JOHNSON

BY MR. TRAFICANT:

Q. Good afternoon, Denny?

A. Good afternoon, Congressman.

Q. There is water there, and you can get closer to the mike if need be.

Would you give us your full name and spell your last name for the jury?

A. Dennis Carl Johnson, J O H N S O N.

Q. Where do you reside?

A. In Salem. 1265 North Union Avenue, Salem, Ohio.

Q. In what county is that?

A. Columbiana County.

Q. Where are you currently employed?

A. Employed with Congressman Traficant's office.

Q. Is Congressman Traficant in the room?

A. Pardon, sir?

Q. Is Congressman Traficant in the room?

A. Yes, he is, sir.

Q. Where did you work before that?

A. I worked at General Motors in Lordstown, Ohio.

Q. How many years did you work at General Motors?

THE COURT: Congressman, this is a limited examination. You've had this witness on direct before this jury before, and it's very important that you not take time

to go over the things you have already gone over.

You know what you may question him about. This is a recall of a witness for a specific purpose. You've already had the direct examination. So if you would proceed to the specific purpose.

MR. TRAFICANT: I appreciate that. He's been here --

Q. How many times have you been here to Cleveland to testify?

A. I think this is my eighth day. Eight times.

Q. Do you recall having a meeting with a Mr. Charles O'Nesti shortly before he passed?

A. Yes, I do.

Q. And could you describe the events of that day and how it occurred?

A. It was at the Open Hearth on Steel Street in Youngstown, Ohio. It was late afternoon. And I was sitting there with some friends, and I heard some people talking, coming up to the bar, and I could basically hear a voice. And I leaned back to take a look who was approaching me, and even though the voice sounded familiar, I couldn't recognize him until he got up closer. When he got up closer, it was Chuck O'Nesti.

Q. Did you arrange to meet with Chuck O'Nesti there that day?

A. No, I didn't.
Q. Was it a happenstance opportunity for that meeting?
A. He told me that he knew I was going to be there. I do not know who told him I was going to be there.
Q. Who were you with when he approached you?
A. I was sitting with Billy Coleman, only one I really recall, but it was Mr. Coleman who was sitting with me with other people.
Q. Did you engage in a conversation with Mr. O'Nesti?
A. Mr. O'Nesti came up to me and said he wanted to talk to me.
Q. Did you talk to him there at the bar?
A. No, I didn't. He asked to talk to me, and he kind of started walking away. I followed him. We went in like the back of the room and sat down at a table.
Q. Describe the type of facility that this is, this -- what did you say the name of it was?
A. Open Hearth.
Q. And what kind of facility is that?
A. Well, it's a bar, but they sell food, and we have a lot of our Christmas parties there and a lot of people attend there, a lot of political people go there.
Q. Did you go to the back of the room with Mr. O'Nesti?
A. Yes, I did.
Q. Did you sit down at the table?

A. Yes, we did.
Q. Who initiated the conversation?
A. Chuck O'Nesti.
Q. And basically what did Chuck O'Nesti -- what was his concerns in meeting with you?
A. His concern was that he was trying to get in touch with you to talk to you by phone, and he was afraid you wasn't getting the message because you were not returning his phone calls.
Q. What, if anything, did you tell him?
A. I told him I promised him that I would get in touch with the Congressman and have him call you.
Q. Was that the end of the conversation?
A. No, it wasn't.
Q. What, if anything, then happened?
A. He looked at me, he was talking very low, I could hardly hear him talk, but he was saying to me, he said, "Denny, Jim did nothing wrong." He said, "They want me to say things that are not true" --
MR. MORFORD: Objection.
THE COURT: You can continue.
A. "And they're going to send me to the Army."
Q. He said they're going to send him to the Army.
A. Right.
Q. At that point, what did you do?

A. I'm just saying when you looked at him, he was so frail, he was so sick, his hair was coming out, and it wasn't the same guy I knew. I thought he was very confused. I asked him, "Come on, I'm going to get you home." I got him up, led him back over to where I was setting. He walked on down -- or towards the end of the bar where a guy was sitting, and they left.

Q. Now, do you know what kind of a cancer problem Mr. O'Nesti had?

A. I was told, because I did check or people would say, that I guess he had colon cancer that was going through his body, and eventually was in his brain.

Q. Did you ever experience any of that in your own family?

A. Yes, I did.

Q. And how did you experience that?

A. Approximately nine months or somewhere there my wife died of brain cancer, and I could see the same symptoms in him, and that's why I thought he shouldn't be there talking to me. And I didn't think he was making sense, and that's why I thought he should go home.

Q. Did you cut him off when he mentioned the Army?

A. Yes, I did.

Q. Did you have any further conversation with him after that?

A. No, I didn't.
Q. Did you notify me that he wanted to see me?
A. Yes, I did.
Q. Do you know for a fact if I had seen him?
A. Yes. You informed me no one --
MR. MORFORD: Objection to what Congressman Traficant told the witness unless he has firsthand knowledge.
THE COURT: Right.
Q. Do you have any firsthand knowledge that I had seen him?
A. Only your conversation, sir.
Q. How was his voice when you talked to him?
A. It was very weak, almost like a whisper, because I had to lean over and listen to him when he was talking to me.
Q. Did you expect to see Mr. O'Nesti that day?
A. No, I did not.
Q. Did you ever see him after that again?
A. Only at calling hours, sir, when he passed away.
MR. TRAFICANT: No further questions.
THE COURT: Thank you.
THE COURT: You have may inquire, Mr. Morford.

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CROSS-EXAMINATION OF DENNIS CARL JOHNSON

BY MR. MORFORD:

Q. Mr. Johnson, would it be fair to say you do not come before this jury as a totally unbiased witness?

A. I would say that, sir.

Q. That you do not?

A. No. I'm saying I don't quite know what you mean, but I'm very fond of the Congressman if that's what you're saying.

Q. In fact, you're a very close personal friend of the Congressman, correct?

A. I would hope so, yes, sir.

Q. And you've been a close political ally of Congressman Traficant for many years, correct?

A. Yes, sir.

Q. You've supported him in many campaigns, correct?

A. Correct, sir.

Q. And you're currently an employee who works for the Congressman -- works for Congressman Traficant and has done so for the past three years, is that correct?

A. Correct, sir.

Q. And it was Congressman Traficant who hired you in this current position that you hold, correct?

A. That's true, sir.

Q. And it's Congressman Traficant who determined what

salary you'd be hired at, correct?
A. That's true, sir.
Q. He determines the amount of salary you make today, correct?
A. That is true, sir.
Q. How much do you make, sir?
A. I think it was $42,000 up until we got a 3 percent raise, made it 45,000, I think, a year.
Q. So you make $45,000 a year?
A. Yes, sir.
Q. In which office do you work out of?
A. Out of the Canfield office, sir.
Q. Now, that's not where the majority of the staff work, correct?
A. Correct, sir.
Q. That's sort of a special office?
A. Yes, sir.
Q. And it's you and Mr. Barlow that work out of that office?
A. Yes, sir.
Q. And you work away from the rest of the congressional staff, correct?
A. I go down there on occasions, the one down in Youngstown, yes, sir, the office.
Q. But the office in Canfield, you're away from the rest

of the congressional staff, correct?
A. Yes, sir.
Q. And during the week when Congressman Traficant is in Washington, there's nobody really to supervise you, is there?
A. Just on daily conversations with him or with Charlie in Washington, sir.
Q. But in terms of there at the office in Canfield --
A. No, sir.
Q. -- you're on your own, correct?
A. Yes, sir.
Q. Who is your direct supervisor?
A. Congressman, sir.
Q. And you answer to no one but the Congressman, correct?
A. That's correct.
Q. And how many hours are you supposed to work to earn your $45,000 salary?
A. I say 30 hours a week, sir.
Q. And as I understand it, Congressman Traficant has the power to fire you at will without cause at any time, correct?
A. That's correct, sir.
Q. Now, in addition to working for Congressman Traficant, you've also served for a number of years as the

chairman of the Columbiana County Democratic Party; is that correct?
A. That's correct, sir.
Q. How many years have you held that position?
A. Approximately ten years, sir.
Q. And do you still hold that position today?
A. I do, sir.
Q. And you also serve as a member of the Columbiana County Board of Elections; is that correct?
A. That's correct, sir.
Q. Is that a paid position?
A. Yes, it is, sir.
Q. And how much do you make on that per year?
A. I am going to say approximately around 8,000, sir, a year.
Q. Now, you were not a law enforcement officer; is that correct, sir?
A. No, sir.
Q. Have you ever falsely held yourself out to be a law enforcement officer, Mr. Johnson?
A. No, sir.
Q. Isn't it true that on December 9th, 2001, you drove your car into a ditch, and when the police arrived, you got out and flashed them a civil sheriff's commission badge and claimed to be a law enforcement officer?

A. Sir, the officer asked me to see my driver's license. I was getting my driver's license. He looked down and saw the badge and said, "Can I see it?" I held it up and showed it to him. I continued to get my license. "Can I see that again?" And I held it up to him, and he asked me what that was. I told him that's what it was, and he took it.

Q. And it's your testimony you weren't trying to show him this civil commission badge in order to make him believe you were a law enforcement officer so he would cut you some slack in that incident?

A. Sir, that's what he claimed, but no, sir.

Q. That's what the officer claimed you did, correct?

A. Yes, sir.

Q. But it's your testimony that the officer is lying?

A. No, sir. I'm testifying that I was trying to get my license and he saw the badge and asked me what it was, and I showed it to him. And his opinion was I was trying to show to it him to get out.

Q. Well, sir, that's not the first time you've ever been accused of holding yourself out as a law enforcement officer falsely, is it?

A. No, sir.

Q. Isn't it true that you lost your job at one time based on charges that you had held yourself falsely out as

a law enforcement officer?
A. No, sir.
Q. Isn't it true that there was an incident in which you held yourself falsely out as a law enforcement officer?
A. When we was with ODOT, yes, sir.
Q. Go ahead and tell the jury what that was about.
A. We had a work area a car went through, the work area too fast. I had an employee with me from ODOT. We stopped the car. They went and filed charges and the prosecutor heard it. I was found guilty. I appealed it, 17th District Court reverse appealed and went to the Supreme Court, and they upheld the 17th Court of Appeals.
I never lost my job and I still worked for ODOT, rehired back by ODOT seven years later.
Q. Didn't you after that Supreme Court case enter a guilty plea, sir?
A. No. The prosecutor said to me he didn't want to try it again, the Judge didn't want to try it. We went in, pleaded no contest, and they fined me $50, and it was over.
Q. For impersonating a law enforcement officer, correct?
A. Well, I guess you could say that. The prosecutor said I was throwing my weight around.
Q. Do you know a man by the name of David Sugar?
A. I have met Dave Sugar.
Q. And isn't it true you met Dave Sugar after

Congressman Traficant asked you to help Dave Sugar on a matter that occurred back in your county, Columbiana County?

A. I don't understand what you're saying. No, sir.

Q. Do you remember a time when you were asked by the Congressman to intervene in Columbiana County on behalf of Dave Sugar?

A. I could have. I don't recall, sir.

Q. Well, do you recall a time when you made calls to Lisbon, Ohio, regarding a project that Dave Sugar had to try to help him resolve a problem he was having there? Is that ringing any bells?

A. The only time I can recall talking to Dave Sugar, he asked for a contract or he had a contract in my county, and no one asked me to do anything other than he had the contract, and I think it was more trouble with unions than it was anything else. But I didn't ask anyone to back off or do anything wrong that I'm aware of.

Q. That wasn't my question: Isn't it true Congressman Traficant asked you to make calls on Dave Sugar's behalf?

A. He could have, but I don't recall what it was, Mr. Prosecutor.

Q. Well, sir, you've only worked there for three years. You're telling this jury that you can't recall anything about that situation that occurred just in the last three

years?
A. No, I can't. I do not recall that.
Q. But you do recall this conversation with Charles O'Nesti, correct?
A. I do.
Q. And as I understand your testimony, you say that Mr. O'Nesti told you to tell Congressman Traficant that Congressman Traficant didn't do anything wrong?
A. His exact words was to me, he said, "Denny, Jim did nothing wrong."
Q. But nobody was present to hear those things that you've just testified to, were they?
A. No, sir, they wasn't.
Q. It was just you and Mr. O'Nesti, and he's now dead, correct?
A. That's correct.
Q. So you have nothing to support your statements except your word, correct?
A. That's correct, sir.
Q. Now, you didn't do anything to memorialize this conversation, did you?
A. No, sir, I did not.
Q. You didn't take any notes or write a little memo or something like that?
A. No, sir, I did not.

Q. Now, at the time you saw Mr. O'Nesti at the Open Hearth, isn't it true that at that time, and throughout the time you've known Mr. O'Nesti, that he thought the world of Congressman Traficant?
A. Yes, he did.
Q. In fact, he almost worshipped Congressman Traficant, correct?
A. Yes, sir.
Q. And at the time that he talked with you at the Open Hearth, he knew that you were very close to Congressman Traficant, correct?
A. Yes, sir.
Q. And isn't it true that at the time that he talked with you at the Open Hearth, it was clear to you that he was talking to you as an agent and employee of Congressman Traficant to try to get word back to Congressman Traficant so that he would call Mr. O'Nesti?
A. That is true.
Q. Now, the incident with the ditch, you were charged with an offense there, correct?
A. The ditch?
Q. Yes.
A. I was charged, yes, sir.
Q. With DUI, correct?
A. Correct.

Q. And what, if any, action did Congressman Traficant take against you when he learned that you had driven your car into a ditch -- it was close to his office, correct?
A. Yes, sir, about two miles.
Q. In fact, it was during office hours, was it not?
A. 5:30. I think approximately around 5:30.
Q. But you drove your car into the ditch at 5:30, right?
A. Yes, sir.
Q. You had been drinking prior to that, correct?
A. We had a party, yes, sir.
Q. And so what retaliation did Congressman Traficant take against you when he learned that you'd been drinking on office hours and had driven your car into a ditch?
A. Well, Mr. Prosecutor, it was one of the hardest calls, I had to call and tell him that.
Q. That's not my question.
A. He asked me if anyone got hurt. I said no one was involved, and he said, "Fine, I'll talk to you about it later when I come home."
Q. And what action has he taken against you --
A. As of now, none, sir.

MR. MORFORD: Nothing further.

THE COURT: Thank you.

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REDIRECT EXAMINATION OF DENNIS CARL JOHNSON

BY MR. TRAFICANT:

Q. Have you ever really seen me fire anybody, Denny?

A. No, sir.

Q. Is Columbiana County in the new 17th District of Ohio?

A. No, sir.

Q. Do you know where, if I am eligible, where I will be a candidate for Congress?

A. You will be in the 17th District, sir.

Q. And what district will you be in?

A. The 6th District, sir.

Q. What is your status with General Motors today?

A. I am a production supervisor on a political leave of absence.

Q. Now, on that issue with the badge --

A. Yes, sir.

Q. Was it over a traffic ODOT concern you had?

A. Yes, it was.

Q. Did you take action for any particular reason?

A. An individual was speeding through a work zone that we were just breaking down.

Q. Was there any law enforcement officer there to help?

A. No, sir.

Q. Why did you do it?

A. Because, first of all, when the car went through, it sprayed rocks on us, and it was just when you're in traffic control like we are -- and I admitted this, Congressman, I overreacted at the time, but at the time the people, including myself, feared for my life, and I went to approach that car and let them know what they did.

The badge they're referring to is not a policeman's badge. It was an ODOT identification badge which meant I worked for ODOT. It wasn't a police badge. It was an ODOT badge that every supervisor had to carry if you approached somebody at their home or go see them, you showed it to them at that time.

Q. Was that matter litigated?

A. It went to court, yes, sir.

Q. The bottom line was what?

A. It went all the way to the State Supreme Court, and they upheld the 17th District Court, that what I did was not wrong. And they went back to retry it, and the prosecutor at the time, Mr. Barnes, he did not want to take it to court. He asked me if I would go in and just plead not guilty and there would be a small fine, and I said yes, because I was paying for that myself out of my pocket.

And when you go to the state Supreme Court, I spent a lot of money because I was not going to cut a deal, and I took it all the way and it come back and they fined

me $50, I believe, sir. It's been a long time ago. It was 30 years ago, I think.

Q. 30 years ago.

A. I was 29, I think, at the time, sir, 29 or 30.

Q. Now, you were asked some questions about Dave Sugar; is that right, sir?

A. Correct.

Q. Would it be unusual for me to call you about a constituent of mine?

A. No, it wouldn't be.

Q. Would it be unusual for me to call anybody about a constituent of mine?

A. No, sir.

Q. In your duties, do you call people about constituents of mine?

A. Yes, I do.

Q. Do you just work in one office or do you work throughout the region?

A. I work throughout the region.

Q. Now, the prosecutor talked to you about the ditch. Can you explain where that occurred?

A. On Leffingwell Road, sir, in Mahoning County.

Q. And were you driving the car?

A. Yes, I was.

Q. Did you accidentally run off the road?

A. I accidentally, when I pulled off the road, Congressman, I pulled off too far. I called my wife at the time to come and get me. It rained for three days. I did not damage my car. There was not a scratch on my car.

I pulled off the road, called her, told her to come and get me, and I was sitting in the car, listening to music when they knocked on my door.

Q. Did you go off the road because you were under the influence of alcohol?

A. I went off the road because I shouldn't be driving, and I called my wife to come and get me. I felt I shouldn't be driving. Did I feel I was drunk-drunk or anything? No, sir, I did not, but I knew I should call her to come and get me.

Q. Did you notify me of that?

A. Yes, I did.

Q. What, if anything, did you explain to me?

A. I explained to you the situation, exactly how I explained it to you now.

Q. What, if anything, did I say?

A. You asked me if it was the first -- -- at first, if anybody was involved or did I hurt anybody or was there a wreck.

Q. When I returned to the district, did we discuss it?

A. Yes, we did.

Q. Did you further clarify that issue?
A. Yes, I did.
Q. Are you represented in that matter?
A. Yes, I am.
Q. Do you have counsel?
A. Yes, I do.
Q. What's his name?
A. John Schultz.
Q. What is the status of the process?
A. The process is now in litigation, that the machine was not correct, and we have a Judge D'Apolito that is now reviewing that case, not strictly on mine, but other cases. He's reviewing the breathalyzer because they said it was not calibered right. So I'm waiting for a decision from that judge.
Q. Did you plead in that case?
A. Not guilty, sir.
Q. Are there times when you worked more than 30 hours a week?
A. Yes, there is, sir.
Q. Are there times when you have worked more than 40 hours a week?
A. Yes, there is, sir.
Q. Are there times when you've worked more than 50 hours a week?

A. Yes, there is, sir.
Q. Do you work at night representing the Congressman?
A. Yes, I do.
Q. Do you attend meetings representing the Congressman?
A. Yes, I do.
Q. Are you an influential person in our valley?
A. I hope so, sir.
Q. Was it ever your intent to act as a policeman?
A. No, sir.
Q. Now, 30 years ago, did you try and stop somebody from getting hurt?
A. I stopped a vehicle, yes, sir.
Q. When Mr. O'Nesti mentioned the Army, what was your impression?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. What did you do when Mr. O'Nesti mentioned the Army?
A. I told him I think he ought to go home.
Q. Was he attempting to continue to try and speak about the Army?

MR. MORFORD: Objection.

THE COURT: The purpose of this special provision that allows you to bring a witness back for a limited purpose is that we deal with that purpose and not other things, and that goes beyond it.

Q. Do you have immunity, Mr. Johnson?

A. No, I do not.

MR. TRAFICANT: No further questions.

MR. MORFORD: Nothing further.

THE COURT: Thank you. Thank you, sir. You may step down.

(Witness excused.)

MR. TRAFICANT: Your Honor, I'd like to request that we take a break. I am waiting on Mr. Terlecky, and I don't believe he is here at this point. May we take a break now?

THE COURT: Yes. Well, let me instruct -- we're going to take a break. Let me give the jury an instruction I need to give you when you hear limited testimony.

The testimony you just heard regarding Mr. O'Nesti's statement can only be considered by you when you assess the credibility of Jacqueline Bobby and/or Grace Kavulic as to their testimony regarding other statements from Mr. O'Nesti.

The statement you just heard can only be used to impeach the credibility of Ms. Bobby or Ms. Kavulic and is not evidence of anything else.

We'll give you your break now so we have time to see if we can get another witness in front of you today.

Thank you.

(Jury out at 2:26 p.m.)

(Recess had.)

(Jury in at 2:44 p.m.)

THE COURT: Sir, would you raise your right hand?

(The Witness is Sworn)

THE COURT: You may have to speak up into mike.

MR. TRAFICANT: There is some water there, too.

DIRECT EXAMINATION OF HORACE R. CHESNEY

BY MR. TRAFICANT:

Q. Would you give your full name and spell your last name for the jury?

A. Horace R. Chesney, C H E S N E Y.

Q. And where do you reside?

A. I reside in Lisbon, Ohio.

Q. And when were you subpoenaed to appear?

A. Approximately 10:00, give or take, depending on where you figure it was actually handed to me.

Q. Did you have occasion to meet me?

A. Yes, I have.

Q. How did you come to meet me?

A. There were two different direct ways that I ended up

meeting you. One was as I was searching to resolve a personal problem, and the other was a friend had approached me and said that you were interested in having a tree stand built for deer hunting.

Q. Did we meet?

A. Yes, we did.

Q. And what was the meeting supposed to be about?

A. It was an impromptu meeting. I would say it was mostly about you getting a price on a good deal on a deer stand, but I had some pertinent personal -- I had my own agenda. You seemed more interested in the deer stand.

Q. Well, when we met, were we to meet about a deer stand or about this other agenda that you talked about?

A. Well, we were meeting to take care of both items, I believe, as I recall it.

Q. Did I ask you for a price?

A. Yes, you did.

Q. At the time, to the best of your knowledge, did I know what your agenda was about?

A. You may have been roughly told, but it was pretty spontaneous. I don't know whether for sure you knew or not. I do believe that you were forewarned or fore -- somebody had got a meeting for us. If I'm not mistaken, Mr. Hudach.

Q. What was your agenda concerning?

A. As I say, my agenda was mostly about my problems. The agenda was sort of over whether or not you wanted a deer stand built. It was also about me to speak to you about problems I was having getting to resolve an issue that I thought that the Congressman could handle.
Q. Without stating what it was, whom did it concern?
A. It concerned me, and it gets into an issue of me believing that there was corruption going on.
Q. As a result of that conversation, did I refer you to anyone?
A. Yes, you did.
Q. Whom did I refer you to?
A. Do you want names or just --
Q. Who did I refer you to first? Give me the first name.
A. Mr. Arena from the FBI, Cynthia Rice from the U.S. District Attorney's Office, Mike Cizmar from the DEA, FBI, I'm not sure which one he is with.
Q. Was there anybody on my staff that I directed you to work with?
A. Yes. Fred Hudach.
Q. Did you continue to work with Mr. Hudach?
A. Quite a bit.
Q. Did you ever do any work for me at the farm?
A. No. I didn't end up doing any work on the farm.

Q. Did you end up building the deer stand?
A. No, I did not.
Q. Do you know if a deer stand was built?
A. Not for sure.
Q. Were you subpoenaed here today about the government or about a deer stand?
MR. MORFORD: Objection as to why he was subpoenaed.
THE COURT: Was there something on your subpoena that told you what you were subpoenaed here for?
THE WITNESS: Not specifically.
THE COURT: Thank you. Objection sustained.
Q. Did we basically just converse about the purpose for your being here?
A. Yes, we did.
Q. And after that conversation, what was your impression as to what -- as to why you were subpoenaed here?
MR. MORFORD: Objection. Speculation and relevance.
THE COURT: Right. You can ask him questions that would be useful in this case for the jury to have evidence of.
Q. Did I subpoena you relative to this deer stand?
A. Yes, I believe so.
Q. Did you inform me of the other matters as we sat in

the room here just shortly?
A. Yes, we did.
Q. Did I offer you any instructions relative to your testimony in the matter of the Court?
MR. MORFORD: Objection.
THE COURT: You can answer if he gave you instructions.
A. I wouldn't call them instructions per se. We were disagreeing a little about my opinion and what you told me couldn't be brought up, and why you didn't think it could be brought up, and then the issue of the deer stand. So there were some instructions, but I wouldn't say that you instructed me what to say.
Q. Did I tell you not to bring up any specifics about any certain issue?
MR. MORFORD: Objection as to relevance, Your Honor.
THE COURT: Why don't we just go ahead and ask him the questions that are relevant to this case. He's a witness, he's on the stand, and he's here to testify for the jury.
Q. Did I ask you not to make any specific comments about your concerns about the government?
MR. MORFORD: Objection.
THE COURT: I don't know what -- well, I want

you to ask the witness questions, the answers to which can be considered evidence in this case, and you're not doing it. You're trying to engage in some sort of a discussion with him about exactly what we've told you you can't do.

BY MR. TRAFICANT:

Q. As a result of our conversation, what, if anything, did you not do in this courtroom?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. As a result of our conversation, was it your impression that you should not discuss the government?

THE COURT: I'm going to -- we'll all stand for the jury. I'm going to let the jury out so we can deal with this one more time.

(Jury out at 2:53 p.m.)

MR. TRAFICANT: Your Honor, I'd like to explain something.

THE COURT: Just wait.

MR. TRAFICANT: I'd like to explain that I told him --

THE COURT: Be seated.

MR. TRAFICANT: -- with the concerns that he brought that I did not want him to testify about them.

THE COURT: That's fine. Well, then stop asking him questions about that.

MR. TRAFICANT: Well, I was trying to get him to admit that I did not want him to bring those concerns forward, because he wanted to bring concerns forward relative to the government.

THE COURT: Do you understand in a lawsuit that there are rules you have to follow? Everybody does. The parties, the witnesses, even the spectators have some rules. But here you're being called in a particular lawsuit about some issues, and that's what he's trying to tell you, that he's under an obligation to not elicit from you testimony which the Court has already ruled can't be elicited.

I guess we're here to talk to the deer stand issues.

THE WITNESS: May I ask a question?

THE COURT: You could ask a question some other time, but right now you can't. You're subpoenaed as a witness here. You can testify for him about things that are relevant on the stand, and if you have questions you can address them after this hearing, and hopefully you'll be able to testify for him in front of the jury.

But you can't testify about whatever you want to in front of the jury. You've got to be able to testify as to what is relevant.

MR. TRAFICANT: Your Honor, when I subpoenaed this witness, I don't remember anything about the federal

concerns. In fact, I thought he was a different witness. And I told him that the concerns he had would not be able to be brought up here.

THE COURT: And that's what you should do.

MR. TRAFICANT: That's what I was trying to fashion into words so that he would not say them and you would get on my back about it.

THE COURT: All right. He's trying.

MR. TRAFICANT: Is that a fact, Mr. Chesney?

THE COURT: Okay. So are you clear now about what it is he's got you here for, things he can have testimony put in front of the jury.

THE WITNESS: I understand that, Your Honor.

THE COURT: Okay. And if you have problems with the way the court system runs, and everything else, you certainly should be able to address those problems, but not while you're on the stand and we have a jury who's been here all day and they want to hear the testimony. Okay?

THE WITNESS: Yes. I do understand now.

THE COURT: Thank you.

MR. TRAFICANT: Your Honor, the testimony about the deer stand is that he was asked -- he gave a price. He was never asked to do it, he didn't do it, and there's nothing more about the deer stand.

THE COURT: I don't know what else there

might be on the deer stand.

MR. TRAFICANT: His impression, though, when he came up, he thought he was subpoenaed for another reason.

THE COURT: Okay.

MR. TRAFICANT: And I was just trying to tell him that the concern --

THE COURT: Is there more on the deer stand? Is there more than what you've already elicited?

MR. TRAFICANT: No, not really.

THE COURT: Fine.

MR. TRAFICANT: When I met my man, it was more about a deer stand. I don't remember -- now I do -- I didn't remember, but I do now recall, and I'm not even sure this is the fella -- there may be another fella with a similar name, but I remember in the conversation we had --

THE COURT: Are there any other questions about the deer stand?

MR. TRAFICANT: No. I really don't have any other questions. I was just trying to say --

THE COURT: You're excused.

MR. TRAFICANT: He couldn't testify on the matters he was concerned about.

THE COURT: Thank you very much. We'll just excuse him and we'll -- where is Terlecky? Is he here?

MR. TRAFICANT: Terlecky is not here.

THE COURT: Okay. We'll excuse you, sir. Thank you very much.

(Witness excused.)

MR. TRAFICANT: Could you give -- did you give some time for Mr. Terlecky? He's the last witness I have of the day.

THE COURT: What is your --

MR. TRAFICANT: I think without the jury here maybe you could ask the gentleman what he's frustrated about with his problems.

THE COURT: You can just step down, sir. Thank you.

What is your information about where Mr. Terlecky is?

MR. TRAFICANT: We were trying to reach Mr. Terlecky and have haven't been able to reach him.

THE COURT: Have you been able to reach him?

MR. TRAFICANT: No. I don't know if they have reached him yet or not, if he's on his way. He might be in that office now, but he wasn't there when I left ten minutes ago.

THE COURT: Why don't you or send someone down to check and find out if he's there or not.

MR. TRAFICANT: I would like to have him here, and I would like to suggest a half-hour break at this

point.

THE COURT: Well, the jury was in recess all morning, basically, because there were so many things we had to address.

First, find out if Terlecky is here, if you will or ask someone to do that for us.

MR. TRAFICANT: Yes. We've been trying to run him down. He was in transit somewhere.

THE COURT: Okay. Do you have any other witnesses here today?

MR. TRAFICANT: I have another witness who is supposed to be here, but he's not here. Attorney Mark Colucci was relative to a character situation.

THE COURT: We've already dealt with that. Do you have any other ones, any other witnesses?

MR. TRAFICANT: That's all that was subpoenaed for today.

THE COURT: Okay. And for tomorrow?

MR. TRAFICANT: Well, I'm still trying to line up witnesses for tomorrow. I have certain ones that I haven't been able to reach with subpoena, and I'm hoping we would reach them tonight. And if we do, I'll have them tomorrow.

THE COURT: And what is --

MR. TRAFICANT: If Mr. Morford would take up

my motion, then we'll just close it out tomorrow.

THE COURT: What is your plan if you don't reach these witnesses you plan to call tonight for tomorrow?

We brought the jury in this morning and they haven't been able to do very much work here today.

MR. TRAFICANT: Well, there's several people that weren't able to testify today either, Your Honor.

THE COURT: Right. But right now you don't know anyone you're calling tomorrow?

MR. TRAFICANT: No. And you just notified me five minutes after I got here with a notice that Mr. Terlecky and Mr. Johnson were going to be admissible or I would have had them here today. I didn't know about that.

THE COURT: We heard from Johnson, but who else in addition to Terlecky are you going to call tomorrow?

MR. TRAFICANT: I'm looking for the fellow from T. C. Ready Mix who is out of town. I'm trying to find a custodian of records of T. C. Ready Mix to see if I can get them here. And I thought a fellow did some work at the farm, I thought this was that fella, unless the name is unusually different. I thought it was a Tim Chesney, not a Herb Chesney. And Mr. Terlecky now. And if Mr. Morford

takes my request, then we'd be closing out with me.

THE COURT: I guess what we'll do is get the report from your staff person and see where we are, and --

MR. TRAFICANT: It's been very difficult --

THE COURT: Then you're going to have to deal also with the fact we don't just have blank days before a jury in a trial.

MR. TRAFICANT: Well, I have brought witnesses here, and you voir dired these witnesses and you've kept them from the jury, so it's not an attempt to circumvent any rules here.

Now, this fella here, I even cautioned him because he was here for a completely other reason.

THE COURT: Well, we know Terlecky is coming on a limited purpose.

MR. TRAFICANT: Yes.

THE COURT: And that shouldn't take a long time.

MR. TRAFICANT: No, it shouldn't take a long time.

THE COURT: Who are your other witnesses tomorrow?

MR. TRAFICANT: I'm trying to find someone from T. C. Ready Mix that could at least be a custodian of records relative to the concrete, et cetera, and I don't

know. I was going to have Mark Colucci as a character witness. And I'm winding my case down.

THE COURT: You aren't going to have Mark Colucci. So are you prepared --

MR. TRAFICANT: Why don't I have Mark Colucci if I'm winding my case down? Why can't I have a character witness?

THE COURT: You had Mark Colucci.

MR. TRAFICANT: You mean he can't come back as a character witness?

THE COURT: Do you want to address that, Mr. Smith?

MR. SMITH: Yes, Your Honor. The point of it is he could have asked Mark Colucci about the character issue when he was on the stand. There is nothing that has changed ostensibly about the Congressman's character between the time Mr. Colucci testified and now, so he should have done that then.

MR. TRAFICANT: You didn't allow me to do that with Mr. Squire, Percy Squire. That's why I subpoenaed him. I didn't subpoena him about Tyson and Cafaro. I subpoenaed him as a character witness. And he worked for Judge Lambros and had all the meetings in that room, by the way, relative to that one big case that he worked on which I forget now.

But anyway, he was subpoenaed as a character witness.

THE COURT: Right. You heard him in response to your questions regarding him testifying as a character witness.

MR. TRAFICANT: So you didn't allow him to go into the character witness, you said it wasn't at that stage.

MR. MORFORD: Your Honor, the problem here is we ask every night for the Congressman to tell the Court who he's going to call to avoid these kind of problems.

The Congressman knew what he wanted Mr. Kerchum to testify to, and he knew what he wanted Mr. Hudach to testify to, and he knew this Court had already had a ruling months ago saying he couldn't do that.

So he knew they weren't going to be able to testify.

Your Honor told Congressman Traficant yesterday to have Mr. Terlecky and Mr. Johnson here today, and his comment was, "I'm not calling them until I see an order." The Court issued an order last night, and he didn't call him and he didn't call him until this morning, and this is not the first time he's run out of witnesses.

MR. TRAFICANT: Your Honor.

MR. MORFORD: And now he's not telling you who he's going to call tomorrow, and we're going to go

through this again.

MR. TRAFICANT: I didn't know you admitted the testimony of Johnson and Terlecky until Jeff handed it to me. Evidently, you faxed it to my office, and if it was faxed at 6:00, there was nobody there, and I left the courtroom before anybody got to the courtroom.

THE COURT: Let's see if you have some assistance here on Mr. Terlecky's whereabouts.

MR. TRAFICANT: He's not available today. I will have to have him here tomorrow.

THE COURT: You'd better have him here tomorrow. Okay? We don't just go day by day.

MR. TRAFICANT: Let me say this: Mr. Terlecky has been ill, and it says due to illness --

THE COURT: Congressman, this is your case. You're supposed to be prepared. You're supposed to get your witnesses and get your subpoenas out. Nobody else does that for you here. You have to do that yourself.

MR. TRAFICANT: I think I've done pretty well. They took seven weeks. I haven't taken two weeks.

THE COURT: You've done pretty well, but we can't --

MR. TRAFICANT: I've only had two weeks of a defense and you're on my back.

THE COURT: I'm on your back because you need

to present witnesses when jury is here.

MR. TRAFICANT: I am bringing witnesses. And I want to make a comment about Kerchum and Hudach: They were not going to testify about the things that they're concerned about. They were going to testify about when they met with me --

THE COURT: We've already been through that. We've already been through that. So you have no more witnesses today, I take it.

MR. TRAFICANT: I have no more witnesses today. That is true.

THE COURT: All right. Then we'll recess the jury early, and that will give us time to rule on the pending motions that were filed --

MR. TRAFICANT: Let me ask this question.

THE COURT: Excuse me -- that were filed this morning.

MR. TRAFICANT: Let me ask this question then. I have presented a motion to the Court that would allow the prosecution to put me on the stand --

THE COURT: I know you'd like to speak to the entire room, but you should address me.

MR. TRAFICANT: I'm going address you.

THE COURT: Thank you.

MR. TRAFICANT: I've submitted a motion, and

that I will take the stand if Mr. Morford would agree to just a half hour examination by me.

THE COURT: We have all of this in writing. Don't waste everyone's time with it now. You filed it with the Court this morning. We have it. We're waiting for their response. We'll rule on it. Okay?

MR. TRAFICANT: When can I expect that ruling?

THE COURT: I haven't had their response yet.

MR. TRAFICANT: If you fax it after 4:30, I will not get that motion.

THE COURT: Well, you know what? I'm on the bench until 4:30, and I have 220 cases pending in this room.

MR. TRAFICANT: I know that. But what I'm saying is --

THE COURT: Do you?

MR. TRAFICANT: I will not get it if you fax it, if you fax it to my district.

THE COURT: Tell me where to send it. We will fax it anywhere you want it sent. Give us a number. We'll fax it to you.

Congressman, may I have a fax number?

MR. TRAFICANT: The only fax number I have is the fax number I have given you. I will have to deal with

it as soon as I get in like today.

THE COURT: Or you have someone else go mind your fax for you.

MR. MORFORD: Your Honor, I was going to indicate to the Court we responded orally to the Congressman's motion. Unless the Court wants us to do more in writing, we've already responded orally that the motion just rehashes things the Court has previously ruled on, and there are ethical rules that bar attorneys in a matter from testifying in that same matter anyway. And so the Court has already ruled on all this.

The Congressman had a chance to brief it. We briefed it. There were extensive briefs. The Court looked at it all, and the Court ruled on this months ago. This is not some new issue.

THE COURT: Well, the issue that's new is the issue that he's presenting that he will have some sort of a conditional --

MR. TRAFICANT: I'll take the stand.

THE COURT: He'll take the stand on certain conditions. That's the new issue. You've never briefed that before in this Court.

MR. TRAFICANT: I brought it up as a motion.

THE COURT: Yes, you did. That hasn't been briefed.

MR. TRAFICANT: I will take the stand if I can cross-examine --

MR. MORFORD: He can take the stand if he wants to take the stand. That's his right. If he takes the stand, he'll be subject to cross-examination, and that's the way it works.

THE COURT: That's it.

MR. MORFORD: There is no horse trading here.

MR. TRAFICANT: If you have nothing to hide, then why don't you take the chance and get the big kahuna?

THE COURT: Because we follow the law. This is a courtroom. It is not some kind of a contest that you design the rules for.

MR. TRAFICANT: I have the right to make that motion.

THE COURT: If you don't want -- of course you do.

MR. TRAFICANT: And I've made that motion.

THE COURT: Thank you very much.

MR. TRAFICANT: I want to read the proffer for the record that I stated earlier unless --

THE COURT: First, we're going to let our jury go home. First, we're going to let the jury go home. We should put on the record the fact we're dismissing the jury. I guess the marshals just took me at my word.

That's your good news, jurors.

(The jury was dismissed for the day at 3:08 p.m.)

THE COURT: Do you want to make your proffer?

MR. TRAFICANT: I want my motion read into the record.

THE COURT: The one you filed this morning?

MR. TRAFICANT: Yes.

THE COURT: No. It's part of the record in the case. It's not necessary and a colossal waste of time to read it into the record.

MR. TRAFICANT: Well, I proffer for the record that I'm willing to take the stand if I have just 15 minutes of examination of Mr. Morford's behavior in this trial.

THE COURT: You see, it keeps going down, the amount of time keeps going down.

MR. TRAFICANT: I don't need a lot of time.

THE COURT: No, the amount of time that you're requiring somebody else to --

MR. TRAFICANT: No. Take all the time they want with me. A month. Give me 15 minutes. If he's clean, what does he have to worry about?

THE COURT: Thank you, sir. Those aren't bargains that we have here.

Okay. We are adjourned until 9:00 tomorrow morning,

and I will get a ruling out on what was filed this morning that I'm aware of in this case.

MR. TRAFICANT: I do have some issues yet.

THE COURT: Do you want to do your proffer?

MR. TRAFICANT: No. I want to move into evidence the enlarged photograph, the Defense Exhibit 0101-A.

THE COURT: There's no objection, is there?

MR. MORFORD: No objection.

THE COURT: It will be admitted without objection.

MR. TRAFICANT: And the other one which was Defense Exhibit 0101, that was the smaller version that was blown up to show the identification on the side of the welder.

THE COURT: Thank you. That will be admitted. C-7 is what it really is. So we're going to put it in as C-7, Congressman.

MR. TRAFICANT: C-7?

THE COURT: Yes.

MR. TRAFICANT: Can I have your indelible ink pen? You guys have so much technology.

THE COURT: Anything else?

MR. TRAFICANT: Yes. I want to ask for the record if there are any outstanding tapes or physical

evidence in possession of the prosecution for my forensic analysis right now.

MR. MORFORD: We've complied with our discovery obligations and given him everything that he's entitled to, Your Honor.

THE COURT: Thank you. Okay. We're adjourned. See you at 9:00 tomorrow morning.

MR. TRAFICANT: What is this exhibit, Your Honor?

MR. SMITH: C-7.

MR. TRAFICANT: Is it a joint exhibit?

MR. SMITH: No.

(Trial adjourned at 3:15 p.m.)

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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.

Heidi Blueskye Geizer 4-24-02

Heidi Blueskye Geizer, RMR, CRR Date

VOIR DIRE EXAMINATION OF JAMES ANTHONY KERCHUM
BY MR. TRAFICANT..... 5654:1
VOIR DIRE EXAMINATION OF FREDERICK V. HUDACH
BY MR. TRAFICANT..... 5665:11
DIRECT EXAMINATION OF PERCY SQUIRE
BY MR. TRAFICANT..... 5691:7
CROSS-EXAMINATION OF PERCY SQUIRE
BY MR. MORFORD..... 5708:6
REDIRECT EXAMINATION OF PERCY SQUIRE
BY MR. TRAFICANT..... 5726:5
DIRECT EXAMINATION OF DENNIS CARL JOHNSON
BY MR. TRAFICANT..... 5735:1
CROSS-EXAMINATION OF DENNIS CARL JOHNSON
BY MR. MORFORD..... 5741:1
REDIRECT EXAMINATION OF DENNIS CARL JOHNSON
BY MR. TRAFICANT..... 5751:1
DIRECT EXAMINATION OF HORACE R. CHESNEY
BY MR. TRAFICANT..... 5758:12
AFTERNOON SESSION..... 5726:1

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, APRIL 3, 2002

Jury Trial

Volume 31

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

WEDNESDAY, APRIL 3, 2002, MORNING SESSION, 9:04 A.M.

THE COURT: Who is your witness, Congressman?

MR. TRAFICANT: Michael Terlecky.

THE COURT: I want to remind you, this is a limited examination on recall of a witness for a specific purpose.

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

(The Witness is Sworn)

THE COURT: If you would remember to speak up loudly.

THE WITNESS: Yes.

DIRECT EXAMINATION OF MICHAEL S. TERLECKY

BY MR. TRAFICANT:

Q. Would you give your full name and spell your last name again for the jury?

A. Michael, middle initial S, as in Sam; Terlecky, T as in Tom, E R L E C K Y.

Q. Are you known by a nickname?

A. Beef. The Beef.

Q. What is your residence?

A. Leffingwell Road in Canfield, Ohio, L E F F I N G W E L L, Road.

Q. Do you have immunity for your testimony?

A. No, sir.

Q. Do you know what immunity means?
A. Yes, sir.
MR. MORFORD: Objection.
THE COURT: We have said several times that is part of what the Court instructs the jury. Thank you, counsel.
Q. How many times have you been to Cleveland in this case?
A. Six or seven times.
Q. How many times have you testified --
A. Well, I've stayed up here though, except for today.
Q. How many times have you testified before the jury?
A. This will be my second time.
Q. Do you recall the last time you'd seen a Mr. Charles O'Nesti?
A. Yes, I do.
Q. Where did you see Mr. O'Nesti?
A. He was a passenger in a pick-up truck parked in a parking lot of the Speedway. I think it was the Speedway Gas Station on Market Street in North Lima, Beaver Township, B E A V E R, Ohio. That's North Lima, Ohio, the address.
Q. Is that a suburb of the city of Youngstown?
A. Yeah. Yes.
Q. When did you first see him?

A. When I was walking out of the gas station towards my vehicle, he called my name.
Q. And where was Mr. O'Nesti when he called your name?
A. He was parked next to my vehicle. He was a passenger in a pick-up truck.
Q. Did you engage in any conversation at that point with Mr. O'Nesti?
A. Yes, sir.
Q. Was it while he was seated in the pick-up truck?
A. He first called my name from the pick-up truck, and then he exited the vehicle.
Q. When he exited the vehicle, what, if anything, did he do?
A. He walked towards me, and as he was walking towards me, he passed me up, and he went to a newspaper box to probably maybe roughly 10, 15 feet maybe away.
Q. Where was the newspaper box located?
A. Directly in front of both our vehicles at the Speedway, outside the Speedway Gas Station.
Q. What was the near proximity --
A. I'm sorry. I can't hear you.
Q. What was the near proximity of the newspaper box to the building you had exited?
A. It was right up against the building, I believe.
Q. What did you observe Mr. O'Nesti do?

A. He made a statement. Then he went and bought a newspaper.
Q. Now, did you engage in a conversation with Mr. O'Nesti after he had purchased the newspaper?
A. Yes, sir, I did.
Q. And what, in essence, did Mr. O'Nesti say?
A. From the beginning?
Q. Did he make a statement before?
A. Yes, he did.
Q. He went to the newspaper --
A. He made a statement as he was approaching the newspaper box saying, "Who is the government intimidating now?"
Q. Then what did you observe him do?
A. Buy a newspaper.
Q. Now that he bought the newspaper, did you see him observe the newspaper?
A. He was looking at the front page as he walked back towards me.
Q. Was there anything of significance on the front page?
A. I believe there was a picture of you on it. It was either your name or your picture. I think it was your picture.
Q. At that point did Mr. O'Nesti make any conversation?
A. Yes, he did.

Q. What, if anything, did he say?
A. He said to me -- I'm trying to think. At the beginning, he said to me that I would be hearing things, and he just wanted me to know that it was not true --
Q. Let's stop there. When he said "I," was he referring to himself or to you as Mr. Terlecky?
A. He -- say that again, sir?
Q. When he said "I would be hearing things," was he referring to you?
A. He meant me, I would be hearing things. Mike Terlecky, I would be hearing things about you, Jim Traficant.
Q. And what else followed that?
A. He said that what I would be hearing was not true.
Q. What, if anything, did you say?
A. I tried to change the subject more or less. I told him, "Well, let's worry about your health right now," because of his condition, and he kept referring to you.
Q. What was the condition of his voice?
A. Like a person with cancer, kind of scratchy, kind of sickly.
Q. Was he hard to hear?
A. No.
Q. Did you get close to Mr. O'Nesti?
A. As close as -- yes, yes. Our vehicles were right

next to each other and we were standing between the vehicles, and he got into his truck.

Q. Did he offer any other statements concerning Jim Traficant?

A. He told me that I would be hearing that he was supposed to be then giving you kickbacks, and I didn't understand what he was talking about, and I kept trying to change the subject. But he did say that he did lend you money, and there started to be like tears in his eyes a little bit, but he kind of chuckled when he said it because he said you always paid the money back you borrowed from him.

And when he chuckled, he said, "Almost on time sometimes even."

Q. Did he mention anything else about kickbacks?

A. Just --

Q. Did he say he gave or did not give kickbacks?

THE COURT: Don't reply for him.

Excuse me. He's testifying. He's doing a fine job. No testimony from you.

Q. What, if anything, did he say relative to the kickbacks?

A. He said he did not never give you a kickback.

Q. Did you engage --

A. And I didn't understand what he was talking about

because I'd never heard of nothing about that. But evidently he did. I kept trying to change the subject.

Q. Did he make any further conversation with you relative to his condition?

A. There was some brief -- I can't remember exactly what he said, but he was talking about his condition, but I think he felt like a man that was going to live, to be honest with you, and I just felt bad. He was crying. He wasn't crying like crying-crying, but he had tears in his eyes, and you would have to understand our relationship from before.

He always tried to explain things to me for whatever reason. I could tell you why, but he didn't go into it.

Q. Did he mention any concerns relative to his condition?

A. He was very angry at the government --

MR. MORFORD: Objection.

THE COURT: Okay. You can question these witnesses that you bring back on recall for specific purposes, in this case it's regarding the contents of impeaching statements made to them.

THE WITNESS: There's a statement made, Your Honor, but I don't know if you want me to use the exact words he made.

THE COURT: Well, I'm not the one asking you the questions.

Q. What, if anything --

THE COURT: Excuse me. I'm telling the Congressman and reminding him that there are limits on this examination.

Q. What, if anything, did he say --

A. Exactly?

Q. -- in that conversation?

A. Towards the end of the conversation he says, "Them sons-of-bitches" --

MR. MORFORD: Objection.

THE COURT: You can testify. Testify. Say it.

A. He said, "Them sons-of-bitches won't let me die at home." And I kept telling him he's not going to die. And he said, well, he felt he was, and then I don't really think he felt he was, but he knew he was sick. He knew he was real sick.

I didn't even at first recognize him. He had lost that much weight. He knew what he was talking about though. He knew me.

Q. As a police officer, did you ever identify public documents?

A. Yes, sir.

MR. MORFORD: This has already been admitted, Your Honor. It's a deed.

THE COURT: Can you tell us the number of the exhibit, Congressman, so we know if it's already been admitted?

MR. TRAFICANT: It's a public document already been exhibited as Defense Exhibit dash B-O-B.

THE COURT: It's already been admitted in the case, sir. It's here, it's part of the evidence in the case for the jury.

MR. TRAFICANT: I wanted this witness who has knowledge of deeds to, in fact, identify certain elements of it.

THE COURT: Well, I'm sorry, but it's been admitted. The deed is what it says on it, and there's no reason to have I guess -- are you currently in law enforcement?

THE WITNESS: I was. I'm currently retired on disability right now.

THE COURT: Okay. He's not in a position to give them any more information than the deed itself gives them.

Q. Did you ever have a mortgage, Mr. Terlecky?

A. Yes, sir.

Q. Did you get a hundred percent mortgage on a property?

THE COURT: This is not part of the limited purpose of this examination of this witness.

MR. TRAFICANT: No further questions.

THE COURT: Thank you, sir.

CROSS-EXAMINATION OF MICHAEL S. TERLECKY

BY MR. MORFORD:

Q. Sir, you just stated right at the end of your examination, I believe in response to the Judge's question of whether you were a law enforcement officer --

A. Would you speak up, please?

Q. Yes. In answer to the Judge's question of whether you are currently a law enforcement officer, you said, "I'm currently retired on disability," correct?

A. Yes, sir.

Q. And in fact, you're also a convicted felon, correct?

A. Yes, sir, I am.

Q. And as a convicted felon, you could not serve as a police officer today, could you?

A. Yes, sir, I could.

Q. You could serve as a police officer even though you've been convicted of RICO bribery for accepting bribes from --

A. Yes, sir. There is a statement from the sheriff of Mahoning County in my file that -- excuse me, that if my health permitted it, he has a position as sworn deputy

where you don't have to carry a firearm, and I would be reinstated to my pay and rank, but I would not be allowed to carry a firearm.

Q. It's your testimony that in Mahoning County, they would let a convicted felon who's been convicted of receiving bribes from the Mafia when he was a sheriff's deputy serve as a sheriff's deputy again?

A. I believe at that time the sheriff believed I was innocent.

Q. Which sheriff was that, sir?

A. Sheriff Nemeth, Ed Nemeth.

Q. And that was the sheriff that you were convicted of carrying bribes from the Mafia to, correct?

A. That's your statement, sir, not mine.

Q. Well, what were you charged with, sir?

A. Count 6 of my indictment.

Q. What was Count 6 of your indictment?

A. You'll have to read it to me. As far as I know, it was accepting bribes to protect gambling which I was unlawfully convicted, in my opinion.

Q. What was your position at that time?

A. I was lieutenant with the Mahoning County Sheriff's Department.

Q. You were the lieutenant in charge of the vice squad that was in charge of conducting --

A. We didn't have a vice squad, sir, per se. I was a lieutenant. I worked burglaries, homicides. I didn't have the luxury of having 19,000 people. I was working by myself or maybe with a few other deputies, and sometimes I had a full-time sergeant assigned to me. I didn't work a lot with the Youngstown Police Department making gambling raids.

Q. Sir, what does a vice squad usually do?

A. In our department? In my department that I worked?

Q. In any department. What kinds of crimes?

A. We didn't have a vice squad.

Q. What kind of crimes do they normally do?

A. I'm sorry, sir?

Q. What kind of crimes do they normally do?

A. Vice crimes?

Q. Yes.

A. Prostitution, gambling, sometimes narcotics was part of it, a vice crime. I never considered narcotics a vice crime, but some departments do.

Q. Let's talk about gambling.

A. Yes, sir.

Q. Was there a squad in the Mahoning County Sheriff Department --

A. Say again, sir. Was there a what?

Q. Was there a squad in the Mahoning County Sheriff's

Department when you were a deputy that was in charge of gambling enforcement?

A. Not really, sir. I did most of it though.

Q. Well, sir, let me ask you this: Do you recall testifying in a case against former Mahoning County Sheriff Phil Chance, when I asked you this question:

"Q. Well, sir, weren't you the head of the vice squad of the Mahoning County Sheriff's Department during those years?

"A. We didn't really have a vice squad. It was my -- my title was lieutenant. I handled burglaries, homicides, gambling, and narcotics."

Wasn't that your testimony?

A. That's what I just said.

Q. So you were handling gambling investigations, correct?

A. Isn't that what I just said exactly, what you just read.

Q. You were handling gambling investigations, correct?

A. I just said that to you.

Q. Were you the lieutenant in charge of gambling investigations?

A. I guess. There was people ahead of me. I worked for a captain, but I mean I don't know what you're trying to get to. I said exactly what you just said. My testimony

didn't change from now to then.
Q. My question is: Did you handle gambling responsibilities?
A. I said yes, sir.
MR. TRAFICANT: Objection. Asked and answered. This is a limited examination, and you did not allow me to go into his past background.
THE COURT: Well, there's a different purpose in allowing him to go into the statements elicited on your direct examination at the end of his testimony, and so he can proceed.
Q. Now, sir --
A. Yes.
Q. -- isn't it true that during the time that you were a lieutenant handling the enforcement of gambling laws for the Mahoning County Sheriff's Department that illegal gambling activities in the Mahoning County were often run by organized crime?
A. A lot of it was, yes, sir.
Q. And then --
A. Can I add something to that?
Q. Sure. Go ahead.
A. I probably made more raids and more arrests, as a matter of fact, I can't think of another lieutenant that even did what I did. I worked day and night. I worked day

turn and night turn. Sometimes I didn't know when I was working and when I was off.

Q. Did you ever arrest Lennie Strollo?

A. Say it again, sir?

Q. Did you ever arrest Lennie Strollo?

A. I had no reason to. No, sir.

Q. No reason to? He was one of the heads of organized crime, was he not?

A. I know that now, yeah.

Q. Well, you knew that then, did you not?

A. No, sir.

Q. You didn't know --

A. I thought Joey Naples was the head of the Mafia in Youngstown, Ohio. At that time I did not know Lennie Strollo, per se, until I met him one time. I heard of his brother Dante Strollo, and I knew that he had something to do with gambling in Mahoning County, but --

Q. Sir. It's your testimony --

A. Say it again? I can't hear you. I'm having a hard time hearing you.

Q. Did you have a hard time hearing Congressman Traficant when he was asking questions?

A. Yes, I did. I told him to speak up, too. I have a -- just go ahead.

Q. Okay, sir. Let me ask you this: You were a

sheriff's deputy from 1997 to 1998, correct?
A. No, sir.
Q. What years? Until 1988, I'm sorry. 11 years, right?
A. Approximately.
Q. And it's your testimony that as a sheriff's deputy in Mahoning County for 11 years who was responsible for enforcing the state gambling statutes, you didn't know that Lennie Strollo was a Mafia person who was involved in illegal gambling?
A. You didn't ask that. You asked if he was the head of it, I thought.
Q. Why don't you answer that question. Did you know Lennie Strollo --
A. His name surfaced many times, yes.
Q. But you never arrested him, did you?
A. No. That wasn't my job to arrest him. As a matter of fact, he was an informant of mine, like he is yours.
Q. You said you pled guilty to Count 6 of an indictment, correct?
A. I believe it was Count 6, yes, sir.
Q. And basically that was a RICO charge that charged you with RICO bribery for accepting bribes to protect Lennie Strollo's gambling rackets, correct?
A. Most of that I think is correct, yes.
Q. And then you came into this very courtroom and stood

in front of a different Federal Judge and told the Judge that you were, in fact, guilty of that offense, did you not?

A. Yes, sir. I was intimidated into doing that, yes, I was.

Q. And you raised your right hand just like you did today and swore to tell the truth, did you not?

A. The same as Lennie Strollo did when he --

Q. That's not my question.

A. He said he never gave me a cent, nothing, he told me, under oath in this same courtroom just like you said. He raised his hand, too.

Q. Sir, as a former law --

A. I pled guilty, yes, I did.

Q. And you pled guilty under oath, correct?

A. To be honest with you, I don't think I was under oath. But if I was, so what?

Q. So what?

A. Yeah. So what?

Q. You told a judge you were guilty and today you're saying you're not guilty and so what?

A. When you plead guilty, when do they swear you in? I don't believe I ever took an oath when I pled guilty. But are you saying that I did?

Q. Sir, you were a law enforcement officer. You mean to

say when people plead guilty, you don't know that they raise their right hand and swear to tell the truth before they enter their guilty plea?

A. I'm going to tell you, sir, I don't remember ever raising my right hand. I don't remember ever swearing to nothing. As a matter of fact, Judge Lambros told me when I stood up, he said, "Just sit down." I didn't give testimony. All I did was plead guilty.

Q. Let me get this right then: You're saying you pled guilty, but you're really not guilty? Is that your testimony?

A. This is true, yes.

Q. So you're saying that you did not take bribes from Lennie Strollo?

A. This is true, yes. I did not take bribes.

Q. You're basically an innocent guy that got pressured into falsely admitting your guilt?

A. Yes, this is true.

Q. And did you explain that to Congressman Traficant?

A. Yes, I think I did.

Q. You've told him that you were wrongfully convicted and you really weren't guilty?

A. Probably. I've been telling that to everybody I know.

Q. I'm not asking probably. You've had direct

conversations with Congressman Traficant about this. What have you told him?

A. About what, sir?

Q. About whether or not you were guilty of the crime that you pled to, RICO bribery.

A. I just said I was not. That's about the third time I've said it. I don't know how else to say it to you.

Q. Now, you have filed a petition at one time asking the President of the United States to pardon you; is that correct?

A. Almost three years ago, yeah, under President Clinton.

Q. And at the time that you did that, you talked to Congressman Traficant, did you not?

A. Shortly after, yes, sir.

Q. And you asked him to write a letter to the President, did you not?

A. I don't believe I did, sir.

Q. Well, he did write a letter to the President for you?

A. Yes, he did.

Q. And you've seen that letter, correct?

A. Yes, I believe I did. Yes, I did.

Q. Well, sir, what do you mean you believe you did? This is a major event in your life, correct?

A. It was also a major event in my life when they -- as

soon as I left the courtroom the other day, I had it in the mailbox the same date I was supposed to testify here, they turned me down. The same date on my subpoena that I was supposed to be in this courtroom, I got a letter from the Justice Department when I got home from this Court, after three years, and the president never signed it.

The Justice Department signed it. I didn't apply to the Justice Department. I applied to the President. They didn't even mention his name in it. I was turned down. The 20th of last month that I was subpoenaed in this Court, they made it a point to tell me in the subpoena and I think the Congressman in the paper, very unofficial looking, that the Justice Department turned me down, like I didn't know it was coming.

I knew if I testified here, that it would be turned down, but I'm telling the truth. If that means to be turned down, then so be it.

Q. Are you done?

A. Are you done?

Q. No. Are you done? Is there anything else you want to add?

A. I don't know. Is there anything else you want to ask?

Q. I asked you a question. You just gave a five-minute answer that had nothing to do with my question.

MR. TRAFICANT: Objection. Asked and answered.

THE COURT: Let's go back and read the question and then ask you to answer the question.

A. Ask the question.

THE COURT: Wait, wait. Go back and read the question.

THE COURT REPORTER: "Well, sir, what do you mean you believe you did? This is a major event in your life, correct?"

Q. That's my question.

A. A major event in my life, sir, is one of my dogs gets hit by a car, my mother passes away. Those are major events.

Q. How about trying to get a conviction thrown out so that it will be pardoned as though it never happened; that's a major event, correct?

A. It's an event.

Q. It's an important event?

A. As of this moment, no. It was.

Q. Well, at the time it was, certainly, correct?

A. It was an event, yes, sir.

Q. When you talked to Congressman Traficant about writing letters on your behalf, you told him the same thing you just told this jury, that you were not guilty, correct?

A. Yes, I did.
Q. That you had been framed, correct?
A. I don't believe I ever used the word "framed," but --
Q. "Pressured" was your word?
A. "Intimidated" was my word, was my exact word.
Q. And so you told them that?
A. I told everybody I was in contact with.
Q. I'm not talking about everybody you contacted.
A. Yes, I told you that before, and I'm telling you now I told him that.
Q. You told him you had not actually done those offenses, correct?
A. This is correct.
Q. And you told him you were not taking responsibility for these offenses because you're claiming that you never did them, correct?
A. Correct. I will not take responsibility for something I didn't do.
Q. Let me show you what's been marked Government's Exhibit 81.
MR. TRAFICANT: Are you going to show me?
MR. MORFORD: Yes, I will.
A. What is your question, sir?
Q. Sir, this is a copy of the letter that Congressman Traficant wrote to President Clinton on your behalf asking

him to pardon you for this offense, is that correct?
A. That's what it looks like, yes. I don't believe I ever seen this one before. I did see a letter, but I don't believe it was this one. But whatever -- what's the question?
Q. The question is: I'd like you to read the letter out loud, sir.
MR. TRAFICANT: Objection. He says he never saw this letter.
A. This is news to me, I mean this actual document here. I've seen letters. He wrote several letters. I got several letters.
Q. He never gave you a copy of the letter he wrote to President Clinton, sir?
A. Not this one.
THE COURT: Well, take a minute and look through it all. Don't rush him. Just let him take a minute.
A. I would never let this letter go through.
Q. Let me ask you a couple things.
A. Sure.
Q. To the extent the letter says, "Michael was found in violation" --
MR. TRAFICANT: Objection. He did not know or have knowledge of the letter. And I object to it being

placed into the record unless he can bring in the person to verify this letter, similar to the standards placed upon the defendant.

MR. MORFORD: Your Honor, I'll withdraw the question. I'll ask another question.

THE COURT: Thank you.

Q. Did you ever tell Congressman Traficant that you had only been found in violation of federal gambling laws as opposed to RICO bribery? Did you ever tell him that?

A. Repeat the question. Slow down a little bit. I don't follow you.

Q. Did you ever tell Congressman Traficant that you had been merely convicted of federal gambling violations as opposed to RICO bribery?

A. I have no knowledge of -- I don't understand --

Q. Did you ever tell that to Congressman Traficant?

A. I told him I was innocent.

Q. Did you ever tell him you had merely been convicted of federal gambling violations as opposed to RICO bribery?

A. I don't think so.

Q. Did you ever tell Congressman Traficant that you recognized and acknowledged your mistakes?

A. Definitely not. I mean, I made some bad judgments, if that's what you mean. It may be ethical, but not criminal by any means.

Q. So you never told him those things?
A. What things, sir?
Q. What I just asked you.
A. I don't understand what you're -- I told you that -- ask the question again. You're yelling and -- I'm on medication, sir. I'm taking antibiotics; I'm tired. I got up at 3:00 in the morning. You have to slow down and quit yelling at me.
Q. Sir, when I talk quietly, you tell me to talk loudly.
A. You can raise your voice without being intimidating.
Q. I'm just going until you find a modulation you like, okay?
A. You do that, and I'll let you know.
Q. Did you ever tell Congressman Traficant with respect to the charges to which you pled that you recognized and acknowledged the mistakes that you had made?
A. Possibly, if it's a matter of bad judgment or something like that. I don't remember.
Q. What's the bad judgment if you didn't do the crimes in the first place, sir?
A. Well, there was a lot of bad judgment, sir. There are a lot of things I could go back and do over again, but they're not criminal. I accepted a thousand dollars off of Lennie Strollo that was nothing to do with a bribe. I would never do it again. It was money owed to me. But I

testified, no one had tapes of me, no one --
Q. No one had tapes of you?
A. Not of that.
Q. Oh.
A. And I brought that up voluntarily. I did take a thousand dollars off of Lennie Strollo, and he was repaying me a loan from an employee of his, and I would never do it again. I think it's unethical, and I think I redeemed myself by making all the gambling raids after that to show that nobody did own me. And I made arrests and I called the IRS and brought them with me, so nobody can say I was trying to fix something; and the same places your FBI agents raided. The only difference was I made arrests. You guys just made snitches. I arrested people.
Q. Sir, when did you retire from the police force?
A. I retired after my accident on 3-21-88, was the last day I worked.
Q. How close in time was that to your indictment?
A. Exactly one month. I was indicted 4-21-88.
Q. Now, were you aware that in July of 2000, Congressman Traficant wrote a letter to President Clinton on your behalf?
A. He wrote several letters, yes, sir.
Q. My question was: Were you aware that he wrote a letter to --

A. What did I just say?
Q. -- to President Clinton in July of 2000?
A. Oh, July of 2000? I don't recall the date, no, sir. It sounds right. I think I applied in June, so that would probably be -- I would have to say probably, but I don't remember exactly.
Q. Are you aware that he wrote another letter on your behalf to President Bush just days after President Bush was inaugurated?
A. I don't remember that, sir, but it's possible.
Q. You weren't aware of that?
A. I don't remember it, sir, but it's possible.
Q. Is it fair to say you're grateful to Congressman Traficant for taking up your cause, sir?
A. He probably cost me my cause, but I'm grateful. He did what he was supposed to do. I'm a constituent of his, and he's my Congressman.
Q. And since the time he began taking up your cause, you've been taking up his cause to some extent, correct?
A. What's his cause, sir?
Q. I'm just asking you, have you ever --
A. What's his cause, sir? I don't know what his cause is. Tell me what his cause is, and I'll answer your question.
Q. Were you here in court yesterday?

A. No, sir.
Q. Where were you, sir?
A. From the time I got up, or what time specifically?
Q. Let's take the hours 12:00 to 3:00, where were you at that time?
A. Conneaut, Ohio.
Q. What were you doing?
A. I was on a radio talk show called the Louie Free show. I'll have tapes of it tomorrow if you want them.
Q. Anything else you want to add? I didn't ask you a question, sir.
A. Oh. I was just finishing my answer, sir.
Q. Now, this conversation that you say you had with Mr. O'Nesti --
A. Yes, sir.
Q. -- who else was present and overheard Mr. O'Nesti tell you these things?
A. I do not know the person who was in the driver's seat of the pick-up truck. I have no idea who it was, and I do not know if he overheard the conversation.
Q. You weren't sitting in the pick-up truck having this conversation, were you?
A. I was standing between my vehicle and the pick-up truck.
Q. So basically it's you and Mr. O'Nesti talking,

correct?
A. I would have to assume so.
Q. And you've said that at that time he had a very weak voice, correct?
A. No, sir. I said it was kind of scratchy, kind of sickly.
Q. As you sit here today, there's no one else that overheard that conversation you're aware of other than that, correct?
A. I never asked nobody if they overheard it, but I would assume they probably didn't. He wasn't yelling in the parking lot, the conversation.
Q. You have nothing to support your testimony that this conversation occurred except your own word, correct?
A. I didn't know I would have to, sir. I didn't know it was relevant, to be honest with you.
MR. MORFORD: May I have just a moment, Your Honor?
THE WITNESS: Your Honor, can I move my foot here a little? It is awkward and hurts me very badly.
THE COURT: There's a better chair maybe for you.
THE WITNESS: I just want to move back. I don't want you to think I'm --
MR. MORFORD: I have nothing further, Your

Honor.

THE COURT: If you want to, see the chair behind you?

THE WITNESS: I'm fine as long as I can move back a little bit.

THE COURT: Is it okay? All right.

REDIRECT EXAMINATION OF MICHAEL S. TERLECKY

BY MR. TRAFICANT:

Q. What exactly was the count that you were convicted of?

A. You know, it sticks in my mind Count 6. I could be wrong, but I remember my attorney telling me I'll be pleading guilty to Count 6 of my indictment. It was a -- I do remember, I do remember it was a B-2 sentence --

Q. Was there money involved in Count 6?

A. Possibly. I don't remember. I think it was $5,000, that's what they were referring to. $5,400 when they stopped me on a search warrant, and they took 5,000 off of me.

Q. They took 5,400 off of you on a search warrant when?

A. Back in 1986, a couple years before I was indicted, and then they gave me back $400 at the same time. They kind -- they counted off 5,000 and they gave me back 400.

Q. Where did they stop you on the search warrant and who stopped you?

A. A bunch of FBI agents. Hmm. Woodworth Road, North Lima. As a matter of fact, I was on my way back to deliver the 5,000 that I borrowed.

Q. Who did you borrow the 5,000 from?

A. Carl Rango.

Q. You borrowed it from Carl whom?

A. Carl Rango borrowed the money on a Corvette, and the check was cashed at Western Reserve Bank and he gave me the money the night before.

Q. Who cashed the check?

A. Carl Rango. It was in his name.

Q. Where did the government allege that the $5,000 came from?

A. I believe they said that Lennie Strollo paid me $5,000 to protect the gambling operations in Mahoning County. I believe that was basically what they said. You mean the FBI now or do you mean at the time?

Q. Yeah. The FBI, on your indictment.

A. On my indictment or when I got stopped on the warrant?

Q. At some point on this $5,000, what did the government allege, where did you get this money?

A. They said I got it from Lennie Strollo.

Q. Did Lennie Strollo ever admit to giving you $5,000?

A. He denied it under oath, sir. When he pled guilty,

he denied it under oath. It was published in the paper. It is in court record. He said he never gave Mike Terlecky no money.

Q. Was that before --

A. Nothing illegal.

Q. Was that before or after you took a plea in the court?

A. I took the plea after he said it because they didn't drop the charges. I didn't want to go to jail for as long as they told me I would.

Q. Who was your attorney?

A. Stewart Mandel, sir.

Q. Did he ever work for a government entity?

A. He was a United States prosecutor.

Q. Where?

A. Right here.

Q. Did anyone in the history of Mahoning County make any gambling arrests more than you?

A. No, sir. As a matter of fact, whenever there was a sports betting operation, the city of Youngstown wouldn't even make it. They would call me and they were working right with the FBI at the time. I actually thought I was, too.

Q. Where would you place your evidence?

A. Most of the time the Youngstown Police Department

SIU, because I never had a key to our evidence locker or nothing. Sometimes I kept some stuff in my office if I thought it wasn't going to court.

Q. Did any of your evidence come up missing?

A. Yes, sir.

Q. Who took it?

A. Special Agent Robert Kroner.

Q. What agency was he involved with?

A. FBI, sir.

Q. In what location?

A. Youngstown, Ohio.

Q. Did you confront Agent Kroner about it?

A. Yes, sir, I did.

Q. What, if anything, did you conclude after talking with Agent Kroner?

A. He put my life in danger and he gave the tape back.

MR. MORFORD: Objection, Your Honor. This is getting way far afield.

MR. TRAFICANT: No. They brought up this matter. I want to continue the cross.

THE COURT: Well, they brought up some of this matter.

MR. TRAFICANT: This is salient to the matter.

THE COURT: Which matter is it salient to,

sir?

MR. TRAFICANT: The questioning of his innocence, guilt, pardon, and pleading.

THE COURT: Well, it's a matter of record whether or not he pled guilty. He's explaining the circumstances, but it's a matter of record. You can get the papers and produce that if you want to.

MR. TRAFICANT: Well, so could the government have. They had the right to question him and I have the right to examine him on the cross-examination. If you want to take a side-bar, I will, but I want to continue with this witness directly.

THE WITNESS: Your Honor, there are no tapes.

THE COURT: There are no papers in the court.

THE WITNESS: They disappeared, ma'am.

Q. What happened to the papers relative --

THE COURT: We're talking about a court case.

THE WITNESS: I'm sorry. I thought you meant the evidence he took.

THE COURT: No, no. We're not -- this case is not about whatever happened to you in your case, which is something that you certainly should pursue somewhere, but this is not the forum to pursue that. And there is some examination that can be made of you, but we can't spend the day with our jury, who has this case --

MR. TRAFICANT: Objection.

THE COURT: -- who has --

MR. TRAFICANT: You limited me.

THE COURT: Would you excuse me, sir? I'll just finish speaking, if you don't mind.

MR. TRAFICANT: Go ahead.

THE COURT: Thank you. We have to deal with the issues in this case which involve the charges in this case against this defendant, and not what happened to you in your case, which was apparently in the Northern District of Ohio, also.

MR. TRAFICANT: Objection for the record, and I would like to speak to the Court.

You told me to limit my questioning to his conversations with O'Nesti.

THE COURT: That's right.

MR. TRAFICANT: They broke open his conviction, they broke open his pleading, they broke open the elements of all of that, and I have a right under now my redirect to address the prosecution's cross of this witness. Yes or no?

THE COURT: Since you're arguing your motion in front of the jury, which is not the way we normally do it, I'll permit Mr. Morford on this one occasion to respond to the argument you're currently making so that the jury

can see how the laws of evidence actually apply and how the Judge rules on things.

MR. TRAFICANT: I thought that the Judge told the law to the jury.

THE COURT: Right, but you've just given one side of the story here. We'll let him give his side and then I'll make a ruling.

MR. TRAFICANT: He --

THE COURT: Congressman, the other side now has a chance to talk.

MR. MORFORD: Congressman -- when the Congressman originally called Mr. Terlecky, he brought out the fact of the conviction. What he failed to bring out was that Mr. Terlecky denies he was guilty and that Congressman Traficant went to bat for him. Those are matters that go to impeachment. Those are matters to go to the witness's credibility.

THE WITNESS: You stopped --

MR. MORFORD: I was merely responding and questioning and following up on things that Congressman Traficant had brought up on direct.

I didn't object for a period of time, but now he's getting into things that are far afield from whatever impeachment was brought out, and that had nothing to do with the issues that are before this jury. We're not

trying the case of Mr. Terlecky. We're trying the case of Congressman Traficant.

MR. TRAFICANT: Now I'd like to respond. They are trying Mr. Terlecky. When I proceeded --

THE COURT: Congressman, you don't need to respond. It's not necessary. If you would just wait a moment, I'll rule and we can go forward.

MR. TRAFICANT: You did not allow me to go further on Mr. O'Nesti on direct when I first started.

THE COURT: Congressman --

MR. TRAFICANT: Two weeks ago.

THE COURT: Congressman, just wait a minute, so I can give you a ruling here.

MR. TRAFICANT: I'm going to wait.

THE COURT: It's true that there are some issues which can be raised when a person has testified to any matter that deal with a person's credibility and whether or not he can be impeached. Credibility is always an issue before a jury.

It's part of the jury's responsibility here to make decisions about witnesses' credibility. So it was possible for you to do it in a limited way that's relevant to what happened on the stand here today, in his testimony here today, to try and counter, as you may have successfully done, some of the issues that the government raised

regarding his credibility, but it has to stop at a certain point, and now you've gone past the point.

This is not an examination into this witness's situation regarding his own case. So now if you move to the next question, if you have something else to raise that was raised by the government in their cross-examination, we'll address it.

MR. TRAFICANT: Objection. This deals with the veracity of the witness and impeaching another witness, and I am now being limited again to not even pursue the prosecution's --

THE COURT: Do you have any further questions?

MR. TRAFICANT: I have further questions.

THE COURT: All right. Well, go ahead.

Q. In Mahoning Valley, how many years have there been the presence of the FBI and the IRS?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Did you ever take the IRS out with you on your gambling raids?

A. Yes, sir.

Q. Did anything I did regarding your matter have any effect or bearing on your testimony today?

A. No, sir, none whatsoever.

THE COURT: Don't keep talking. Wait for a question.

Q. You answered the government's question that you were denied and you have come to be denied your pardon and you gave a specific date. What date was that, sir?

A. The 20th of last month. I was served on the 14th, told to appear here on the 20th, but I didn't get to take the stand for -- I had to stay up here in Cleveland for three or four days then, but the subpoena read the 20th.

Q. And when did you receive your letter from the Justice Department that the pardon was denied?

A. When I got home from Cleveland, it was in my mail.

Q. On what date?

A. The day after Easter, I'm sorry.

Q. Was there a date on it?

A. The date, yes, it was. It was in the letter that it was denied on the 20th, the same day my subpoena was -- I was supposed to testify.

Q. Now, you were also asked about further pursuits, and why you probably did not get it, and you made a statement that someone was probably responsible for you not getting your pardon.

A. There is no doubt you were.

Q. Is that your testimony?

A. Yes, sir, it is.

Q. That I did not help? Did I hurt you?
A. Yes, sir, you did.
Q. And why did you come to that conclusion?
MR. MORFORD: Objection. This is all speculation on his part. He doesn't know why his pardon was denied.
THE WITNESS: Yes, I do.
THE COURT: You may have an idea about why it was, but that's not going to further the jury's work in this case.
Q. Do you have an idea or do you have knowledge, Mr. Terlecky?
A. I'm not sure what the difference is. I believe I have knowledge of it, maybe. Maybe it's not knowledge. I believe I have knowledge.
THE COURT: Well, was there an explanation --
THE WITNESS: Wait a minute.
THE COURT: -- of why you didn't get the pardon? Did they send you something that explained why you didn't get the pardon?
THE WITNESS: I don't have a copy, but if he reads it to you or shows it to you, I'm sure even you will see there's something definitely wrong here. The President's name -- the Constitution says the President grants you a pardon.

THE COURT: Right.

THE WITNESS: They don't refer to the President even in the letter at all, just the Justice Department, and the White House. I mean the White House is not -- he never signed it. President Bush --

THE COURT: But the question is: Did they give you a reason in it for denying it?

THE WITNESS: Yes. They told me presidential pardons are very rare, and I kind of started laughing. I watch CNN just like everybody else.

THE COURT: Those are your --

THE WITNESS: Then they said, "Don't take it personal" -- they also said, Your Honor, "Don't take it personal," because the bottom of the letter said I could be a very good person, and I could be rehabilitated and all this stuff, but that's just the way it is because they don't grant pardons so freely.

THE COURT: Thank you.

Q. Do you have a copy of that letter?

A. I do not have it on me. I did give a member of your staff a copy of the subpoena. I left it -- it was left on your desk in your office in Canfield, but I don't have a copy on me, no, sir, I don't.

Q. Could you make a copy of it available to this Court?

A. When I go back to Canfield, I have the original.

Q. Now --

THE COURT: I would suggest you make it available to the Congressman.

THE WITNESS: I'm sorry, Your Honor. I thought he had it, but I should have brought it.

THE COURT: Well, maybe he does, but don't make it available to the Court. I can't do anything with it unless it comes through the normal channels of evidence.

MR. TRAFICANT: Would he not be the recipient of the letter?

THE WITNESS: Sir -- can I add something, Your Honor?

THE COURT: No. Guys, let's move on with the questions.

MR. TRAFICANT: I ask that that letter be provided at a later date by Mr. Terlecky for the record.

MR. MORFORD: Objection.

THE COURT: Well, the objection is sustained. You can go through the normal process. We've been doing it for nine weeks, and you know what it is.

BY MR. TRAFICANT:

Q. Did Mr. Strollo give you $5,000?

A. No, sir.

Q. Is that what Count 6 of the RICO charge was about?

A. I think. I'll be completely honest with you, I never

read the indictment. I just listened to my attorney.
Q. Were you prepared to go to trial?
A. I was, but he wasn't.
Q. Were you encouraged by your attorney to cop a plea?
A. Yes, sir.
Q. Did you come to find out that your attorney was affiliated with the mob boss, Lennie Strollo, in business?
MR. MORFORD: Objection. He's testifying.
MR. TRAFICANT: They brought up the Lennie Strollo business.
THE COURT: Congressman.
MR. TRAFICANT: This is salient.
THE COURT: It is not -- I don't know if it's salient. That's your choice of words. But it's not relevant to what our jury has to work with here.
MR. TRAFICANT: It's relative to his veracity, and that's what we're here for.
THE COURT: I'm sorry, Congressman, but that doesn't fly here. Move.
Q. Are you under oath, Mr. Terlecky?
A. Yes, sir.
Q. Was your attorney affiliated with the mob boss?
A. Yes, sir.
Q. Was he in business with the mob boss?
A. Yes, sir.

Q. Did he encourage you to take a plea?
A. Yes, sir.
Q. Did you take that plea?
A. Yes, sir.
Q. Did you serve your time?
A. Yes, sir.
Q. Is it a fact that the prosecution spent 90 percent of their time on your felony record?
MR. MORFORD: Objection. He's testifying, Your Honor, and has been.
THE COURT: You can't --
Q. How much of the --
THE COURT: Congressman, move to another question.
MR. TRAFICANT: Yes, I certainly shall.
THE COURT: Thank you.
Q. How much time of the cross-examination was spent on your felony record?
MR. MORFORD: Objection. The jury heard it.
THE COURT: The jury has been here with me. We've all heard the cross-examination.
A. It's there, sir. There's no doubt --
THE COURT: Wait. Don't testify without a question.
Q. Was it your impression that the prosecution's

attempts were to demean you?

MR. MORFORD: Objection.

A. You mean --

THE COURT: The objection is sustained. The jury is here to make decisions about witnesses and about the way the case is conducted. So move on to something else, if you have something else for Mr. Terlecky.

Q. Are you in fairly ill health at this point?

A. I'm sorry, sir?

Q. Are you in fairly ill health at this point?

A. Yes, sir.

Q. What are your troubles?

A. I don't want to go into them, but if you want me to, I will.

Q. That's fine. Could you go back to work?

A. Physically, no, sir.

Q. Would you be able to perform the services of a law enforcement officer if you were healthy?

A. No, sir.

Q. You would not be -- is it because of your disability to carry a firearm?

A. Yes -- no, sir. My physical condition.

Q. If you were physically healthy, could you go back to law enforcement work?

A. I could have. I can't carry a gun now, sir. I'm a

convicted felon yet.

THE COURT: There's no question right now, sir.

THE WITNESS: All right.

THE COURT: Just sit back and relax. We'll see if there are more questions here. Have --

MR. TRAFICANT: There was a question and he took his time to answer it. He was allowed to do so under cross, and I object for the record.

Q. Did you admit to me at some point you'd made mistakes in your life?

A. Yes, sir. Nothing I'm ashamed of though. I would make some changes though.

Q. Was that search warrant served on you after Agent Kroner took the evidence from the Youngstown Police Department?

MR. MORFORD: Objection.

THE COURT: Sustained. Disregard that question, please.

Q. Are you familiar, sir, with the chain of evidence requirements in a criminal case?

A. Yes, sir, I am.

MR. MORFORD: Objection.

THE COURT: That is a matter that the law in federal courts is for the Judge to determine, and I will

instruct you on any of that if you need to know about it.

Thank you.

Q. Were you screwed by an ex-USA attorney?

MR. MORFORD: Objection.

THE COURT: Go ahead and answer.

A. I think I heard the question right. Could you repeat that again?

Q. Were you screwed?

THE COURT: I don't think we need to --

Q. Were you screwed by a United States -- former United States Assistant Attorney?

A. This is very hard for me to say, but I was, yes.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

RECROSS-EXAMINATION OF MICHAEL S. TERLECKY

BY MR. MORFORD:

Q. Sir, are you aware that Stewart Mandel himself was convicted of conspiring with Lennie Strollo?

A. Yes, sir, I am.

Q. And he was prosecuted by me, correct?

A. I don't know that, but if you say so.

Q. Did you know he was prosecuted by my office?

A. The United States Attorney's Office?

Q. Yes.

A. I don't know you personally, no.

Q. Do you know if he was prosecuted by the United States Attorney's Office for the Northern District of Ohio?
A. Yes.
Q. Despite the fact that he was a former assistant, correct?
A. Say that again?
Q. Despite the fact that he was a former Assistant United States Attorney, correct?
A. Ask the whole question at one time. I don't understand.
Q. You understand that he was prosecuted by my office despite the fact that he used to work for my office back in the 1960s, correct?
A. If that's what you're saying is true, okay.
Q. And he worked for my office back in the 1960s, correct?
A. It was my understanding he worked for the prosecutor who prosecuted me. I don't know. I didn't meet you until that Superbowl party when you wanted me to testify.
MR. MORFORD: No further questions.
A. And I didn't.
MR. TRAFICANT: I have some questions.
THE WITNESS: Mr. Morford? I have nothing against you, sir. You never hurt me.
THE COURT: He's not even there. He's not

even --

MR. TRAFICANT: He's not on trial.

THE WITNESS: I feel like I'm on trial.

MR. TRAFICANT: I'd like now to redirect the cross.

FURTHER REDIRECT EXAMINATION OF MICHAEL S. TERLECKY

BY MR. TRAFICANT:

Q. Do you know if Mr. Stewart Mandel was arrested for being in business with mob boss Lennie Strollo?

A. Yes, sir.

Q. Was he convicted after Lennie Strollo?

A. Yes, sir.

Q. Do you have any knowledge that he was associated with organized crime while he was a member of the United States Attorney's team?

A. Could you repeat that, please?

Q. Do you have any knowledge that he was, in fact, associated with the mob while he served as an Assistant United States Attorney?

A. Do I have personal knowledge? No.

Q. Do you know where he came from before he was appointed to the United States Attorney's Office?

A. Yes, sir, I do.

Q. What prosecuting office did he represent?

A. The city of Youngstown, I believe. He might have

been the prosecutor or the assistant. I'm not sure. I did trust him because of a friend of mine he was good friends with.

Q. So he was the prosecutor in the city of Youngstown appointed to the U.S. Attorney's Office, and the prosecutor asked you if, in fact, Youngstown was known as a gambling, mob-dominated community. Is that correct?

A. That's where I grew up, sir.

Q. Was he the prosecutor there?

A. Yes, sir.

Q. Was he then appointed as the U.S. Attorney, Assistant U.S. Attorney?

A. Yes, sir. I believe so. I don't know if it was directly after that, but I think it was, based on everything I've heard. I wasn't there.

Q. Do applicants get screened?

A. I don't know.

MR. MORFORD: Objection.

THE COURT: This witness can't talk about those things.

Q. Do you know if Lennie Strollo's conviction carried any forfeiture or loss of property?

MR. MORFORD: Objection.

A. No --

THE COURT: Sustained, sustained. It has

nothing to do with this case.

Q. Are you telling the truth about your conversation with Mr. O'Nesti in the parking lot at the Speedway in North Lima?

MR. MORFORD: Objection. This is well beyond the scope, Your Honor.

THE COURT: He's under oath, sir.

MR. TRAFICANT: I object to these unreasonable jack-in-the-box objectionable objections from objectionable objectors.

THE COURT: Do you want to go to the next question?

Q. Have you seen any physical evidence in this case regarding Jim Traficant?

MR. MORFORD: Objection.

A. No, sir.

THE COURT: Sustained.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: Nothing further.

THE COURT: You may step down.

THE WITNESS: Thank you. Your Honor, am I subject to recall?

THE COURT: You can just step down.

THE WITNESS: Can I go into the room and

watch the trial?

THE COURT: I don't really know.

MR. TRAFICANT: I would ask that the witness remain in the witness room.

THE COURT: I think you -- well, you certainly are released as far as this Court is concerned.

THE WITNESS: Well, if I go in the room, I can't be called back.

THE COURT: I'm sorry, but he has you under a subpoena.

THE WITNESS: I have no subpoena.

THE COURT: Well, he called you, so you can work this out with the Congressman whether he wants you to stay, whether you want to stay, but I would suggest since he asked for a separation of witnesses, you not put yourself in a position --

THE WITNESS: I just don't want to have to come back up here if I don't have to. I'll get a room tonight. I'm not in no condition to be driving back and forth. That's all I'm asking for.

THE COURT: You're released as far as I'm concerned. I don't have any --

THE WITNESS: Well, you released me last time, Your Honor, and he recalled me. If I would have walked into the room last time, I couldn't have been here.

In all honesty, nobody told me I was subject to recall last time. You said I had to --

THE COURT: You're excused.

THE WITNESS: Thank you.

THE COURT: I would suggest you not go into the overflow room.

THE WITNESS: Suggest or order?

THE COURT: I'm not ordering you to do anything, sir. You're released from this trial.

THE WITNESS: Thank you.

MR. TRAFICANT: You are still under my subpoena. I'd ask you to remain in the witness room.

THE WITNESS: Okay.

(Witness excused.)

MR. TRAFICANT: I'd request now a break, if you would, to inquire about my witness, and if my witness has appeared, and then we do take the morning break at this time.

THE COURT: Who is your next witness, sir?

MR. TRAFICANT: I'm calling Mr. Michael Robertson on the return subpoena.

MR. MORFORD: He's already testified, Your Honor.

THE COURT: He's testified in the case. We've heard his testimony.

MR. TRAFICANT: He's testified on an ongoing matter of documents subject to subpoena of Mr. Sinclair, which more banking information has now come to me as recently as this morning.

THE COURT: Okay. Well, we'll look at that. We'll take a break.

Who are your other witnesses today, so we know what we're dealing with here?

MR. TRAFICANT: We're looking for Mr. Tim Christay at this particular point, and that will be all the witnesses I will have.

THE COURT: Okay. We're going to give you a break now. This is going to be 30 minutes.

(Jury out at 10:05 a.m.)

THE COURT: Mr. Morford.

MR. MORFORD: Your Honor, I just wanted to note we've been here since 8:30 this morning. We have not received any new documents. If there are new documents, we'd like to have them to look them over during the break, and if there are no new documents, then any matters could have been asked of Mr. Robertson, and I would ask that if there are new documents, we be given them now.

MR. TRAFICANT: Your Honor, I just had them faxed to me before I came into court here this morning. I'm preparing the documents and giving them to them after

the break, and they will have the documents relative thereto.

Mr. Robertson has been contacted on his answering machine, and I'm hoping he's here and I'll be prepared to take this matter up after the half-hour break. But I would ask for a side-bar after that half-hour break for particular matters that deal with those issues. I have received information from another bank of four other accounts of Mr. Allen Sinclair, and there were 15 banks that were subpoenaed.

As you know, only Home Savings & Loan responded and still said they had a continuing search. Now, I was notified by fax --

THE COURT: They also said that their search, if completed, would take two and a half months, Congressman.

MR. TRAFICANT: Yes, I know that, Your Honor, but I am now in receipt at least the acknowledgment of four accounts of Mr. Sinclair in another bank that came from Indianapolis, Indiana, so evidently these legal departments take a lengthy time.

I had stated, and it was the testimony of Mr. Robertson, that there were numerous subpoenas sent to many banks, and there would be probably a flow of that material over a period of time if there were anything at

all.

I've been notified, to the best of my knowledge, that most of these banks do take time. Home Savings & Loan did have some documents, but did not have deposit documents available for us.

So now I've received this, I believe that we have the copies, and we can present it to them when I return on the break. But I want to proffer --

THE COURT: Do you also have the witness here?

MR. TRAFICANT: I'm hoping that the witness is here. That's -- he was left a message on his answering machine.

THE COURT: Well, you know, if the witness is not here, there's no reason for everybody to be reviewing a bunch of documents.

MR. TRAFICANT: Well, this is what I'm attempting to do, but I would like to proffer for the record --

THE COURT: No. Wait a minute. We're going to let the government respond, as we always do, to what you've just presented us with.

MR. MORFORD: The response is this, Your Honor: Congressman Traficant has known since May of 2001 that the Allen Sinclair kickbacks were a central charge in

this case. He has had the ability to subpoena records since that time. The fact that he waited until three or four weeks ago to subpoena the records is his fault, not the Court's, not the jury's, not the prosecution's.

My only point is this: That he has documents right now in his possession that he should immediately give to us under Rule 16 so we can begin looking at them and not wait any further. There's no reason to wait until after the break.

MR. TRAFICANT: We have not had time to corroborate fully what I had received.

THE COURT: Well, you don't have to corroborate anything.

MR. TRAFICANT: And I will do that on the break.

THE COURT: You can give the documents to the government.

MR. TRAFICANT: I will give them to them.

THE COURT: Congressman, you can give the documents to the government because you've received them. That's what reciprocal discovery requires that you do. So do it now. We'll sit here and wait while you go and get the box of documents, and you bring it down here, and we'll give copies to the government.

Now, who is the person named Christay?

MR. TRAFICANT: Christay. He does some work on -- did some work on the farm for pay.

(Pause.)

MR. TRAFICANT: I have been instructed Mr. Robertson is on an investigation regarding a death inquiry or whatever.

THE COURT: Are those the records?

MR. TRAFICANT: That's what I received.

THE COURT: Very well. Okay. We will recess now and give them time to look at them, and we'll take another -- I don't know where we are into our 30 minutes but --

MR. TRAFICANT: I would request that we break until -- what time is it?

MR. SMITH: It is 10:17, sir.

MR. TRAFICANT: I would request we break for the morning.

THE COURT: Oh, no, we can't do that. We'll be back here.

MR. TRAFICANT: You gave him an 25 extra minutes yesterday for a two-hour opportunity. Now I'm asking for the same reciprocity.

THE COURT: We also sent the jury home because we ran out of witnesses yesterday.

What we're going to do is come back at quarter of

11:00, which gives you now almost 30 minutes.

(Recess had.)

(Jury in at 10:52 a.m.)

THE COURT: Ladies and Gentlemen, as I did following one other witness who was called for a special purpose, I want to give you a special instruction regarding the testimony that you heard right before break. "The testimony you just heard regarding Mr. O'Nesti's statement can only be considered by you when you assess the credibility of Jacqueline Bobby and/or Grace Kavulic as to their testimony regarding other statements from Mr. O'Nesti.

"The statement you just heard can only be used to impeach the credibility of Ms. Bobby or Ms. Kavulic and is not evidence of anything else."

That's because it was brought back, the witnesses were brought back for a special purpose.

Okay? Congressman, your next witness?

MR. TRAFICANT: Linda Kovachik.

THE COURT: She's already appeared in this courtroom on --

MR. TRAFICANT: This is a different matter.

THE COURT: Is it something that --

MR. TRAFICANT: Yes.

THE COURT: Tell me what the different matter

is.

MR. TRAFICANT: She received documents last night and delivered them to me.

MR. MORFORD: I would object to relevance.

MR. TRAFICANT: Relative to bank statements of Mr. Sinclair from another bank. And I want her to, in fact, testify that she received the fax and delivered them to me, and these are those documents that she delivered to me of another bank having four accounts of Mr. Allen Sinclair.

THE COURT: Do you want to be seated so Mr. Morford can respond?

MR. TRAFICANT: Absolutely.

MR. MORFORD: First of all, Your Honor, the cover letter to these documents indicates these were received by the Congressman by a cover letter dated March 28th, 2002. There's a fax at the top that says, April 2nd at 11:30. We never received these until about 15 minutes ago.

But I can tell you that the vast majority of the documents we received have nothing to do with Allen Sinclair whatsoever. They have to do with a James C. Sinclair, and his wife, Kimberly Sinclair. They have different Social Security Numbers. They live in New Jersey. They have different birth dates. And we've

confirmed that these documents have nothing to do with Allen Sinclair whatsoever.

Second, this witness testifying as to when she got a fax has no relevance to the jury unless the documents are admitted in some proper manner and have some relevance to this case. This kind of testimony is totally irrelevant.

MR. TRAFICANT: Your Honor, we admit that these do contain some pages of a different Kimberly A. Sinclair. We are in the process of investigating why they sent us this matter. But they do show a Sinclair, Allen, with four accounts, which is not in question.

We told the prosecution that this is all we got from them, but there are four separate accounts, including an auto lease, an IRA --

THE COURT: Where are these accounts held?

MR. TRAFICANT: These came from Bank One. Now, we've only had a witness here from Home Savings & Loan, and there are 15 subpoenas and we've had five from Bank One --

THE COURT: Congressman, just a minute. We're trying to establish if we have anybody's records here who was involved in this case. You say there are some there that involve Allen Sinclair.

MR. TRAFICANT: Four. We're not contending that the remainder -- we don't know why it was sent, and

we're investigating if this $150,000 mobile home has anything to do with his wife under a fraudulent act, quite frankly.

THE COURT: That's something you could take up somewhere else, not here.

MR. TRAFICANT: But the fact is, the fax was received by an assistant who could testify that this document came from Bank One, and I want --

THE COURT: That doesn't take us anywhere. The fact that you got a document at this date doesn't take us anywhere. She's not from the bank. She's not in a position to testify.

MR. TRAFICANT: But she can introduce the fact that she received this, and this document could be then placed on the record.

THE COURT: Well, you can --

MR. MORFORD: I object to this, Your Honor, because the Congressman is trying to suggest to this jury that a vehicle application loan with a bank from somebody in New Jersey that happens to have the last name Sinclair is somehow fraudulent. That's just not true.

MR. TRAFICANT: We're not doing that.

MR. MORFORD: Second, the Congressman has had since the time of the indictment in May, 2001 to subpoena documents, and he's suggesting to this jury that there's

documents that he's not gotten. The bank has indicated that for most of these accounts, there aren't even any accounts or records, and so I object to any of this because it's totally irrelevant.

MR. TRAFICANT: Your Honor, I explained to the prosecutor --

THE COURT: This witness cannot be recalled for this purpose, Congressman.

MR. TRAFICANT: Well, I want to respond though at least.

THE COURT: Well, no. You've done enough now.

MR. TRAFICANT: You let him have the last word.

THE COURT: Well, excuse me, sir.

MR. TRAFICANT: I'm only questioning.

THE COURT: This is your witness you are proposing. I am saying this witness is not in a position to testify as to this matter.

Call your next witness, Congressman.

MR. TRAFICANT: I now call for a side-bar. I have no other witness and call for a side-bar relative to proffer and law.

THE COURT: You'll be able to do proffering after the jury leaves for today. Call your next witness.

MR. TRAFICANT: I have no other witnesses.

THE COURT: Then, Congressman --

MR. TRAFICANT: Attorney Cascarilla will not respond.

THE COURT: Congressman, do you rest?

MR. TRAFICANT: Attorney Rotatori will not respond.

THE COURT: Congressman, do you rest?

MR. TRAFICANT: Every evening.

THE COURT: Thank you. I've warned you repeatedly that like every other person, you have a responsibility to have your witnesses here for a normal trial day. Don't interrupt me.

MR. TRAFICANT: Your Honor --

THE COURT: From 9:00 until 4:30.

The last time I warned you about that was last night, when you said you didn't know who you were going to call.

MR. TRAFICANT: They're ducking me.

THE COURT: Congressman, you are not the only person who has a stake in this trial. These jurors and alternate jurors, some of whom travel almost five hours a day in order to be at this Court and serve as part of the Court, have been consistently here on time. It's over nine weeks now. They've been attentive. They've been ready to do their work, and so is everyone else in this courthouse

who has a role in your trial.

These 17 Ladies and Gentlemen on this jury and the alternates have put aside their families, their businesses, and all their other activities in order to come here and serve justice under law. That's what a trial is about. It's not about anything different than that.

We're here to give you a fair trial and give the government a fair trial, but these men and women, I will not permit them to sit here idly for the balance of the day.

Yesterday we sent them home early because you didn't have witnesses. They will not be permitted to sit here idly while you dillydally and delay.

You have a constitutional right not to testify. If you want to testify in this case, then please proceed. This is the time. We need witnesses on the stand.

MR. TRAFICANT: I want to respond. You have eliminated 50 percent of my witnesses from testimony. You have denied them the right to take the stand for particular objections from the prosecution. They've taken seven of the nine weeks. I've been here only two weeks, and I now want to proffer for the record.

If you give me a 15-minute examination of Mr. Morford on misconduct, I'll take the stand.

MR. MORFORD: Your Honor, I object to this.

THE COURT: If you would read the Court's rulings, you would find out yesterday afternoon we ruled on that motion.

MR. TRAFICANT: Well, I have matters to complete with the Court at this point that deal with proffers.

THE COURT: We'll do that after --

MR. TRAFICANT: I will not keep the jury any more minutes.

THE COURT: I'm sorry, but you're not in charge of the jury here.

MR. TRAFICANT: I don't plan to keep them here. But for him to state --

THE COURT: You can proffer later. But I can only conclude now that with the entire balance of the day stretching out in front of us, you have nothing further to present in this case unless you want to testify, which is your right to do. This would be the time to do it.

MR. TRAFICANT: Your Honor, people involved in this case that I have subpoenaed have ducked subpoenas. Those that I have brought in --

MR. MORFORD: Your Honor, I object to this.

MR. TRAFICANT: -- have not been allowed to testify.

MR. MORFORD: To say this in front of the

jury --

THE COURT: I have to conclude --

MR. TRAFICANT: You have eliminated half my witnesses from testifying.

THE COURT: Congressman, Congressman, Congressman.

MR. TRAFICANT: No, hear me. You said I've dillydallied. I take objection to that for the record. I brought witnesses here you did not allow to take the stand.

THE COURT: Some of them we didn't allow and many of them we did.

MR. TRAFICANT: Not many; most of them you did not.

THE COURT: How much time do you want for your closing arguments?

MR. TRAFICANT: I don't think that's a matter for the jury.

THE COURT: How much time do you want for your closing arguments?

MR. TRAFICANT: Whatever you think is fair. I say this: I would recommend two hours.

THE COURT: Are you going to testify?

MR. TRAFICANT: I will not take the stand at this point unless Mr. Morford takes the stand on prosecutorial misconduct.

I will take the stand if Morford takes the stand on prosecutorial misconduct.

THE COURT: Congressman, one of the things I've repeatedly asked you not to do is when the Court has ruled, not to bring it up.

MR. TRAFICANT: Then don't ask me. Quite frankly, I've only had the jury here two weeks. They had them here seven weeks with a bunch of paper.

THE COURT: How much time do you want for closing argument? You're not going to do it right now.

I have to know if you are going to take the stand. Are you?

MR. TRAFICANT: I'm not sure yet.

THE COURT: We have a jury here.

MR. TRAFICANT: If Mr. Morford is going to accept my stipulation.

THE COURT: I've already ruled on that, Congressman. If you don't read the Court rulings, maybe we'll read it out to you now. Just sit down and I'll read you the ruling we issued on that yesterday.

MR. TRAFICANT: Hold on. I may have a witness.

THE COURT: Do you have a witness?

MR. TRAFICANT: No. I have a question. What -- Your Honor, do you have right at this point to stop

my trial? Under what law?

THE COURT: Maybe you should bring the person forward who is presenting the question.

MR. TRAFICANT: No. She is an assistant who takes notes for me. I think she's given me a good question to ask. What right do you have to stop my trial and in front of this jury ask me these questions?

THE COURT: I have the right to control the proceedings in this case, and you've been warned repeatedly.

MR. TRAFICANT: Do you have the right to stop my trial?

THE COURT: I have the right to ask you whether you are going to testify, and if you are not, to close the case.

MR. TRAFICANT: You have asked me, in fact, if I had any other witnesses.

THE COURT: I have.

MR. TRAFICANT: I told you I had subpoenaed them. You have said I dillydallied, but you have not allowed half of my witnesses to testify.

Linda Kovachik --

THE COURT: That is, first of all, not correct; and, secondly, it isn't gaining us anything.

MR. TRAFICANT: Linda Kovachik --

THE COURT: How much time do you want for your --

MR. TRAFICANT: Linda Kovachik is in the same position as Terlecky and Johnson, yet you did not allow her to testify.

THE COURT: You had her on the stand, sir.

MR. TRAFICANT: You did not allow her to testify on the hearsay exception.

MR. MORFORD: Your Honor, I object to these falsehoods being thrown out here in front of the jury.

MR. TRAFICANT: Then let's remove the jury and discuss law. I have not recommended --

THE COURT: We will release the jury. That's what we'll do. We'll release the jury for the balance of the day. It's now, what time, 11:00 in the morning.

MR. TRAFICANT: That's fine.

THE COURT: Okay. We'll release the jury for the balance of the day, and when you come in tomorrow, bring two or three days of clothing with you and other personal things that you need.

MR. TRAFICANT: Thank you.

(Jury out at 11:04 a.m.)

(Recess had.)

THE COURT: Congressman, you have a proffer?

MR. TRAFICANT: Yes. The proffer I have is a

letter received from James Kerchum, who was subpoenaed. I'm going to read it for the record:

"I, James A. Kerchum, April 2, '02, residing at 1545 Kale Adams Road, Southwest Warren, Ohio, 44481, do hereby swear to the following to be fact: One, I was subpoenaed to the Federal Courthouse in Cleveland, Ohio, on April 2, 2002, to testify in the case of U.S. versus James A. Traficant, Jr.

2: As required by law, I did, in fact, appear and testify in Judge Wells' courtroom in the Federal Building, in Cleveland, Ohio, on this same date.

"3: At approximately 3:00 p.m. on this same date, I was notified by my probation officer, Kellin Strong, that I was in violation of my probation for complying with said subpoena without first requesting permission from Federal Judge Peter C. Economus." That's E C O N O M U S. "I did, in fact, notify the probation office in Youngstown, Ohio, that I was subpoenaed and had appeared in Federal Court, and that I had made three prior attempts to notify my probation officer, Kellin Strong, that I was required to make an appearance in said case.

"4: Officer Strong advised me that if I had not complied with the said subpoena, that I would have been in violation of probation and/or other laws pursuant to such matters.

"5: Officer Kellin Strong also advised me, however, that because I did comply with said subpoena, that I was still in violation of probation.

"6: I assert at this time that Federal Probation Officer Strong and/or Federal Judge Peter C. Economus is guilty of witness tampering.

"7: On previous occasions, officer Kellin Strong said to me, 'Just stay away from Traficant and you'll be okay.'

"8: My sister, Carol Anne Kerchum, was a witness to the statement in paragraph 7 made by Officer Kellin Strong."

This is not -- and it did not have time to be notarized. I will have it notarized, but wanted it proffered for the record.

Second of all, I have another issue.

THE COURT: Let's deal with this one first. It seems to me the person to take this up with is Judge Economus, and this gentleman can, if he needs it, get some kind of a signed statement or something from my clerk that he actually was here appearing in a court matter. We'd be happy to provide that to him.

MR. TRAFICANT: Now, the second issue, in front of the jury I object to statements made in front of the jury relative to whether or not I would testify,

relative to whether or not I was to rest, and these matters have always been held in side-bar without the jury's presence.

And for the record now I proffer the following: That the following witnesses were not allowed to testify: Linda Kovachik, Jim Kerchum, Fred Hudach, Russell Saadey, Harry Manganaro, Horace Chesney, Mike Antonoff. Johnson and Terlecky were allowed to testify in the ninth week, when defendant had only two weeks of a trial, being blamed for dillydallying.

Finally, Bucci, through Rotatori, can't be contacted. Cascarilla has become sort of scarce. Tim Chesney is in a truck somewhere in Florida, and T. C. Ready Mix, their custodian of records is on vacation.

Now, I want to proffer for the record that you voir dired Johnson, Terlecky, Kovachik, Kerchum, Hudach, Saadey, Antonoff, and Manganaro. And also for the record, that you used the hearsay exception to allow the testimony of Johnson and Terlecky, both having difficulties, Johnson being with the DUI, Terlecky having a former prior record, but not allowing Linda Kovachik, who basically under the same set of circumstances had the same happenstance conversation with O'Nesti.

In my opinion, for the record, you've allowed the government to have some opportunity to have some witness

take the stand for the Congressman who they could impeach easily, but let alone a woman whose credibility is impeccable.

Now, having said that, these witnesses that you have denied me the opportunity to examine would have taken at least two to three hours each pursuant to the types of information that was being solicited relative to my case.

You've ruled on it. You said in public now several times, you poisoned this jury relative to whether or not I would take the stand. That is something that is in the sole province of myself.

Now, when I gave this to the government, I told them that we're in the process of investigating them. We don't know if this is the Allen Sinclair from Youngstown or not, and I told them that when we gave it to them.

Now, if it's not, it's not. But we have 15 outstanding, and I want Mike Robertson brought in here.

It may be there just may be nothing else, but in my opinion, you have been unfair in this trial, and you have now poisoned the jury by bringing up closing arguments in front of the jury, asking the amount of time that's going to be spent for closing arguments, whether I was going to rest. You have no right, no right.

You could put me in jail for not having a witness here if you want, you can fine me if you want, but

you have no right to poison a jury pool that will make a decision on the matter of such a significant criminal case.

Now, having said that, I will be offering witnesses tomorrow morning and will continue my case.

Now, I want to stipulate further for the record that I will testify on both trials if Mr. Morford opens himself up for the prosecutorial misconduct that you said I have flippantly given to this Court, when Mr. Detore said he felt like blowing his brains out and is an indicted co-conspirator.

Now, I want to know that. You didn't say that to the jury. You just made it look like to the jury I'm afraid to face the facts here. You've poisoned this jury for the record.

Now, do we stipulate? Do we have an agreement that I'll testify and you'll let me examine you, Mr. Morford? Yes or no.

THE COURT: I already ruled on that, Congressman. I already ruled on that.

MR. TRAFICANT: And why have you ruled on that?

THE COURT: Because it was presented to me by you in a motion, and I ruled on it yesterday.

MR. TRAFICANT: Why didn't you explain that to the jury when you just made it look like I was unwilling

to take the stand? I put conditions on taking the stand.

This man, for the record, has violated the rights of Henry Nemenz and Robin Best, David Sugar, Pete Bucheit, Henry DiBlasio, and others named in my motion, Richard Detore. You've allowed J.J. Cafaro, who admitted to be a perjurer on the stand, paid for the testimony of Al Lange, and allowed it to remain in.

If that was my witness, you'd have scolded me in front of this jury and made me look like some jackass truck driver's son.

Now, I will rest when I'm ready to rest, and this trial will stop when I'm ready to stop.

Now, you may have 220 other cases, but you have a right to perform the justice here, and you're now presiding over this case, not those other 220.

Now, if you want to suspend this for a couple days, go right ahead. But I'm going forward tomorrow morning with my case.

I want to check Social Security Numbers. I want to know if there's any bank fraud. And that very well might not be Mr. Sinclair. I did not maintain it was.

And in fact, we are pursuing the investigation, which evidently they have done very little of, Your Honor.

Now, having said that, I am very disappointed in the Court, because I think and believe in my heart you made a

willful, knowledgeable statement to poison the jury pool relative to my taking the stand or not, and that is privileged, and that is not to be mentioned in front of a jury, and you have never mentioned anything in front of a jury. It's always been side-bar when it dealt with attorney matters.

This today you did. You did that today. And I believe you violated my rights when you did it.

In fact, I make a motion right now for mistrial.

THE COURT: Would you like to respond to any of this?

MR. MORFORD: Yes, Your Honor.

First of all, the record speaks for itself. And the fact that Congressman Traficant keeps choosing to rehash these same facts over and over and over doesn't change anything.

Could you sit down while I speak, please?

MR. TRAFICANT: I prefer to stand.

THE COURT: Well, you'll have to sit.

MR. TRAFICANT: Is that an order of the Court?

THE COURT: Sit down. It's an order. Please sit.

MR. TRAFICANT: Then I'll sit.

MR. MORFORD: The law is that the Court has a

right to manage a trial, to manage.

THE COURT: Let's wait while the Congressman sits.

Thank you.

MR. MORFORD: To manage its case load, to manage its docket.

The Court has given Congressman Traficant latitude that no party would usually get in a case. The Court has bent over backwards to accommodate him. The Court at the time of arraignment went to great pains to try to explain to Congressman Traficant some of the perils he was going to face if he chose to go without an attorney.

In a rude way, he told the Court he didn't want to hear it, he knew what he was doing.

Congressman Traficant, although he claims to be pro se, the evidence in this case shows he's had representation from Mr. Colucci. He's had a legal adviser --

MR. TRAFICANT: Objection.

MR. MORFORD: -- in court every day.

MR. TRAFICANT: Objection.

MR. MORFORD: He has known about these charges --

THE COURT: Overruled.

MR. MORFORD: -- since May of 2001. He's had subpoena power to subpoena documents since that time. He

could have, as the government did weeks and weeks before trial, put people under subpoena, give them the date of the trial, and tell them they would have to be available during certain times in the trial.

The Court has patiently told him day after day he has to have witnesses here. He cannot run out of witnesses. He refused to tell the Court who his witnesses would be.

He never had enough witnesses here on any day. There were times the government had 10 or 12 people, some of them out of town, sitting in that room for four days getting very upset because we told them we cannot leave a jury sitting in the box --

MR. TRAFICANT: Objection.

MR. MORFORD: -- doing nothing.

THE COURT: Overruled.

MR. MORFORD: And we explained to those witnesses that while this may be an inconvenience for you for three or four days, it's a major inconvenience for these people to put their lives on hold for eight to ten weeks, and we have to take their inconvenience over yours.

And no matter how long this trial went, we never ran out of witnesses. And in fact, there were times when we had witnesses in that room because Congressman Traficant did a four or five-hour cross-examination, which he has a right to do. But the point is, day after day, no matter

how long Congressman Traficant has been on his case, day after day he ran out of witnesses.

This Court gave him notice. He knew he had to have witnesses today, and he came in with one witness. That was his choice.

The Court has made it clear that it was not going to allow him to continue to do this. He has no witnesses. He's indicated to the Court that whatever witnesses he would have would probably have no relevance to this matter anyway. The Court is certainly within its rights. The record speaks for itself.

There has been no violation of his Constitutional rights.

And the Court should move on. We should have closing arguments.

MR. TRAFICANT: Objection.

MR. MORFORD: And this case should be over.

MR. TRAFICANT: Now I'd like to also respond.

THE COURT: Okay.

MR. TRAFICANT: I do have a witness for tomorrow, and I plan to bring that witness.

THE COURT: Who is that?

MR. TRAFICANT: And I want to --

THE COURT: Who is that witness?

MR. TRAFICANT: That will be Mr. Robertson.

THE COURT: The same one you brought today.

MR. TRAFICANT: Relative to an ongoing subpoena. And if I can, the fella from -- Mr. Chesney and the fella from Ready Mix, I'll have them here. And whether or not I testify will be my decision.

Finally, I want to read into the record the motion to testify with conditions since you made that a matter of public record in front of the jury.

THE COURT: Actually, it is public record.

MR. TRAFICANT: I want to read it for the record. I want to proffer it for the record orally.

THE COURT: You can do that right now. You can read the whole thing out loud. But let me ask you a question: Did you ever read the order that the Court issued regarding that?

MR. TRAFICANT: Yes, I did, and that's why I've offered this motion, and I want to proffer it for the record.

THE COURT: Okay. Very well. You can read the motion.

MR. TRAFICANT: "U.S. District" --

THE COURT: Although it is part of the record of the case.

MR. TRAFICANT: "U.S. District Court, Northern District of Ohio. USA, plaintiff, versus James A.

Traficant, Jr., pro se defendant," filed April 2, 8:39 a.m.

"Clerk, U.S. District Court, Northern District of Ohio, Cleveland. Case number 4:01CR207. Honorable Judge Lesley Wells.

"Pro se defendant motion to testify with conditions. Pro se defendant will only testify subject to thorough and complete examination on any and all matters, including those allegations that are continuously referred to in the 1983 trial, under the following conditions:

"1: My testimony is contingent upon the following: The Court allow me to examine AUSA Morford and others, known or unknown to me, at this time regarding the following:

"1. FBI Agent Anthony Speranza's crime of rape.

"2. Richard Detore's extortion, intimidation, in violation of his civil rights.

"3: Cafaro perjury in Chance trial and threats to indict his daughter and audit the Cafaro Company.

"4: Sinclair extortion and threats to indict his wife in KAS building fraud activity.

"5: Subornation of perjury in the Russell Saadey, Jr. case regarding testimony of Harvey and Amedia.

"6: Violation of Russell Saadey's civil rights

regarding actions of one Mr. Woolsey.

"7. Extortion, intimidation and threats to Henry Nemenz and Robin Best, including violations of their civil rights.

"8: Violation of the civil rights of Sandy and Ori Ferrante, including the inducement of fear, perpetrating the serious health problems that have resulted as a cause of such behavior.

"9: Subornation of perjury of William Pearch.

"10: Violations of the civil rights of Sam Traficanti and his son, Anthony, of my staff.

"11: Illegal raid of B & T Express Trucking Company to destroy their business with willful disregard for same.

"12: Extortion and bribery of Jim Sabatine by threatening to, quote-unquote, 'Put him in jail for ten years and take your $15 million.'

"13: Extortion of Mr. Pete Bucheit with threats to indict his son and daughter.

"14: False imprisonment and civil rights violations of FBI, quote-unquote, 'Special Agent Informant, Informant Agent Jim Kerchum,' known as Cheese One.

"15: Extortion and intimidation of Henry and Norma DiBlasio causing major health problems.

"16: Extortion and subornation of perjury of David Sugar by threatening to indict his wife and son.

"17: Violation of the civil rights of the Fred Hudach family regarding the false imprisonment of their son, Ben.

"18: Collusion and conspiracy with former USA Attorney Stewart Mandel to convict Michael Terlecky to protect mob boss Lennie Strollo.

"19: Violations of civil rights of Charles O'Nesti by applying pressure, willfully and with intent, to extort Mr. O'Nesti while literally on his death bed.

"20: Threats and intimidation of Attorney Mark Colucci by threatening to, quote-unquote, 'Get your law license.'

"21: Threats to Mike Antonoff and obstruct justice by ordering FBI to, quote-unquote, 'Follow Antonoff and find out who he will call at trial,' he being the defendant pro se.

"22: Suborning the perjury of FBI Agent Speranza in the Debbie Campbell case.

"23: Obstructing justice and violating the civil rights of Debbie Campbell and another woman now under investigation by me.

"24: Obstructing justice and attempting to extort Greg Tyson.

"25: Obstructing justice and threats to Brian Kidwell and family.

"26: Suborning the perjury of Richard Rovnak.

"27: Extorting George Buccella by threatening to expose an FBI investigation of Buccella regarding the, quote-unquote, 'Fixing of a DUI case with Judge Bailey' involving a $2,500 payoff, and thus suborning perjury of Mr. Buccella about violating his civil rights since statute had expired.

"28: Intimidation of Dennis Palmer by FBI Agent Pikunas.

"29: Perjury before the Court that government has no tapes on Traficant.

"Pro se defendant will open up myself to both the 1983 trial and this 2002 trial subject to above conditions and with the understanding that any and all tapes I have made regarding this case be admitted into evidence, including DiBlasio, Detore, Manganaro, Chance, Best, Bucheit, Terlecky, and others not announced herein.

"Respectfully submitted. Certificate was made on April 2, 2002, to the U.S. Attorneys, filed with the Clerk of Courts for the Northern District of Ohio, Cleveland, Ohio."

My case does not rest, and I will continue tomorrow.

THE COURT: You don't have to respond, but if you want to, you may.

MR. MORFORD: No, Your Honor. The only thing

I want to respond to is his constantly telling the Court what he's going to do and what he's not going to do. That's the Court's province.

THE COURT: Right.

MR. MORFORD: He was supposed to have witnesses here. Mr. Robertson's testimony would be entirely irrelevant.

He's shown no new evidence and can show no new evidence that would justify bringing him back.

MR. TRAFICANT: We are investigating -- Mr. Robertson is investigating if these are, in fact, the same Allen Sinclair and if there's any bank fraud, and if they're not, they're not. We have the right since we received them this morning.

Now --

THE COURT: Wait, wait, wait, wait. You just made your proffer by reading the entire motion that you filed yesterday morning, and I am now going to read the entire order that I filed later in the day.

MR. TRAFICANT: Go right ahead.

THE COURT: After I sent the jury home because we had no more witnesses. So this was filed a little after 3:00 yesterday.

"Before the Court is Defendant Traficant's motion filed today in this ninth week of trial to impose

approximately 30 conditions on any testimony he may give.

"The 'bargain' he seeks to strike would, among other things, nullify many of this Court's prior orders which were entered after full opportunity for both sides to address the issues.

"Defendant Traficant has a constitutional right to choose whether or not to testify on his own behalf. However, like every other defendant in a criminal case, if he chooses to testify, Defendant Traficant may not place any conditions on his testimony. Defendant Traficant's motion to condition any testimony he may give is denied."

Now, we have a matter of some exhibits. You wanted to put some things into evidence?

MR. TRAFICANT: I want to put nothing into evidence at this time except the Kerchum letter, and it is not notarized.

THE COURT: Okay.

MR. TRAFICANT: But I will offer it.

THE COURT: I should rule on a couple of things that were outstanding.

MR. MORFORD: Your Honor, before you do that, I object to the Kerchum letter being put into evidence, as in evidence, that would go to the jury.

THE COURT: Right. And I think he acknowledges that.

MR. TRAFICANT: No, I don't acknowledge that.

THE COURT: Are you offering it? I thought --

MR. TRAFICANT: I am going to offer it, and if you want it notarized, I'll need time to have it notarized, but I want to offer it and I have a defense number on it.

THE COURT: Okay. Give us the defense number.

MR. TRAFICANT: JJ dash Tamper parentheses 1.

THE COURT: Could you hand it up, sir?

MR. TRAFICANT: I'd be honored to.

THE COURT: Did you say JJ dash tampering?

MR. TRAFICANT: No. I said, JJ dash tamper, T A M P E R, parentheses 1.

THE COURT: Have you seen this?

MR. MORFORD: He just read it, Your Honor.

THE COURT: Okay. I'll hand it down.

MR. TRAFICANT: Do you want a copy of it?

MR. MORFORD: Well, if you're offering it as an exhibit, we would need a copy with the exhibit number on it.

MR. TRAFICANT: I have one for you. Let me give this to the Court.

MR. MORFORD: And Your Honor, we would object

to this on the grounds of hearsay and relevance.

THE COURT: Right.

MR. TRAFICANT: What's hearsay about it? It's a probation officer's letter threatening to put a guy in jail for answering a subpoena. Now, come on.

THE COURT: Congressman, you can suggest to Mr. Kerchum, if you wish to, that he should take this up with Judge Economus or do something somewhere else, but it's not part of this case.

MR. TRAFICANT: You did not allow him to testify in my case, and that is the issue of why I'm putting it into the record. And I believe it has a right to be placed on the record since it implies the government's intervention in this case.

THE COURT: If you think that he needs something from this Court, we'd be happy to supply something that says he was here at the time he was here. The transcripts will reflect it, and we can sign something.

MR. TRAFICANT: Would that be a recommendation that he not go to jail because he showed up at the Traficant trial?

THE COURT: No.

Okay. Let me go on with some other things. You had two photographs, HA-60 and HA-1, and I had to go back and review the transcripts on those in order to see -- they

were photographs identified by one of your witnesses, Marchese, Marchese. He took these photographs the other day. I mean they were recent photographs.

MR. TRAFICANT: What are their numbers?

THE COURT: HA-60 and HA-1.

MR. TRAFICANT: And what is the problem?

THE COURT: Well, you offered them for admission, and I had to go back and review the transcript to see whether or not they could go before the jury, and I'm going to let them come in over objection by the government.

In addition, there is a government's -- no, Defendant's Exhibit EXP-1, which are a series of checks from Home Savings that were paid to the order of Allen Sinclair, but that begin on 2-2-2000, and the government objected to these checks as not being relevant because of the testimony we had on the stand and the way the testimony developed.

MR. TRAFICANT: It showed the pattern that they talked about.

THE COURT: Right. But I'm going to admit these anyway. So these are coming in. Defendant's Exhibit -- it says EXP-1 at the top. I want to make sure this is noted correctly for the record.

MR. TRAFICANT: And that includes the lack of

22 months of deposits of $2500? I want to know if that's the document you're talking about.

THE COURT: I'll hand it down so you can look at it.

MR. TRAFICANT: Let me look at it. Because if you're only leaving in the prosecution section --

THE COURT: No. This is yours, sir. This is your exhibit.

MR. TRAFICANT: Let me see it.

THE COURT: It was your argument it should be admitted. The prosecution objected. I'm admitting it over their objection, so the jury can figure that out.

There is an exhibit called HSL-G. That exhibit was never identified by any witnesses that we can find. We've been through the testimony again looking for it, and so as it was not identified, it can't be admitted.

MR. TRAFICANT: What is it?

THE COURT: I don't know. HSL-G. Does that give you a clue as to what it was?

MR. TRAFICANT: Well, how do you know --

THE COURT: Well, because we can pull it out.

MR. TRAFICANT: If you deny it, what is it? Show me what it is.

THE COURT: It's your exhibit.

MR. TRAFICANT: It's my exhibit? I didn't

bring my exhibits with me. These are under review by the Court. I want to know which one it was.

THE COURT: Not these particular ones. We're looking for it right now. It takes a minute.

MR. TRAFICANT: I have a minute.

THE COURT: HSL-G. So if you look at your things when you go home --

MR. TRAFICANT: You say I never admitted it into evidence?

THE COURT: You offered it. You offered HSL-G.

MR. KALL: Your Honor? If I may, I believe it was identified by Melinda Davies, page 5293 and 5294 of the record.

MR. TRAFICANT: Let me -- the prosecution is too willing to help. Let me see it.

THE COURT: What is the date on which she testified?

MR. TRAFICANT: I don't know.

THE COURT: That's okay.

MR. TRAFICANT: I don't have the money to buy these transcripts.

THE COURT: We'll look it up then.

BY MR. KALL: I believe it was March 28th, Your Honor.

THE COURT: Okay. And then there was S-27, which is a 302 regarding Sinclair. That will not be admitted.

MR. TRAFICANT: I object.

THE COURT: I know.

MR. TRAFICANT: They didn't offer the witness to refute it. Why would you not let the document in?

THE COURT: Congressman, it's not admitted.

MR. TRAFICANT: I object.

THE COURT: I know.

MR. TRAFICANT: This is hearsay and you're letting -- you've let them play with the hearsay rules, and now you deny me the opportunity to, in fact, include a written statement by an FBI agent subject to law into evidence regarding a salient point of this trial.

THE COURT: Well --

MR. TRAFICANT: And I ask the Court to reconsider that.

THE COURT: The hearsay rules apply to this particular statement, and it will not be admitted unless you can show, as you have not, some sort of exception.

MR. TRAFICANT: Well, I'd like that to be left open for an exception statement for tomorrow.

And two, I stipulate for the record that there is no one that assisted me in this trial other than to take what

I consider to be violations of law and attach a number to them.

And any further reference to Mr. Colucci as a shadow attorney is false and any more threats against Mr. Colucci or if he is, in fact, in any way bothered with his law license, I am notifying the Court of that at this time.

Second of all, Ernestine Thomas, who has, in fact, taken notes, is a graduate of Tennessee Law School, has not passed the bar, and who was engaged by me strictly to take notes since I can't even read my own handwriting.

And I appreciate the great job she's done. She can identify herself to the Court.

MS. THOMAS: And I am not a legal adviser. Mr. Morford referred to me as a legal adviser. I am not a legal adviser.

THE COURT: Well, today you handed up during the testimony a question to him.

MS. THOMAS: I actually handed him a note. He created a question. That was not what was written on the paper.

THE COURT: Very well. I'm glad you clarified that because there's been some confusion.

MR. TRAFICANT: There's no confusion. I represent myself, and in fact, in no way would hire an attorney because of the power that's leveraged against

attorneys by the federal government, which has tainted the American system of jurisprudence, and, in fact, has made judges afraid of these people.

THE COURT: Okay. Let me go back now to HSL-G, and it was, in fact, identified on page 5307 of the transcript on the 28th, volume 28.

MR. TRAFICANT: What is it?

THE COURT: On March 28th. It's the --

MR. TRAFICANT: Sinclair Vending, and you're going to admit that?

THE COURT: Yes. It's the vending account statement.

MR. TRAFICANT: The slush fund? Thank you, Your Honor. Your largess is greatly accepted.

Are there any other documents we've had in question? And could I have a master list at the conclusion of today's business?

THE COURT: Let me just find out from the government if they have any exhibits to offer today.

MR. SMITH: Your Honor, we had a list, and you have covered everything that we had that was outstanding. The government has nothing further to offer.

THE COURT: Okay.

MR. TRAFICANT: Your Honor, I would ask that S-27, the 302 of that matter, be suspended for my

opportunity to respond since they had and put on Agent Bushner. They could have put on Agent Pikunas. And it is -- and the agents that took the statement of the 302, and I think Mr. Bushner took the 302, it was highly discussed. They discussed the teamwork on this matter. That team was headed by Bernard Smith, from what I understand, who is under Emily Sweeney. I don't know who is in charge here. But that 302 is relevant.

It speaks to motive, it speaks to a seven-day reversal of opinion, and an attitudinal change where a person stated, "I will play no parted in quote-unquote getting Jim Traficant." All of a sudden we have a fearful individual who is afraid to meet with Jim Traficant, and the government can't use him for the purposes of memorializing or capturing my voice on some tape.

So I would like the opportunity to research law. And as it just so happens to work out, I took a book from the library, and guess what? The section that dealt with hearsay had been removed. So I have to find another criminal evidence rule book today. And I will bring the book in as evidence, and want to make it evidence in the trial, in fact.

THE COURT: Well, you don't need to make the rules evidence.

MR. TRAFICANT: Well, I find it highly

unusual I take a book from the library of the Federal Courthouse and the section I'm looking for is not present and the pages are removed. And I took the book out and signed for it myself. No attorney did. And I want an opportunity to review S-27 and to offer comments relative to its admissibility since the government did offer Bushner as a witness.

And if Bushner was reliable enough as a witness to testify, he's reliable enough with his 302.

MR. MORFORD: Your Honor, this is just a rehash of things that have already been raised --

THE COURT: I've already ruled on this. What you said does not account for the fact that this has to be excluded because it's hearsay. None of these relate to whether it's a hearsay objection -- I mean whether it is -- whether it is somehow an exception to the hearsay rule or it is not.

MR. TRAFICANT: My argument --

THE COURT: It's not -- don't keep rehashing these arguments over and over again. This one is settled.

MR. TRAFICANT: Your Honor, what you're leaving in is pennies and what you're leaving out are dollar bills. And you're giving me token matters into the record that in no way have any significance in the outcome of this trial.

THE COURT: Is there anything further from either side here?

MR. MORFORD: Not by way of exhibits, no, Your Honor.

THE COURT: What I have to do now, Congressman, is to have you explain to me exactly how you intend to proceed tomorrow morning in terms of witnesses.

MR. TRAFICANT: I'm going to attempt to get the T. C. Ready Mix fellow here who did the concrete work at the barn that was paid for by check.

I'm going to try and get Mr. Christay who did work at the farm, who was paid by the Congressman by check.

I'm going to try again through Rotatori and Cascarilla so I can bring in the letter, and I'd like to proffer for the record the letter that Mr. Morford told Mr. Cascarilla that Mr. O'Nesti was not a member of organized crime.

It seems that he uses people in different trials.

THE COURT: I'm asking you who your witnesses are, and you've talked about a couple that you are going to try to get here. Who are you going to get here tomorrow? We have to know. We have a jury --

MR. TRAFICANT: I hope to have them here tomorrow. I have subpoenas out for them.

THE COURT: I have to have enough witnesses

to get us up until 4:30 tomorrow.

MR. TRAFICANT: I will have witnesses here tomorrow to conduct business for your jury. I will work on it.

THE COURT: Tell me who they are.

MR. TRAFICANT: I'm working on Mr. Chesney, I'm working on the fellow from T. C. Ready Mix, and I'm working on Mr. Rotatori, and I'm working on Mr. Cascarilla.

And I am now going to ask for the record if there's been any intervention by the government why Mr. Rotatori has not returned my call and made available to me Mr. Bucci, because they were so easily able to get Mr. Bucci on the stand. I want to know why I can't get Tony Bucci here.

THE COURT: Why don't you talk to Mr. Rotatori.

MR. TRAFICANT: We've tried. He hasn't returned our calls.

THE COURT: Congressman, it is tough to be a trial lawyer. You have to go out and --

MR. TRAFICANT: Your Honor, you should compel the attendance of Tony Bucci under these circumstances. Period.

THE COURT: Congressman, you've told me now a couple of people who you say that you're going to try to

get here. Let's assume you can. Fine. Let's assume that they don't show up, or only one, or maybe even just the three of them show up. I need to know now if you're going to choose not to testify. That's your right. But if you're going to testify, we have to know.

MR. TRAFICANT: You have told me that, you have stated that in front of the jury. And, again, for the record, I object. When I rest --

THE COURT: You only have to --

MR. TRAFICANT: When I rest, it is my decision.

THE COURT: You only have to tell -- within limits.

MR. TRAFICANT: I will notify the Court at that time. When I rest, you will know whether I have taken the stand.

THE COURT: You have the right to testify or not. We have already ruled that you do not have the right --

MR. TRAFICANT: You do not have the power --

THE COURT: Stop talking across me.

You have the right to testify if you choose to. If you choose to, you may not condition your testimony. We had to rule on that yesterday.

MR. TRAFICANT: I'm aware of your ruling.

THE COURT: If you don't want to testify, then you don't have to testify. You have a right not to testify.

MR. TRAFICANT: I understand the law.

THE COURT: And the jury will be instructed.

MR. TRAFICANT: I understand the law.

THE COURT: Well, then stop.

MR. TRAFICANT: You've already instructed the jury.

THE COURT: Then stop interrupting. Just wait a minute so I can finish. Sit down and wait a minute so I can finish.

MR. TRAFICANT: I'd prefer to stand and look at you.

THE COURT: All right. You can stand and look at me.

I have to know, because I have 17 people who serve on this jury, along with a lot of other people who support this trial going forward, what we're going to be doing tomorrow in terms of witnesses.

MR. TRAFICANT: We're going to go forward with the jury with witnesses. I am under no further obligation.

THE COURT: There are going to be possibly those three people. Is that right?

MR. TRAFICANT: Hopefully those three.

THE COURT: Then you be ready with your witnesses at 9:00 tomorrow and we will be ready to go forward with the trial.

MR. TRAFICANT: We'll go with the jury at 9:00.

THE COURT: Congressman, we'll go with the jury at 9:00.

The other thing I need to know from you right now is -- anticipate for me -- if we get at some point to closing arguments, I want to know what it is you request from the Court in terms of time for closing arguments. This is because we have 17 people here --

MR. TRAFICANT: I know that.

THE COURT: -- who went home today in the morning because you didn't have enough witnesses.

MR. TRAFICANT: And they were very glad to do so.

THE COURT: I doubt it, sir.

MR. TRAFICANT: Let me say this: He just said earlier that he predicted this to be an eight to ten-week trial, and they took seven weeks. I've only taken two weeks, and you deny --

THE COURT: But you have to fill the trial day. Fill the trial day.

MR. TRAFICANT: You should not have discussed that, and I object to your discussion.

THE COURT: You objected repeatedly.

MR. TRAFICANT: This argument with the jury present.

Now, here is my suggestion: I recommend two hours of close, the government be limited to an hour in rebuttal. They could take an hour -- they could take -- and they must take only one hour on rebuttal. If they use only 20 minutes in their opening, then they'll only have an hour in rebuttal.

THE COURT: Just recommend the total you need. I didn't ask you to tell me what they need. Tell me what you want.

MR. TRAFICANT: I'm concerned about them giving a five-minute opening and three-hour close, and I want some establishment of order relative to how we will close.

THE COURT: That's why I'm asking you.

MR. TRAFICANT: I think both sides should get two hours. They could use an hour in the opening, an hour to close with these brilliant minds. They could make their case, and if the pro se defendant can make his in two hours -- and I probably won't use the two hours -- then I think it's an adequate amount of time.

THE COURT: All right. I'll give you an hour and a half. I'll give them an hour and a half, and they can split it any way they want to, like they can in every other courtroom in America. It's their choice, what they use where.

MR. TRAFICANT: I object to that.

THE COURT: Okay.

MR. TRAFICANT: They could make a statement one minute and come back and take one hour and 29 minutes.

THE COURT: They can do whatever they want to do.

MR. TRAFICANT: You're letting them anything they want to do. That's another thing for the record I object to.

THE COURT: That's the way it goes with the prosecution.

MR. TRAFICANT: No.

THE COURT: Sit down so they can stand. They want to talk to me.

MR. MORFORD: Your Honor, first of all, I'd like to revisit the witness -- the potential witnesses he's talked about for tomorrow.

First of all, he said he wants to call somebody from T. C. Ready Mix to testify that they were paid for the concrete.

That's not relevant. Whether he paid for things that were done out at the farm is irrelevant to the charges in this case. It's also not inconsistent with Dave Sugar, who's already testified.

To number two, Mr. Chesney did farm work and was paid by check. This Court has already ruled, I believe, that proper conduct on some occasions that aren't charged in the case are irrelevant to the misconduct that's actually charged in the case. Neither one of those are relevant.

As far as Mr. Cascarilla in the letter, we've gone over this before. Mr. O'Nesti was never charged with being a member of La Costa Nostra. He was charged with being a liaison, someone who carried money from members to politicians.

MR. TRAFICANT: You didn't put that in the letter, sir.

MR. MORFORD: All the letter says is he's not a member of any LCN family. It is totally irrelevant to this proceeding.

So all three of those witnesses are completely and totally irrelevant.

MR. TRAFICANT: Except Mr. Robertson.

MR. MORFORD: Well, no, Mr. Robertson is irrelevant because the Congressman has not shown one thing

that's relevant that's changed since the time that he had Mr. Robertson on the stand, and in fact, the cover letters show that those cover letters were sent and mailed at least three or four days prior to the time Mr. Robertson testified, and the matter has nothing to do with this case either.

MR. TRAFICANT: Mr. Robertson did not receive that information until last evening looking into the matter of Bank One.

I want the right to call him tomorrow and confirm whether that was the same Allen Sinclair in question.

THE COURT: Here is what I want to point out to you, Congressman. You've just been given a preview by the government of some of the objections they may make if you call these witnesses. You certainly ought to take those into consideration. But I'm going to permit you to go forward with those witnesses. If you're going to bring them in in the morning, that's fine. You have them here and have them all here at 9:00, so that if, in fact, it turns out that their testimony can be used, we're not delaying the jury.

The second thing is, that's why I'm asking you a question today about your own choice about whether or not you're going to be a witness or not, because we have to be prepared to go forward with this case.

MR. TRAFICANT: I am not compelled to divulge that.

THE COURT: No, but you have to be ready to, Congressman.

MR. TRAFICANT: That is privileged, and that is my privilege, and when I'm ready to decide, you'll know.

THE COURT: Congressman --

MR. TRAFICANT: This trial could go another month.

THE COURT: No, this trial could not go another month.

MR. TRAFICANT: Yes, it could. If I take the stand, it could take a month.

THE COURT: Congressman, you can be a witness in this case if you choose, but you will have to be --

MR. TRAFICANT: I am not going to notify this Court today while I have witnesses still coming to this court whether or not I will take the stand. You have ruled on the conditions that I have stated.

THE COURT: If you --

MR. TRAFICANT: And I will now make a decision subject to your motion.

THE COURT: Thank you.

MR. TRAFICANT: To your ruling.

THE COURT: If you will not interrupt and

allow me to state the end of my statements, maybe it will dis --

MR. TRAFICANT: I will not answer your question relative to whether or not I'll take the stand, and you have no right to poison a jury with that statement you made.

And I have a motion on the floor for dismissal on that count. So why don't you just rule again against it and let's get my witnesses on tomorrow and move forward.

THE COURT: Because what I wanted to tell you was that after these witnesses have testified or not, depending on what it is they turn out to be here to testify for, you then will have to be the next witness unless you have other witnesses.

MR. TRAFICANT: If I don't have witnesses and I take the stand, then I take the stand.

THE COURT: Fine. And if you don't --

MR. TRAFICANT: That will be my decision.

THE COURT: And if you don't take the stand --

MR. TRAFICANT: And I do not need to inform this Court as to how I plan my defense.

THE COURT: But you need to be aware that if you do take the stand, it will be tomorrow, probably, and if you don't take the stand, which is also fine, we will

probably be going into the section of this trial where we do closing arguments. And they need to know that, too.

I also need to know it so I can make proper arrangements with the jury. So that's why we were having all this discussion. And --

MR. TRAFICANT: In front of the jury?

THE COURT: No. Right now.

MR. TRAFICANT: No. You had it in front of the jury, Your Honor. You discussed closing arguments, whether or not I was going to testify in front of a jury.

THE COURT: That's right. That's right.

MR. TRAFICANT: That is highly unusual.

THE COURT: Well, that's --

MR. TRAFICANT: As well as having my trial documents, as well as quashing the subpoena for Judge Ann Aldrich.

THE COURT: Okay. Are you ready now?

MR. TRAFICANT: Yes. You've denied every witness I brought in here.

THE COURT: I understand you say that.

MR. TRAFICANT: Now, I will decide, and that is my decision to make, not the Court's.

You decide on the law; I decide on my defense.

THE COURT: It's the law --

MR. TRAFICANT: Whatever their problem is,

they deal with it.

THE COURT: Okay.

MR. MORFORD: Your Honor, my objection is this: Congressman Traficant has not demonstrated to the Court one relevant thing these witnesses would testify to tomorrow, but what he did do today, and as he's done several times in front of this jury, is suggest to the jury that you are not letting him put on a case, and to go through this charade of having witnesses take the stand, having him ask a couple questions, have the objection sustained and have the witness leave because the witness had nothing relevant to testify to, and to bring these poor people back to sit around all day for this charade I think is wrong.

Unless he can tell the Court some relevant reason that he has additional witnesses, the fact that after being admonished several times by the Court that he needed to have witnesses here, the fact that he has no witnesses and the fact that he cannot articulate to the Court a single witness that's going to provide relevant testimony tomorrow, the case ought to be closed, number one.

And number two, I would ask if the Court is going to go forward and let him bring in witnesses, that he only bring in witnesses that he can show have admissible,

relevant testimony, number one; and that if he runs out of witnesses tomorrow, that he does rest and it's over.

THE COURT: Okay.

MR. TRAFICANT: I want to respond to this gutless prosecutor.

THE COURT: We don't need any more responding now.

MR. TRAFICANT: Are we finished?

THE COURT: 9:00 in the morning, Congressman, with your witnesses, please.

MR. TRAFICANT: Thank you.

THE COURT: Do you have anything further?

MR. MORFORD: Yes. As far as closings, do we assume we're going to do those then on Friday or --

THE COURT: Well, I think you should be ready to do them as early as tomorrow. I can't really tell because I don't know what's going to happen with these witnesses.

Here is the thing about the way it goes: Congressman, if you will recall, from the beginning of this case, after everybody has finished with hearing evidence in the case, the next thing we do is give instructions to the jury up to a point. The jury gets basically the instructions except for those that they need when they actually go back to deliberate.

After they've been given the basic instructions and the law, then we entertain closing argument. I take it both sides want to do it here. And we have, as I told them and you before, and as you recognized, the Congressman recognizes, you go first, he goes, and then you go.

Then I give the last short instructions to the jury, which are the fundamental ones about how they choose a foreman and verdict forms, and things like that. And then the case is put in the jury's hand for a verdict.

So that's what we're looking at. And the only question is: When does it begin. And I think it's possible that it will begin tomorrow. I don't know. It may begin the next morning. I don't know. It may begin at some other time. But we have to be ready for it on both sides. And that's why I asked the Congressman how much time he wants.

One hour is common. This case is exceedingly long.

MR. TRAFICANT: One hour would be satisfactory to me.

THE COURT: So I wouldn't mind going with an hour and a half. But two hours was too long.

MR. TRAFICANT: Two hours would be too long?

THE COURT: So you would have to split your one and a half hours however you decide you want to split it. But we don't put conditions on how many minutes they

do in front or on the other side.

MR. TRAFICANT: In other words, you're saying they could stand up and say, Your Honor, Members of the Jury, we believe the defendant is guilty, and they rest. And then I go and they come back for one hour and 30 -- and 29 minutes. Is that what you're suggesting?

THE COURT: You shouldn't be suggesting these things to them. I'm not sure they ever thought of that.

MR. TRAFICANT: You're allowing that. Do you think that's fair? Do you think that's fair?

THE COURT: Congressman, we never put restrictions like that --

MR. TRAFICANT: Shouldn't you at least restrict their close to one hour? Let them take a half-hour opening.

THE COURT: They get the same amount of time you get, but they get to split it. That's because they have the burden of proof.

MR. TRAFICANT: Yes. Well, let me inquire now about the Court. Once the trial is finished, regardless of what my final position is, what is the next step? The exact next step. I'm asking you to tell me.

THE COURT: You mean once the evidence is all in or once we've instructed the jury and we get a verdict?

MR. TRAFICANT: No. Once I rest, what do we

do next?

THE COURT: That's what I just went over.

MR. TRAFICANT: I want you to go over it again.

THE COURT: Normally what happens --

MR. TRAFICANT: Not normally. I want to know what's going to happen.

THE COURT: In your case, the same thing that happens in all criminal cases.

MR. TRAFICANT: Well, then tell me.

THE COURT: That's what I just did.

MR. TRAFICANT: No. You said "normally." It implied that there could be something abnormal.

THE COURT: Occasionally somebody wants rebuttal or something, but we don't have that in this case.

MR. TRAFICANT: Is there rebuttal?

MR. MORFORD: You haven't finished your case yet, apparently.

THE COURT: They have to decide.

MR. TRAFICANT: But you didn't state that, did you?

THE COURT: No, I didn't, because there's no indication that we're going to have rebuttal. If we have it, we have it.

MR. TRAFICANT: You didn't ask them that,

though, did you?

MR. MORFORD: Yes. Actually we were asked earlier. We said there would not have been had the Congressman rested. We don't know what he's doing tomorrow, so we're going to keep the option.

MR. TRAFICANT: You mean you have an option? But you wanted to deny me an option.

THE COURT: Anyway, do you want me to go over it? I'll be happy to do it again.

MR. TRAFICANT: Yes. I want you to go over it very carefully, and I don't want you to go over it as normal. I want you to go over it as it will actually be.

THE COURT: Well, there are some things we can't tell exactly.

MR. TRAFICANT: I want to know if the jury instructions are finalized, and if they have been, given to me.

THE COURT: We gave you an opportunity to participate in the jury --

MR. TRAFICANT: I asked you to be fair. I wanted to see the jury instructions you made. All I asked you to do was be fair.

THE COURT: We said I think two weeks ago or a week ago or something that those were available. If you wanted a copy, you can have a copy, a draft copy of the

instructions.

I can't do the jury instructions, Congressman, completely until I've heard all of the evidence in the case, and I may or may not have done that.

So --

MR. TRAFICANT: Well, you haven't heard any evidence in this case. You denied all my witnesses.

THE COURT: Okay. Well, anyway, the jury instructions are available in draft form for you to look at if you want to look at them. There's no problem with that.

MR. TRAFICANT: Why cannot I be given a copy of it?

MR. SMITH: He was.

THE COURT: We offered you a copy. We offered you a copy of the jury instructions.

MR. TRAFICANT: Where?

THE COURT: Here.

MR. TRAFICANT: Give it to me.

THE COURT: You just have to ask the clerk for one.

MR. TRAFICANT: Give me one.

THE COURT: We'll have to go get one if you want to.

MR. TRAFICANT: Give me one.

THE COURT: We will.

Anyway, the jury instructions, the first three sections, A, B, and C as they're called in the jury instructions, are read aloud to the jurors. They have copies, they're sitting there. We read them out loud.

You have copies while we're reading them. That gets finished. Then we go to closing arguments.

And they go first, and then you go, and then they have the last word, so to speak.

MR. TRAFICANT: And they could take an hour --

THE COURT: And then we send it to the -- we hand the case to the jury, and they go deliberate, and then at some point, I don't know when, we have a verdict, and that's the way the case goes.

MR. TRAFICANT: And it is your now decision that they could make a one-minute opening?

THE COURT: I'm not making that decision because that isn't in front of me. I don't know what they're going to do.

MR. TRAFICANT: But they're allowed to do that; under your order they're allowed to do that. Is that correct?

THE COURT: In any court.

MR. TRAFICANT: Well, then I move and I make a motion that they be limited to a one-hour close.

THE COURT: Well, you want --

MR. TRAFICANT: I have a motion in limine that they -- we both have an hour and a half, but their close be limited to a half hour.

THE COURT: The motion is denied, Congressman. That would be an extraordinary thing to do. I'm not going to do that.

MR. TRAFICANT: It was granted in the first trial. It was granted out of fairness.

THE COURT: Okay. Well, this is not 1983.

MR. TRAFICANT: It certainly isn't. There is no justice today.

THE COURT: We'll see you at 9:00 in the morning, sir.

Do you have a question? You look like you have a question. No?

MR. MORFORD: I was just thinking. I'm trying to think of time --

THE COURT: Is an hour and a half acceptable? You never got a chance to respond to that.

MR. MORFORD: I would have asked for an hour and 45, but if the Court wants to go with an hour, we'll go with an hour.

MR. TRAFICANT: I think an hour is enough.

MR. MORFORD: The second thing, Your Honor,

I'm just thinking in terms of the timing, if we have any witnesses tomorrow, we're then going to have to go through and review each other's evidence and make sure there's no extraneous notes, documents, things like that.

THE COURT: Right.

MR. MORFORD: I assume the Court is going to go over the charge with us.

And then if we have the Court read the charge, which will probably take an hour, and have three hours of closing, in my mind I'm not seeing that happening all tomorrow.

THE COURT: Well, it may well be it's the next day. That's what I said. I don't really know until we get into it. You should be ready tomorrow to do a close, both of you, and if it doesn't happen tomorrow, then you will have gotten ready.

I'm sorry I can't be more specific, but this case is quite unpredictable.

MR. MORFORD: I was going to ask the Court if you could just schedule the closings for Friday so we'll know as opposed to being --

MR. TRAFICANT: What's the date today?

MR. MORFORD: It's Wednesday.

THE COURT: You mean of the week? It's Wednesday. It's the 3rd.

MR. TRAFICANT: I would agree that if I take the stand, this trial may last another two, three weeks.

If I do not take the stand, then I believe it is reasonable to assume that Mr. Morford's one reasonable suggestion would be acceptable to the defendant pro se, and that closing arguments -- both sides be given an opportunity for Friday if I do not take the stand.

But I do caution the Court that if you poison this jury one more time relative to my taking or not taking the stand, that you'll have to send a marshal for me, because I am not coming back to your courtroom. You can put that on the record.

THE COURT: It's on the record. Everything you say is on the record.

Okay. Here is what I just wanted to suggest to both of you. I understand that it is easier if you know if you're going to do a closing argument or not. It's a very important time for the preparation of lawyers and pro se defendants.

On the other hand, I have a jury that has been sent home early more than once, and I have to consider the fact that these men and women are spending a great deal of their lives and interrupted lots of activities in their lives that affect many other people.

So if it turns out that the timing is better to let

that closing statement go forward tomorrow afternoon, you'll certainly have the noon hour before that happens, but I can't promise you. I think we'll know better tomorrow when we know what the Congressman's decision is, we'll know better. But I think you both need to be prepared to go tomorrow as well as Friday, because it doesn't look to me like even if we have testimony, from what you've described, it doesn't look to me as if we've got long testimony, unless you decide, as you're entitled to, that you want to take the stand.

MR. TRAFICANT: Your Honor, did you rule on their motion relative to Count 10, that if only two of the counsel unanimously agree to --

THE COURT: Yes, I did.

MR. TRAFICANT: Did you rule in their favor?

THE COURT: It's -- the ruling is out. Let me make sure you have a copy of it.

MR. TRAFICANT: Did you rule in their favor, which makes it about 21 counts?

THE COURT: This is only a special verdict form on Count 10.

Oh, I know. This is the one where you raised all the objections that would have to do with double jeopardy, and so forth.

MR. TRAFICANT: Yes.

THE COURT: Okay. Well, you raised that in response to the request, but you didn't raise any of that in the motion, so I dealt with the motion which came in regarding the special verdict form for Count 10.

Do they have copies of this yet?

THE CLERK: Yes.

MR. TRAFICANT: And you're ruling with the government? Are you ruling with the government? Yes or no.

THE COURT: You can go read it.

MR. TRAFICANT: I am just asking you for the record, did you rule with the government?

THE COURT: Well, in a sense I did and in a sense I didn't.

In the sense I didn't was I didn't accept their proposed form which they sent to me. But in terms of their request --

MR. TRAFICANT: Well, what's the form have to do with it?

THE COURT: There is a special verdict form.

MR. TRAFICANT: And what is the special verdict form for Count 10? Could you tell me what you've approved for the record?

THE COURT: I don't have to tell you for the record. I've offered you the entire package of jury

instructions and will let you see all of the verdict forms --

MR. TRAFICANT: But I am directly asking you.

THE COURT: Do you want to see the verdict form right now?

MR. TRAFICANT: Yes.

THE COURT: Okay. Maybe we can get you the draft verdict forms right now while we're all sitting here.

MR. TRAFICANT: I want to see how much more opportunity you're going to give these three bureaucrats.

THE COURT: We don't have copies of the verdict forms because there's only one verdict form, but I'm willing to have my clerk take a minute. Go get the one --

MR. TRAFICANT: You mean I wasn't given a copy of the verdict form? There is only one?

THE COURT: Nobody is ever given a copy except the jury of a verdict form, but we let you look at the verdict form so you can file objections to it if you wish to.

MR. TRAFICANT: Let me inquire: In essence you're saying that only two of the overt acts have to be unanimously agreed to. The only thing you don't like is the little lines they put on the piece of paper. Is that what you're telling me? Yes or no.

I may be the son of a truck driver, but I wasn't born yesterday. I've got a train to run here. I'd appreciate that form immediately.

THE COURT: Okay.

MR. TRAFICANT: So it is evident that I didn't receive the form.

THE COURT: No, no, no. Nobody gets the verdict forms except the verdict -- the jury.

MR. TRAFICANT: You said you ruled on it.

THE COURT: I ruled on a motion. Here is the order. It was issued at 9:00.

MR. TRAFICANT: When?

THE COURT: Today.

MR. TRAFICANT: Just today.

THE COURT: Just today. We've had a lot of motions, Congressman.

MR. TRAFICANT: And you didn't take into consideration my response of the double jeopardy at all?

THE COURT: Yes, I did. It's all set forth in here.

MR. TRAFICANT: And you ruled against it.

THE COURT: Why don't you sit down while he's trying to find the jury verdict forms and read my copy of my order. You can get these, you know.

MR. TRAFICANT: You are to give them to me.

THE COURT: We did. We sent it to you. You were handed a copy, and here you are.

MR. TRAFICANT: I am not in receipt of it. You just sent your man to the back room.

THE COURT: I'm going to come down and we're going to stand at the front, and I'll hand you each a copy of each of the verdict forms. They're drafts because we haven't finished everything in the case yet.

MR. TRAFICANT: The government's request is granted.

The only thing you've changed is the form.

THE COURT: Right.

MR. TRAFICANT: That's a form with lines on it.

Now, let me see the form that you're using.

THE COURT: I have it right here.

MR. TRAFICANT: You have basically made this a 21-count indictment.

THE COURT: Well, that's your position. Ed, can you take these one at a time and show one at a time whoever wants to look at it, what it looks like?

MR. TRAFICANT: Thank you, Edward.

THE COURT: This is your chance to --

MR. TRAFICANT: I would like to compare them with what the government had submitted.

THE COURT: They didn't submit any verdict forms except the special RICO one.

MR. TRAFICANT: This is the one we're dealing with. That takes away all the property, puts me in jail for 23 years, and you're talking about a day's trip of a jury, and you never once talked about the rights of the pro se defendant. And let that also be noted for the record.

THE COURT: Got that?

MR. TRAFICANT: I understand the jury has a responsibility. As an American citizen, that is their responsibility. And no time restraints shall deny justice. That's a founding document. And all you've done is you've changed their form. You've made this a 21-count indictment.

I now object to such decision and find the Court to be biased in its actions, in favor of the prosecution, and further state for the record if they get their ass kicked tomorrow, they're going to be the laughing stock of the United States of America, and don't count it out before this week is out or next week, that that doesn't happen.

Because you have a guy that understands the Constitution and knows when it's been shredded like toilet tissue, and it's been done in this case, and that's for the record. Toilet tissue. Put Charmin down.

THE COURT: We're in adjournment until

tomorrow morning at 9:00. Please be prepared, Congressman.

(Trial adjourned at 12:36 p.m.)

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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.

Heidi Blueskye Geizer, RMR, CRR Date 4.24.02

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BY MR. TRAFICANT..... 5831:6

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, APRIL 4, 2002

Jury Trial

Volume 32

- - - - -

APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

THURSDAY, APRIL 4, 2002, MORNING SESSION, 9:01

(Jury in at 9:01 a.m.)

MR. TRAFICANT: Your Honor, I call David Ludt.

THE WITNESS: Good morning, Your Honor.

(The Witness is Sworn)

DIRECT EXAMINATION OF DAVID LUDT

BY MR. TRAFICANT:

Q. Good morning, David.

A. Good morning, and good morning to the jurors and Judge.

Q. Will you give your name and spell your last name for the jury?

A. Last name spelling is L U D T.

Q. First name?

A. David.

Q. Where do you reside?

A. Poland, Ohio.

Q. And what county is that?

A. Mahoning County.

Q. What congressional district is that?

A. It was the 17th.

Q. What is it now?

A. The 6th.

Q. What is your occupation?

A. I'm a Mahoning County Commissioner.
Q. What are your duties as a Mahoning County Commissioner?
A. The three county commissioners control the budget of Mahoning County.
Q. In addition to that, what do you also do?
A. I'm a tow truck driver. I own Ludt's Towing Company.
Q. Before you were a commissioner, how long were you a tow truck driver?
A. 46 years.
Q. Do you still tow vehicles?
A. In rare emergency. This job takes most of my time.
Q. Do you know a man by the name of J.J. Cafaro?
A. Yes, I do.
Q. Did you have occasion to be at a meeting with Mr. Cafaro, an unusual meeting with Mr. Cafaro, relative to politics?
A. Yes, I did.
Q. Would you describe where that meeting was held?
A. The meeting was held that Mr. Anthony's on the River, which is located in Youngstown, Ohio.
Q. Could you describe what Mr. Anthony's is?
A. It's a restaurant.
Q. Where was the meeting held within the restaurant?
A. They have a meeting room entering off to the right.

Q. Was the meeting room door closed?
A. Eventually it was, yes.
Q. Who was all present at this meeting, to the best of your knowledge?
THE COURT: Can we get a time when the meeting was?
Q. Roughly when the meeting of this -- when was the date of this meeting, to the best of your recollection?
A. It was around -- it was in the morning, Saturday morning, around 2000.
Q. Was it winter?
A. It was right after the general election, yes.
Q. After what general election?
A. The November election of 2000.
Q. Was I on the ballot in that general election?
A. Yes, you were.
Q. Was I successful?
A. Yes, you were.
Q. What time span elapsed from the election, to the best of your knowledge, to this convening of this meeting?
A. Probably within the next month, within a month period. My recollection is not that great, but it's within a month.
Q. Do you recall the purpose of the meeting?
A. It was a political meeting, basically.

Q. Do you recall the people who were -- any of the names of the people who were at the meeting?
A. I knew a few. A lot of them I didn't know.
Q. Who did you know?
A. I knew Jim Graham. He was with the UAW, General Motors.
Q. Jim Graham is whom?
A. He's with the union, with the UAW.
Q. And what position does he hold, to the best of your knowledge?
A. He's the president.
Q. Okay. Who else was present?
A. Judge Bodah.
Q. And who is Judge Bodah?
A. He's a Federal Bankruptcy Court Judge.
Q. In what court?
A. The bankruptcy court. Federal Bankruptcy Court.
Q. And where is it located?
A. In the Federal Courthouse, across the street from Mahoning County Courthouse.
Q. In what city?
A. The city of Youngstown.
Q. Who else was present at this meeting?
A. Judge Vukovich, Court of Appeals.
Q. What Court of Appeals?

A. Was that the Sixth District Court of Appeals, I believe?
Q. Was it a state or federal court of appeals?
A. State.
Q. Okay. Who else was present at this meeting?
A. I believe Attorney Hanni was there.
Q. Who else was present?
A. J.J. Cafaro, J.J. Cafaro's daughter.
Q. Do you remember any other significant people at the meeting?
A. I believe the rest of them were attorneys.
Q. Who basically conducted the meeting?
A. J.J. Cafaro.
Q. Did you have any conversation with Mr. Cafaro?
A. Well, he conducted the meeting. He asked each individual there two questions.
Q. What was the first question?
A. The question was about --
MR. MORFORD: Objection, hearsay.
A. The question was at budget --
THE COURT: When there's an objection, you have to wait a minute.
THE WITNESS: Sure.
MR. TRAFICANT: These are political questions, Your Honor.

THE COURT: I understand.

MR. TRAFICANT: And I understand this, and I object to having my witnesses interrupted on a regular basis before they get a chance to testify.

THE COURT: Okay. Well, if someone is testifying as to something that may be hearsay, a lawyer has a responsibility to pose an objection.

MR. TRAFICANT: Yes. If you would listen to the question, you would be able to determine if it is hearsay.

THE COURT: Yes. I would be able probably to do it if I had a chance.

MR. TRAFICANT: And they are objecting before I conclude a question. That I find irregular and cite for the record, and I'd like to continue with the witness.

THE COURT: Okay. Well, as soon as we hear the objection, we will see whether or not the witness should go forward and answer this particular question.

MR. MORFORD: Your Honor, first of all, I object to that speech. These are the rules that apply in every case.

THE COURT: Right.

MR. MORFORD: My objection was hearsay because he is testifying to out-of-court statements, and we've been through these rules many, many times. This is

nothing new. It's not new to this case; it's not new to any case.

THE COURT: Congressman, the objection is sustained. You can continue your inquiry.

BY MR. TRAFICANT:

Q. As a result of the conversation you had, what was your impression as to the reason of that question?

A. My impression was that it was a motivational question for preparation for political support.

Q. At this meeting, were there discussions of state politics?

A. Yes.

Q. And what was your impression of the discussion relative to state politics?

A. Well, I was asked if I knew David Leland.

MR. MORFORD: Objection. Again, we're getting into hearsay, Your Honor.

THE COURT: We can't have you testify as to what somebody else would who would be under oath and subject to cross-examination could testify to. You have to testify to --

MR. TRAFICANT: Were you asked --

THE COURT: Excuse me. You have to testify. It's tough being a witness.

THE WITNESS: Sure.

THE COURT: You have to give us time to rule when there's an objection before you continue, and then you have to testify leaving out what somebody else may have been saying. Okay.

THE WITNESS: Thank you.

THE COURT: That's the hearsay part.

BY MR. TRAFICANT:

Q. Were you asked any questions about state politics?

A. Yes.

Q. Did you respond in any way to any particular state political mechanism?

A. The fact is, I do know David Leland. The fact is, I ran for election. The fact is, David Leland opposed me, and I don't think I'm his favorite person.

Q. Was David Leland at the meeting?

A. He was not. He's in Columbus, Ohio.

Q. Were federal issues discussed at the meeting?

A. The federal budget was discussed.

Q. Who led the discussion?

A. J.J. Cafaro.

Q. Was there anyone who addressed the group?

A. J.J. Cafaro chaired the meeting.

Q. Were there any speakers?

A. Each person spoke and addressed the question that was asked.

Q. And those were political questions?
A. That's correct.
Q. Did any union leaders speak?
A. Jim Graham spoke. He's the union leader, president of the union of UAW for the Lordstown --
Q. Is UAW the largest union in the Mahoning Valley?
A. Correct.
Q. And what does the UAW union cover?
A. Basically Lordstown, the auto workers, United Auto Workers.
Q. Are they the largest employer in the valley?
A. Yes, they are.
Q. And what was the purpose of the meeting?
A. It was a political meeting, basically. I think it was the announcement of J.J. Cafaro's daughter seeking the 17th District position.
Q. Seeking office?
A. Correct.
Q. Did she speak?
A. Yes, she did. Very good speaker.
Q. What, if anything, was your impression as to the next election cycle?
A. Well, you'd just been elected, so I knew you were elected for the next two years, so I felt they were preparing for the next election, correct.

Q. What election?
A. That would be this election here.
Q. What election? What election was she seeking when she talked?
A. That would be the election of two years after 2000.
Q. For what congressional seat?
A. The 17th District.
Q. Who was the incumbent in the 17th Congressional District?
A. Jim Traficant, you.
Q. Were there any pledges of endorsement at this meeting?
A. No, there was not, not openly on the floor.
Q. Were there remarks requesting consideration for endorsements?
A. After the meeting, it was sort of like the side-bar, you might say, and the discussion came up, you know, we're looking for your support.
Q. Had you ever attended one of these meetings before?
A. No, I had not.
Q. Did you discuss anything other than those two political issues and the campaign?
A. During the meeting or after the meeting?
Q. During the meeting.
A. Basically, no.

Q. How long did that meeting last?
A. Approximately an hour.
Q. Do you recall how long Jim Graham had spoken?
A. Probably three to five minutes.
Q. Do you recall how long Mr. Cafaro had spoken?
A. Intermittently. He conducted the meeting, so he would have spoken many times throughout the hour.
Q. Do you recall how long Ms. Cafaro had spoken?
A. She probably spoke five to ten minutes.
Q. Was there any doubt in your mind as to the purpose of what that meeting was about?
A. No doubt in my mind, no.
Q. What was the meeting about?
A. It was about politics; it was about promoting his daughter to run for the 17th District.
Q. Now, after the 2000 election, was there any understanding of the new congressional district lines?
A. Not to my knowledge.
Q. Do you know when the new delineation of congressional lines was certified by the state?
A. Just recently. I'm not sure. I don't have the exact date.

MR. TRAFICANT: No further questions at this time.

THE COURT: Mr. Morford?

MR. MORFORD: Thank you, Your Honor.

CROSS-EXAMINATION OF DAVID LUDT

BY MR. MORFORD:

Q. I'm sorry, sir. What do you do again for a living?

A. Pardon me?

Q. What do you do for a living?

A. I'm a Mahoning County Commissioner, presently.

Q. And that is a political office, correct?

A. Yes, it is.

Q. You run for election?

A. Every four years.

Q. And how long have you been involved in politics in the Mahoning Valley?

A. 23 years.

Q. And it's fair to say you have a fair amount of expertise on politics in the Mahoning Valley?

A. I would say locally, state-wide and federal, yes.

Q. You're a pretty savvy guy?

A. Not really. I'm a tow truck driver.

Q. Well, in terms of politics though, having been involved nationally, state-wide, and locally in the Mahoning Valley for 20-some years, is it fair to say you're fairly politically savvy?

A. More independent than anything else.

Q. No. I'm not asking about party affiliation. I'm

just talking about political savvy. Are you someone that knows and understands politics? Would that be fair?

A. At a local level more so than a state or federal level. I've never been involved in a state or federal level, but I have knowledge of it.

Q. My question is about Mahoning Valley politics.

A. Yes.

Q. Now, you said this conversation occurred just after Congressman Traficant had been reelected, correct?

A. Within a month, correct. Or in that area.

Q. So the next election was going to be in two years, correct?

A. Yes.

Q. And that would be the election that will be coming up this next fall, correct?

A. Yes.

Q. And as somebody that understands politics, you knew at that time that every ten years, there's a census, and after the census, there has to be redistricting, correct?

A. It never entered my mind at the time, sir.

Q. That's not my question. My question is whether it entered your mind that day at that restaurant, you did understand there would be redistricting, correct?

A. No. The subject was never brought up.

Q. Sir, hasn't that discussion been widely discussed in

the Mahoning Valley the last two years?
A. Probably, but I was not involved in that.
Q. You had no idea that even though you've been involved in Mahoning County politics for two years, that they were going to have to redraw the congressional lines?
A. Yes. I knew that was going to happen, but that was never discussed at that meeting.
Q. That wasn't my question. My question was: Were you aware that there was going to be redistricting and that the congressional districts in the state of Ohio were going to be redrawn?
A. Did I know that in the back of my mind? Yes.
Q. Thank you.
A. But was it brought up at the meeting? No.
Q. That wasn't my question. My question was did you know that. Let me ask you some questions about that.
A. Okay.
Q. Isn't it true that Ohio was going to lose congressional seats in that redistricting?
A. Yes.
Q. How many seats were they going to lose?
A. A couple, I guess.
Q. And if you were advising someone who was thinking about running for Congress in the year 2002 --
MR. TRAFICANT: Objection as to speculation.

THE COURT: Okay. That's well taken.

Q. Sir, wouldn't it be a factor for someone that was going to run for Congress to consider the fact that at least --

MR. TRAFICANT: Objection as to speculation.

Q. -- two seats --

THE COURT: I couldn't really hear the end of the question. Let me hear the end of the question, but don't answer yet. Everybody slow down. Relax. It's early in the day. Just ask the question.

MR. TRAFICANT: Can I have the question read back, and then --

THE COURT: I only got part of it. Why don't you just start --

MR. TRAFICANT: Well, it was just a question, and I don't have it written down. I'm not sure. I don't remember the beginning of the question.

THE COURT: Okay.

(Record read.)

MR. TRAFICANT: Objection as to speculation. How would he know what someone else's facts are?

THE COURT: Okay, Congressman. You know, we just can't get into snap judgments here. I have to listen and pay attention.

MR. TRAFICANT: Well, you have an objection

placed.

THE COURT: That's right. And if you'd be quiet for a moment --

MR. TRAFICANT: I'm trying.

THE COURT: So we have a clear record.

MR. MORFORD: Your Honor, my question is not going to what the Cafaros were thinking --

MR. TRAFICANT: I object to his explanation what his question is about.

THE COURT: Stop.

MR. TRAFICANT: He can rephrase it.

THE COURT: Stop interrupting, Congressman. You know the process. Stand up when you have an objection.

MR. TRAFICANT: I object to him trying --

THE COURT: Don't talk. Stand, sir. Stand. That's all you have to do. We're not going to go forward until we've got this straightened out. We're just taking our time.

You're standing up. He's the person who is trying to explain, and it's his turn to explain. This is -- just slow down. Everybody relax. We're trying to get evidence before a jury.

MR. MORFORD: Let me rephrase the question, Your Honor.

THE COURT: Okay.

BY MR. MORFORD:
Q. Isn't it true that at the time of that meeting, no one knew whether there would even be a 17th Congressional District --
MR. TRAFICANT: Objection.
Q. -- as it stood at that time?
MR. TRAFICANT: Speculation.
THE COURT: Stop talking on top of other people. You are ruining a record in a case where the record is very important. Okay?
Did you hear his question?
THE WITNESS: I'd like him to ask it again, please.
THE COURT: I don't know if the reporter can read it back because she can't write down two people talking at once. One more time, sir.
Q. Isn't it true that at the time of that meeting in November of 2000, no one knew for sure if there would even be a 17th Congressional District as it existed at that time?
MR. TRAFICANT: Objection as to the speculation.
THE COURT: Overruled.
Now you can answer the question.
A. It was never discussed at that meeting, so I

thought -- I don't think the thought process was in motion at that time.

Q. That's not my question, sir, what was discussed at the meeting. My question was: Isn't it true at the time of that meeting that no one knew whether the congressional -- 17th Congressional District would continue to exist as it existed at that time?

A. I can tell you I didn't know whether they were going to change it, and I don't think anybody else really knew until the governor and the Republican Party made the boundaries. I believe that that's voted on through that process. Correct?

Q. Well, sir, you knew the district would change in some way, correct?

A. I never thought about it at that meeting.

Q. But in fact, it did change, correct?

A. Yes, it did.

Q. In fact, the district as it existed was eliminated entirely, correct?

A. Yes. It was split up.

Q. And so, therefore, any discussion about Capri Cafaro running for some congressional seat would have been greatly affected by what congressional seat would result a few months later when they finally drew the new lines, correct?

A. It was never discussed.

Q. But isn't that a fact, whether it was discussed or not?
A. Eventually it became a fact. At that time it was not a fact.
Q. Let me ask you this: As somebody with a fair amount of political experience, can you think of a worse thing that you could do to help your daughter who wants to run for Congress and who you're promoting for Congress than to plead guilty to conspiring with a sitting congressman to violate the federal bribery statute by paying him gratuities? Can you think of a worse political thing you could do to your daughter, sir?
A. My daughter is not running for Congress.
Q. That's not my question. Can you think of a worse thing you could do to a candidate you're promoting to Congress if you're her father than to plead guilty to conspiring to violate the bribery statute with a sitting congressman, as a political person?
MR. TRAFICANT: Objection as to relevance with this witness's knowledge.
THE COURT: The objection is overruled. You can answer.
A. First, I'm in politics. I wouldn't run my daughter, number one.
Q. That's not my question, sir. My question is asking

you --
A. Nor would I do anything to hurt my daughter or my family.
Q. Sir, my question is this. You are someone with 23 years of expertise in the area of politics in the Mahoning Valley, and my question is a simple one: Can you think of a worse thing that J.J. Cafaro could have done to promote his daughter as a viable candidate for Congress than to have pled guilty to conspiracy to violate the federal bribery statute by paying illegal gratuities to Congressman Traficant? Can you?
A. That's his choice.
Q. That's not my question. As a political person, can you think of a worst thing you could have done?
A. I wouldn't do it to begin with, no.
Q. Wouldn't you say that that would have substantially destroyed her chances of running as a viable candidate, as somebody that's involved in politics for 20 years, sir?
A. I can't answer that.
MR. MORFORD: Fine. Then I have no more questions.
THE COURT: Thank you.
REDIRECT EXAMINATION OF DAVID LUDT
BY MR. TRAFICANT:
Q. David, how old are you?

A. 62.
Q. Has the Mahoning Valley ever been split up as a congressional district?
A. Not in the 62 years that I can recollect.
Q. Who was in control of the Statehouse in 2000?
A. Governor Taft.
Q. And what party was he?
A. He was the Republican Party.
Q. Now, isn't it a fact that in the general election, Walters had brought up Traficant's campaign supposed allegations?
THE COURT: Don't answer until we hear what the objection is.
MR. MORFORD: I object to the leading nature. He's testifying.
And number two, this is beyond the scope of cross-examination. And number three, it's irrelevant.
THE COURT: Congressman, you can't make statements that can be used by the jury when you are examining a witness. You have to let the witness testify. You know that.
Q. Was the general election of 2000 a dirty campaign?
A. Yes, it was.
MR. MORFORD: Again, objection.
THE COURT: He can answer.

MR. TRAFICANT: I object to these continuous objections before I even complete a question.

THE COURT: Well, and he objects --

MR. TRAFICANT: You scolded me, but you never scold these prosecutors.

THE COURT: He objects to your continuing statements. We're trying to get evidence before the jury now.

MR. TRAFICANT: I am, too.

THE COURT: Just ask questions.

MR. TRAFICANT: And I'm tired of their objections.

THE COURT: Well, they have a duty to object.

MR. TRAFICANT: Well, let me finish my question.

BY MR. TRAFICANT:

Q. Do you recall the primary election of the year 2000?

A. Yes.

Q. Was that a dirty election?

A. Yes, it was.

Q. Were there allegations of Jim Traficant's so-called problems?

A. Yes.

Q. Now, in what county is the Cafaro Company located?

A. Trumbull County.

Q. And in what district is Trumbull County now located in?
A. It's located in the 17th District.
Q. Do you know if I am a candidate for Congress?
A. I believe you filed as an independent candidate. Is that correct?
Q. In what district?
A. The 17th District.
Q. Was it your impression under any circumstances they would split up the 17th District of Ohio?
A. They did eventually, it's a fact.
Q. But was it your impression that that would ever occur?
A. Well, it usually does occur every ten years, depending upon which party is in control.
Q. Has the 17th District, the Mahoning Valley, ever been separated like it has been this time?
A. Not to my knowledge.
Q. Did anybody expect that?
A. Not that I know of. It was never mentioned.
Q. So the matter of the 17th District and its reconfiguration was not a concern of the meeting. Is that your testimony?
MR. MORFORD: Your Honor --
A. It was never mentioned.

MR. MORFORD: -- I'm again going to object because it's his witness, and every time he asks a question, it gets a yes or no answer because it's so leading.

THE COURT: Congressman, don't lead the witness.

Q. Was it your impression that the 17th Congressional District boundaries were not a consideration --

THE COURT: Wait, wait, wait, wait. Don't tell him what his answer is. Ask him a question, and let him come up with the answer himself. And if you keep doing this so frequently, then it's very hard for him not to be taught by your question what his answer should be, and that's very unfair to him as a witness and to the jury.

Q. Was the boundaries of the 17th District ever discussed at that meeting?

A. As I said prior, that was never brought up at the meeting.

Q. Was redistricting ever brought up at that meeting?

A. It was never brought up in the meeting that I was attending.

Q. What party chairman's name was discussed?

MR. TRAFICANT: Objection. Hearsay.

A. David Le- --

THE COURT: It's all right, he can answer.

A. David Leland.
Q. And what party did he represent?
A. Democratic Party.
Q. Did the Democrat -- was there any representative of the Ohio Democratic Party there?
A. If there was, I did not know, and I couldn't identify them.
Q. What partisan ballot did you run on?
A. The Democratic ticket.
Q. Were you supported by the state party?
A. Not in the primary, but in the general election, after I'd won the primary.
Q. Now, you mentioned that you were independent. What did you mean by that?
A. I'm an independent thinker. I don't take contributions from large corporations. I try and do most of my work myself, make my own signs. I'm pretty independent that way because I don't like to be obligated to a lot of people. I like to serve the public, and I like to make the decisions with my own mind.
Q. How many Mahoning County commissioners are there?
A. Three.
Q. And what are the political persuasions of those three candidates?
MR. MORFORD: Objection as to relevance.

THE COURT: You can say that.

THE WITNESS: Pardon me?

THE COURT: You can answer that.

Q. What parties are they affiliated with?

A. All three commissioners are Democrats.

Q. Do you agree on all issues?

A. Definitely no.

Q. Who is the odd man out?

A. Myself.

Q. Have you ever sought assistance from my office?

A. Yes, I have, on many occasions. Recently was the waterline that we're going to run to Lake Milton to eliminate the contaminated water in that area; the three bridges that are located in Mahoning County, which are the Center Street Bridge, the 616 bridge, and the Jacobs Road bridge.

Q. Were they all funded?

A. They're all completed except the waterline. We expect to have that done in the year 2002.

Q. Who got you the funds?

A. Congressman Traficant's office.

Q. Who requested it from the commissioners?

A. I did.

Q. Do those other commissioners ever request me to do anything?

A. You'd have to ask them. I believe so. We had done it collectively as a group and probably individually. I'm sure you're the only one who could answer that question.

Q. Did I ever fail to respond to any of your requests politically?

A. Never.

Q. Did you ever work on my farm?

A. Never.

Q. Do I hug you?

A. Yes, you do.

Q. Do you consider yourself my friend?

A. Absolutely.

Q. Do you have immunity for your testimony here today?

A. None whatsoever.

MR. TRAFICANT: No further questions.

THE COURT: Thank you, sir.

MR. MORFORD: I just have one question, Your Honor.

RECROSS EXAMINATION OF DAVID LUDT

BY MR. MORFORD:

Q. In truth and fact, Capri Cafaro never did run for Congress, did she, sir?

MR. TRAFICANT: I didn't hear the question, Your Honor.

Q. In truth and fact, Capri Cafaro never did run for

Congress, did she, sir?
A. Not to my knowledge, sir.
Q. She's not on the ballot this year, is she, sir?
A. No.
MR. MORFORD: Thank you.
FURTHER REDIRECT EXAMINATION OF DAVID LUDT
BY MR. TRAFICANT:
Q. At that meeting was it your impression that she would seek the election for the 17th congressional seat?
A. My impression was the fact that we had that meeting, it was a political meeting, and they were looking for support for her to run. That's correct.
Q. Do you know if she got that support?
A. It's the only meeting I ever attended. I don't know. She didn't get the support from me.
Q. What did you tell them?
A. I told them that I was supporting Jim Traficant for the good that he's done for the valley.
MR. TRAFICANT: No further questions.
THE COURT: Thank you.
MR. MORFORD: Nothing further.
THE COURT: Sir, thank you. You can step down.
THE WITNESS: Thank you.
(Witness excused.)

MR. TRAFICANT: Ernestine, would you please call Mr. John Vogel?

THE COURT: I couldn't hear his last name.

MR. TRAFICANT: Vogel.

THE COURT: V O G E L?

MR. TRAFICANT: I think so, Your Honor. I'll ask him to spell it for the record.

THE COURT: Okay.

(The Witness is Sworn)

THE COURT: Have a seat. You need to speak up loudly and clearly. There's a microphone if you need it. It comes out of its little holder if you want to hold it up. Anyway, everyone here needs to hear you, particularly the jury, but everyone else, too. Thank you.

DIRECT EXAMINATION OF JOHN VOGEL

BY MR. TRAFICANT:

Q. Good morning, John.

A. Good morning, Congressman.

Q. Would you please give your full name and spell your last name for the jury?

A. John Vogel, that's V O G E L.

Q. Where do you reside, John?

A. 1763 Arbor Drive, Mineral Ridge, Ohio.

Q. How long have you known me?

A. Off and on over 25 years.

Q. Have I ever hugged you?
A. Yes.
Q. Have you ever worked at my farm?
A. No.
Q. Do you know where it is?
A. No.
Q. Do you know if, in fact, I own that farm?
A. No, I don't.
Q. What do you do for a living?
A. I run small political campaigns for local candidates in the Trumbull County area.
Q. There's water there if you need it, John.
A. Thank you.
Q. Can you hear me clearly?
A. Yes.
Q. Do you know a man named George Buccella?
A. Yes, I do.
Q. How well do you know Mr. George Buccella?
A. Fairly well. I've known George about 20 years.
Q. Do you know Mr. Buccella's work experience?
A. Over the last 20 years, yes.
Q. And what was his work experience over the last 20 years?
A. He's been a Weathersfield Township Trustee, congressional aide, he has worked for the Trumbull County

Health Department. He owned a recreational vehicle sales lot, a pizza shop, and raced cars and managed a raceway.

Q. Do you know if he was a trustee while he was on my staff?

A. Yes.

Q. If you know, do you know if he owned a pizza shop while he was on my staff?

A. Yes.

Q. Do you know that he managed a racetrack while he was on my staff?

A. Yes.

Q. Did you know that he owned that racetrack?

A. I did not know that he owned it.

Q. Do you know if he had the recreational vehicle dealership when he was on my staff?

A. I'm trying to think of the dates, Congressman. I'm not sure if the RV lot was still active. It may have just been a used car lot by the time he was on the staff.

Q. Would you say he was a very busy man?

A. I would say his plate was full.

Q. Would you meet with him?

A. I'm sorry?

Q. Would you mean with him?

A. Oh, yes.

Q. How often would you meet with him?

A. As many as three times a week. Usually at least twice a week we would have lunch together.
Q. And where would you have these lunches?
A. Usually around the Eastwood Mall.
Q. Do you know where his work site was?
A. At the Eastwood Mall.
Q. What kind of clothing was he wearing?
A. Either casual business or a tie and jacket.
Q. Other than these lunches, did you ever meet with him anywhere else?
A. Yes. We would occasionally be at dinners together, or weddings, different social events.
Q. Did you ever meet with him at the pizza shop?
A. Yes.
Q. Do you have personal knowledge of any of his pizza shop business activities in the Mineral Ridge area?
A. Yes. In addition to being a friend, he was also a customer of mine at my office supply business.
Q. Do you have knowledge of any of his customers?
A. Yes.
Q. Who were some of his customers at the pizza business?
A. A lot of the local residents; then he had a major contract with the Weathersfield School System to supply pizza for lunches.
Q. Did you ever see Mr. Buccella personally make pizza?

A. Yes.
Q. Did you know if he ever delivered the pizza?
A. Yes.
Q. Did you know if he had special permission to do that?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Do you have knowledge as to how long it would take him to do these things?
A. Usually an entire morning on the day he was delivering.
Q. And you met with him at other events, you say?
A. Yes, sir.
Q. What were those events?
A. We were involved in several political campaigns together; for example, his reelection as a trustee after he was defeated. He made a run for the Statehouse, and I helped run his campaign for that.

I attended his daughter's wedding. I had been to his house on several social occasions, and then he was at my son's baptismal party. And I used to hold my kids' birthday party and take my baseball teams over to his pizza shop.

Q. Did you ever see him in clothing other than office clothing?
A. Naturally, after hours, I mean after the normal

course of business.
Q. Do you have any personal knowledge of Mr. Buccella having a problem in Mineral Ridge?
A. Yes.
Q. And what was that problem?
MR. MORFORD: Your Honor, I'm going to object that this would be going into extrinsic matters, and under Rule 608 and 609 and 613, that's not proper inquiry.
THE COURT: You can continue because I don't know where this is going yet.
Q. Did you have personal knowledge that he had a problem in Mineral Ridge?
A. Could you be a little more specific, please? I -- there were several instances where George had problems in his role as the trustee.
Q. Was there any public discussion of George Buccella's Mineral Ridge problems?
A. Oh, yes.
Q. Was it public knowledge?
A. It was at a trustees' meeting.
Q. Were you at the trustees' meeting?
A. Yes, sir.
Q. What did the meeting concern?
MR. MORFORD: Your Honor, I'm going to object unless this would go to his reputation for truthfulness,

which is a proper area of inquiry of impeachment. Mr. Buccella is not on trial. Anything else would be improper extrinsic evidence.

THE COURT: Well, we don't really know what this is going to be, so I guess we'll have to wait until the break and see where you're going with what you're asking him here.

MR. TRAFICANT: I want to ask my question again.

THE COURT: Okay.

Q. Were you at the meeting?

THE COURT: Okay. You can answer that.

A. Yes, sir.

Q. Was the matter an issue of public knowledge at an open public meeting?

A. Yes.

Q. And what did it concern?

A. Allegations that George Buccella had taken -- I hate to say bribe, but he had taken payment for intervening on a DUI case.

MR. MORFORD: I object and move to strike. This is extrinsic evidence. He can ask Mr. Buccella when he's up there about it. He can't prove it by extrinsic evidence. Those rules are clear, Your Honor.

THE COURT: Congressman, we'll take this up

at the next break. You can move on, and for now you're going to have to disregard this colloquy. He may be back in front of you or may not.

You can continue on something else.

Q. One last question on this that doesn't deal with Buccella. Was this an open public meeting conducted by the trustees of Weathersfield Township?

A. Yes.

Q. Do they record their minutes?

A. Of their business part of their meeting, yes, they do. General comments usually do not appear on their minutes.

Q. Have you ever owned more than one business at a time?

A. Yes.

Q. How many have you owned at one time?

A. I had two office supply stores running at one time.

Q. Two of your own stores operating?

A. Yes, sir.

Q. Was that very time consuming?

A. Yes.

Q. Did you ever meet in the early mornings with Mr. Buccella?

A. Yes.

Q. And where would you meet?

A. At his pizza shop most of the time; sometimes at my

store.

Q. Did you ever take any action relative to the public meeting held in Weathersfield?

MR. MORFORD: Objection.

THE COURT: That's what we're going to take up at the break, Congressman. Please don't make any further references to that until we have an opportunity to do what we need to do in order to see whether or not the jury can have that information come before them through this witness.

Q. Were you a friend of George Buccella?

A. Yes.

Q. Are you still a friend of George Buccella?

A. No.

Q. Are you a friend of mine?

A. I'm friendly towards you.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. MORFORD: No questions, Your Honor.

THE COURT: You can step down, sir. Thank you very much. Mind the steps, they're a little unusual.

THE WITNESS: Thank you.

(Witness excused.)

MR. TRAFICANT: Ernestine, would you bring in

Betty Manente.

THE COURT: I'm sorry, I couldn't hear you.

MR. TRAFICANT: Betty Manente.

THE COURT: Come right around this way, behind the court reporter. You have to thread your way up to the witness stand.

THE WITNESS: I get to sit up here with you?

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

(The Witness is Sworn)

THE COURT: Have a seat, please. You have a soft voice. We have a microphone.

THE WITNESS: Okay.

THE COURT: Usually the best thing to do is to take it out of the stand, just lift it out. Everybody in the room needs to hear you. It's a big room with high ceilings. If you want water -- why don't you pour yourself some water if you want some water.

THE WITNESS: Okay.

THE COURT: Do that first.

DIRECT EXAMINATION OF BETTY MANENTE

BY MR. TRAFICANT:

Q. Good morning, Betty.

A. Good morning.

Q. Would you please give your full name and spell your

last name for the jury?
A. I'm Betty Manente. That's M A N E N T E.
Q. And where do you reside?
A. I live in Girard, Ohio, 962 Lincoln Avenue, Girard, Ohio.
Q. Are you currently employed?
A. Yes, I am.
Q. What is your employment?
A. I work for Congressman Traficant.
Q. And do you have a title?
A. I'm the office manager for Trumbull County.
Q. For how many years have you served in that capacity?
A. 17.
Q. And what are some of your duties?
A. Basically my main job is case work, intervening with constituent problems, dealing with veterans, IRS cases, military cases, just various cases.
Q. Are you the boss of the office?
A. I guess I am.
Q. Do you have immunity?
A. No, I don't.
Q. Were you interviewed by the FBI?
A. Yes, I was.
Q. On how many occasions?
A. Just once.

Q. Did they call you first?
A. Before --
Q. Before they interviewed you?
A. No, sir.
Q. They did not call you?
A. The first interview, no.
Q. Did they just show up cold?
A. They -- yes.
Q. Where did they show up?
A. At the office.
Q. What time of the day was it?
A. I couldn't tell you right now, if it was morning, afternoon. I really don't remember.
Q. Was the office open for business?
A. Yes.
Q. Were constituents allowed to be in there when it was open for business?
A. Yes. We didn't stay in the office.
Q. What, if anything, did they do and ask you to do?
A. They just asked me some questions.
Q. Where did they ask you these questions?
A. Outside the office.
Q. Where did you go outside the office?
A. Right down the hall.
Q. Did you talk out in the hallway?

A. No. It was like a little cove, like a little area where they have seats.
Q. There were seats?
A. Right.
Q. How many FBI agents were there?
A. Two.
Q. Do you remember their names?
A. It was Mike Pikunas and I think Richard Denholm.
Q. Was that the only meeting you had with the FBI?
A. With the FBI, yes. There was like an interview or something after. Maybe a couple months ago or six weeks ago I was called to Boardman and there was an FBI agent present there. But he didn't really do any interviewing.
Q. Who was that agent? Do you remember his name?
A. No, sir, I don't.
Q. And it was the Boardman FBI office?
A. Yes.
Q. Was there anybody else there?
A. Yes.
Q. Who was there?
A. Matthew Kall.
Q. Is Mr. Kall here in the room?
A. Yes, he is.
Q. Would you point to him and identify him?
A. Right there.

MR. TRAFICANT: Let the record reflect she's identified Mr. Kall.

THE COURT: She has.

Q. And who conducted that interview?

A. Mr. Kall.

Q. What time of the day was it?

A. I think it was in the morning.

Q. Was it a work morning, workday or weekend?

A. It was a workday.

Q. Did you notify me of the meeting?

A. No, I didn't.

Q. So you left work to meet with the FBI?

A. Yes.

Q. Was our office covered?

A. Yes.

Q. Who made arrangements for that?

A. Well, there was other staff there.

Q. And who, in fact, directed them to cover for you?

A. I guess me.

Q. Now, was there any other meetings with the government?

A. No, sir.

Q. Do you know if there were any IRS agents present at any of these meetings?

A. No.

Q. Did you appear before the grand jury?
A. Yes.
Q. Who subpoenaed you?
A. The prosecution, I believe.
Q. Who examined you before the grand jury?
A. Mr. Morford.
Q. Is Mr. Morford here in the room?
A. Yes.
Q. Point to him and identify him.
A. (Indicating).
MR. TRAFICANT: Let the record reflect Mr. Morford has been identified.
THE COURT: Yes, he has.
Q. How long have you known George Buccella?
A. Since he was -- right before he was on staff, I think it was probably 1984.
Q. Is that when you were employed?
A. 1985.
Q. Is that when Mr. Buccella was employed?
A. Yes.
Q. Was he assigned to your office at that time?
A. In 1985, he was only there for a couple months, and then the office was divided, and I believe, as far as I can recollect, he went to the Warren office at that time, and then subsequently to the Youngstown office.

Q. Now, where was the Warren office located?
A. In City Hall in Warren, Ohio.
Q. Why was the other office closed?
A. The original office, there was a tornado in 1985, and it destroyed a portion of the building, including our offices at that time.
Q. And how long were we located in Warren City Hall, approximately?
A. Well, he was there for some time, and then we moved a couple times, and then -- when I say "we," the office I was in, and then when he moved to the Youngstown office, our office, Faye and I, another staffer, Faye and I moved to the Warren City Hall for, I think it was like maybe three years, four years.
Q. Where did you move from Warren City Hall to?
A. To the Eastwood Mall, to the upstairs suite.
Q. Is that where the FBI visited you?
A. No. Then we moved downstairs, and it was downstairs.
Q. Were you located near any other government offices?
A. I'm sorry?
Q. Were you located near any other government offices?
A. No. When we were upstairs, there was the Air Force office down the hallway, but not where we are at right now.
Q. Was there ever any state offices located near you?
A. Yes. I'm sorry, there was the auditor's office next

to us.
Q. Did they at some point move?
A. Yes.
Q. Did George come in at a normal time?
A. Actually, no. George's hours in the beginning, he started, I guess, coming in around 9:00 or quarter after, and he just kind of carried that over.
Q. Did you know if he had a special hiring condition?
A. I was told in the beginning when he was in the Youngstown office that he had a pizza shop and he was wrapping up some business or something with that.
Q. And had permission to start work at a later hour?
A. That was my understanding, yes.
Q. Did you know that he was a township trustee at the time?
A. Yes, I did.
Q. Did you know that he managed a racetrack at the time?
A. Not when he first started. Later on he did.
Q. Was his attendance ever an issue, ever raised?
A. Over the years, yes.
Q. At some point, was his reporting time raised?
A. Yes.
Q. Who questioned his reporting time?
A. There were a few times when we called and he wasn't there, like around 9:00. I remember one time specifically,

he wasn't there, and you asked when he came in, and I said that he still came in after quarter after 9:00 or 9:00, and you were told and told me to have him there at 8:30, and I did subsequently tell him that.

Q. Did you instruct him to report at 8:30?

A. Yes.

Q. Do you know where that call came from relative to his reporting time?

A. I think at the time you were calling, you said you were in Washington.

Q. Do you have immunity here today?

A. No. I don't feel I need it.

Q. Did you take up the issue with Mr. Buccella about his starting times?

A. Yes, I did. I hollered at him quite a bit to be there at 8:30, but (pause) --

Q. Did Mr. Buccella heed your directions?

A. For a time.

Q. How long a time?

A. I can't remember exactly, but for maybe a week or so he would.

Q. Then what happened?

A. Then he would start coming back in at 9:00.

Q. Was he ever there later than 9:00?

A. There may have been. I can't recall. There may have

been occasions.
Q. Did you ever work on my farm?
A. Absolutely not. No, I didn't.
Q. Did I ever hug you?
A. I'm sure.
Q. Did you ever hold elective office?
A. Oh, dear. Unfortunately, I did. I was the first woman elected in Girard. I had two years of it and said that's it, I don't want any more of it.
Q. Is that Girard, Ohio?
A. Yes, sir.
Q. How many terms did you serve?
A. Just one.
Q. And what were you elected to?
A. City council.
Q. Are you married and have family?
A. Yes, I am.
Q. Is your husband involved in politics?
A. Not anymore, sir.
Q. Was he an elected official?
A. Yes, he was.
Q. What was his position?
A. He was a councilman, and when he retired from the post office, he was a councilman for a couple years.
Q. And where was he a councilman?

A. Girard.
Q. Did George Buccella ever tell you he was going to work at the farm?
A. That word was really never used, if ever referred to, anything with the farm. It was always called, or he would always say, "I'm going south," which we all assumed.
Q. What did you assume?
A. We assumed from just hearing talk that it was the farm. Everybody kind of knew that.
Q. Did I ever call you and discuss going south with you?
A. No. I can honestly say you never did.
Q. Did you ever call me about going south?
A. No.
Q. Did you ever go to the farm and see if he was there?
A. No.
Q. Did you ever call me and ask me if he was at the farm?
A. No, I didn't.
Q. How do you know he was at the farm?
A. Because he -- well, that was just kind of a general consensus among everybody. I mean, I couldn't prove where he went when he left the office, but he would talk about it maybe the next day.
Q. Where am I usually located during the week, my office location?

A. Washington.
Q. Do you know if I fly or drive?
A. I have no clue.
Q. Do you know when I'm home?
A. I don't have definite proof of when you're home because we don't communicate that much, but I think you're home Friday and Saturday and Sunday, and you leave sometime on Monday.
Q. Do you know if there are weekends when I stay in Washington on business?
A. I was never privy to that information, Congressman, but I'm sure you were.
Q. Why did you never call me about this going south?
A. First of all, it was never my -- I never had the authority to send anybody anywhere, so if he ever went anywhere, that directive came from someone higher up than me, so I just never questioned it. It wasn't for me to say where anyone went.

In fact, when I had to go somewhere, I took orders or whatever from the scheduling secretary. So it wasn't up to me to really question where anyone went.

Q. Did you supervise George?
A. In the office? Yes.
Q. Were you his boss?
A. I was his immediate boss.

Q. You never called once to confirm that he was with me at the farm?
A. No, I didn't, Jim.
Q. Did you know if George Buccella had immunity in this case?
MR. KALL: Objection.
THE COURT: Sustained.
Q. Now, if an employees is telling you he's going somewhere, that you supervise, why didn't you call me?
A. I never did because, to be very honest, I was always -- I always felt a little bit nervous with Chuck O'Nesti, and if we had to say anything or complain to anybody, I was always told that I had to go to him first.
Q. Who told you that?
A. I believe it was Charlie.
Q. Charlie told you that?
A. Yes.
Q. Did you ever call me and tell me that?
A. No, I didn't.
Q. Who hired you?
A. You did.
Q. Who supervised you?
A. Who my boss was? You were.
Q. Were you the regional director of Trumbull County?
A. Yes.

Q. Were you to be notified of Trumbull County activities?
A. Yes.
Q. Did you represent me in Trumbull County?
A. Yes, I did.
Q. Did George Buccella represent me in Trumbull County?
A. Yes, he did.
Q. George Buccella, did he participate in after-hours work?
A. I believe he did help you out with that, yes.
Q. Why did you have to have the impression you had to check with Charlie when I hired you and I was your boss?
A. Well, I think it was just basically like the chain of command.
Q. Did we have a set chain of command officially? Was there an official chain of command?
A. You mean --
Q. A written official chain of command?
A. There was, I remember one time where there was like in blocks the chain of command.
Q. Did you report these problems to Charlie of George coming late?
A. No, I didn't.
Q. Did I ever call you and ask George to go south?
A. No, you did not.

Q. Did George maintain a case load?
A. Yes, he did.
Q. Did he maintain a case load similar to other staff members?
A. Yes. Yes.
Q. What specific types of things did George do?
A. We all kind of just did various -- I didn't ever tell them what they had to do, specific cases, because you could go for two weeks without maybe an INS case coming, so we just kind of had a case work flow, whoever kind of had -- we kind of had a system where they were all evenly distributed with regards to what type of case work they were.
Q. Did you bring with you closed cases that were George Buccella's responsibility?
A. I believe there are some here. I didn't bring them, but another staffer brought them for you.
Q. And they were closed by George Buccella?
A. Yes.
Q. Did you ever express a concern about his use of our office?
A. In which way, Congressman?
Q. For other than congressional activities?
A. Over the years if I found something wasn't congressional, I certainly would tell the staff, absolutely

not.

Q. Do you have any knowledge that he conducted township business?

A. In the office?

Q. Yes.

A. I have no knowledge, direct knowledge of conducting township business. He may have gotten calls, but he wouldn't do any business. He was always instructed to keep that separate.

Q. Did you strictly enforce that?

A. As much as I was aware. If I was ever aware of it, I would certainly tell him.

Q. Was I a micromanager, Betty?

A. Pardon me?

Q. Am I a micromanager?

A. Meaning what, Congressman?

Q. Do I look over your shoulder or --

A. No, you don't. Actually, I think that you are only in our office in Trumbull County, I would be stretching it a little if I said ten times in 17 years.

Q. Did I work out of a specific office?

A. You were at the administrative office mostly.

Q. When I wasn't in D.C.?

A. Uh-huh.

Q. When you had a major problem, who did you call?

A. If I had a major problem, I kind of went up the chain of command. I would talk to Jackie Bobby, and then she would go to whoever.

Q. Who ended up resolving the major problems?

A. Most generally, you would, if it was something major.

Q. Were strikes major problems?

A. I didn't deal with that, but yes.

Q. Was the RMI strike a very major problem?

A. Yes, it was.

Q. Whom did you call?

A. I think that George Buccella worked on that, and you pretty much handled that.

Q. Can you attest to George Buccella being one time at my farm?

A. Could I verify that ever? No, I could not. I do not recall ever having even a phone number for there.

Q. Did you ever gain knowledge of a problem George had?

MR. KALL: Your Honor, I'm going to object to this. It appears to be leading to a 608(b) issue that we raised with the previous witness, as well.

THE COURT: Well, if there is a problem, you can identify what it is. You have to decide if you know whether you can answer the question.

THE WITNESS: Are you talking to me, Your Honor?

THE COURT: Yes. I'm saying you can go ahead and answer.

Q. Did you ever gain any knowledge of a criminal problem George had?

MR. KALL: Objection.

THE COURT: Sustained. You can't answer that.

Q. Would George be required to inform you if he had a problem?

MR. KALL: Objection.

THE COURT: Sustained. We'll handle this at the break.

Q. Do we have official time sheets?

A. There never was, as far as I was ever aware, any particular policy as far as vacation or sick leave until Paul Marcone said in a memo in, I believe it was April of 2000 --

Q. Is that after all the allegations hit about me?

A. I believe so.

Q. Did George attend functions as a township trustee with your permission?

A. You mean did he go to represent himself as a trustee during work hours?

Q. Did he ever make trips relative to trustee business out of town?

A. Okay. He would take vacation and go to conventions. I'm not sure where they were, except I know he used to go to Washington maybe once a year.
Q. For how long?
A. To the best of my knowledge, the best I can recall, maybe a week.
Q. Did he take vacation time for that?
A. Yes, he always had used vacation time, but --
Q. Go ahead.
A. Okay. Just to clarify that, there was always a little confusion on my part, because he would take vacation -- I would mark him down for vacation because he would be out of the office for trustee, but then he would tell me that he worked in the Washington office while he was in Washington, so I was never real sure what was vacation and what wasn't at that point for those particular meetings.
Q. Did you ever call and check with me if he worked in Washington?
A. No, I didn't.
Q. Did you like George?
A. Yes. George was a friendly fellow.
Q. Was he a busy fellow?
A. Yes.
Q. Would you say very busy?

A. You mean in the office or just in general?
Q. His lifestyle.
A. Yes. Yes, he was.
Q. Did he ever come to the office in jeans and work clothes, farm-type clothes?
A. Friday was sort of a dress-down day. He wasn't dressed like a farm person, but they were allowed to wear jeans on Friday if they wanted to.
Q. Would he do that?
A. Sometimes.
Q. Would you do that?
A. No. No, I didn't.
Q. Now, when you testified at the grand jury, did they focus on George's farm activities?
A. Yes.
Q. Did they ever ask you if he owned other businesses?
A. If George did?
Q. Yes.
A. I don't think so. I don't recall that.
MR. TRAFICANT: Your Honor, I'm not finished. It's past 10:30. I still have some questions of this witness, if you want to take a break.
THE COURT: Thank you, but we'll just go forward.
Q. Did they ask you if he owned a racetrack?

A. No, they didn't.
Q. Did they ever ask you if he borrowed equipment from me?
MR. KALL: Your Honor, I'm going to object. What was asked in the grand jury is irrelevant.
THE COURT: Don't answer.
Q. Did they ever ask about the pizza shop?
THE COURT: Excuse me, excuse me.
Going back to the question that was objected to, the objection is overruled, so she can answer. It was, "Did they ever ask you if he borrowed equipment from me?" You can answer that.
A. No, they didn't.
Q. Thank you. Did they ask you about the pizza shop?
A. No. No, I don't believe they did.
Q. Did they ever ask you about any contracts he had with the Weathersfield School Board?
A. No, sir.
Q. Did they ever ask you if he worked evenings?
A. I can't recall if they did, Congressman.
Q. Did they ever ask you if George Buccella ever drove me to Washington?
A. I don't think they asked me that.
Q. So all they asked you about was the farm and going south, is that correct?

A. Pretty much, his activity in the office and that.
Q. Did they ask you what his duties were?
A. I think they asked in general what the staff did.
Q. Did they ever in specific ask what George did?
A. I don't recall.
Q. Did I ever inquire as to his punctuality and work habits?
A. On the days that you would call and he wasn't there, you did ask --
MR. KALL: Objection. Hearsay.
THE COURT: Sustained. Don't answer.
Q. Do you have any knowledge of George B. using me as an excuse to get out of work?
A. I have no knowledge of that.
Q. Did the government ever ask you that?
A. I don't believe so.
Q. Now, in this formal policy now, do you enforce it?
A. Yes.
Q. Was George still on staff when the formal policy was announced?
A. I think it was right during the month when he left. I'm not a hundred percent sure of that.
Q. Would you recall if he was there at any time before he left when the formal policy was established?
A. I'm trying to think if he left in April or May. He

may have been there for a few days. There is a possibility of that.

Q. Did he adhere to the policy?

A. Did George?

Q. Yes.

A. I think during that time it was the interim period where George was getting ready to leave. It was in the beginning. If he adhered to it, he would have had to fill out these sheets, and I think there was just a few days that he did at that point, yes.

Q. Did he honor the policies?

A. Yes.

Q. Was our last campaign for Congress a very dirty campaign?

MR. KALL: Objection, leading.

Q. What was the status of our last campaign?

THE COURT: Okay. This is a great example of the problem. Please don't lead anymore. You can answer what you know about that campaign.

Q. Was it your impression --

THE COURT: Excuse me. Putting aside what is described, answer independently what you know of the character of that campaign.

Q. What was your impression of the last campaign --

THE COURT: Congressman, when you talk on top

of me, it's impossible even though we have probably the best court reporters in the Northern District of Ohio for them to write down two conversations at once.

MR. TRAFICANT: I apologize, Your Honor.

THE COURT: You just did it now. You just did it again.

MR. TRAFICANT: I apologize. I thought you had completed your comments. Thank you.

THE COURT: I thank you.

MR. TRAFICANT: I could not hear your soft spoken voice.

THE COURT: Thank you. Listen carefully. Okay.

BY MR. TRAFICANT:

Q. Can you hear me?

A. I can hear you.

I don't remember a whole lot about it, but I know it was a pretty busy campaign, and a pretty tough one.

Q. Dirty?

A. I -- I suppose there are things that I wasn't aware of that was.

Q. Do you know if we won?

A. Yes, sir.

Q. Did you help in that campaign?

A. I think everybody did.

Q. Did you do so on office hours?
A. Absolutely not.
Q. Did you ever represent me at political functions?
A. During the day?
Q. Yes.
A. No.
Q. Did you represent me during the day on congressional functions?
A. Yes.
Q. Would you suggest needs to me relative to Trumbull County?
A. I'm sorry?
Q. Would you suggest needs to me relative to Trumbull County?
A. As far as what was going on in the county?
Q. Yes.
A. Yes. Yes.
Q. Did we usually meet those needs?
A. Yes.
Q. Do you field many complaints about our service?
A. Actually, no, not in the Trumbull County office.

MR. TRAFICANT: No further questions at this time.

THE COURT: Thank you.

MR. KALL: I don't know if you want to take a

break or you want me to head into my cross-examination.

THE COURT: I think it would be a good idea to take the morning break. We'll take a 30-minute break this morning, and you'll need to be here and available at the end of the break. Okay? Thank you very much.

(Jury out at 10:40 a.m.)

THE COURT: Did you get the fact I told the lawyers to come back in 15 minutes? Always wait for these.

So the lawyers and Congressman Traficant will be back in 15 minutes so we can handle the voir dire on the issues that arose in this testimony. Okay? Congressman?

MR. TRAFICANT: I have taken a laxative, and I will try and make it in 15 minutes.

THE COURT: We'll expect you in 15 minutes.

MR. TRAFICANT: I'll try my best.

(Recess had.)

THE COURT: We're having a hearing outside the hearing of the jury. I'm saying this to the marshal in the back.

You can all be seated.

There were objections posed to similar questions with two witnesses, Vogel first and then this last witness who was on the stand, and I said we have to handle this out of the hearing of the jury with Ms. Manente as well.

The reason for this has to do with the rules of

evidence, and in both these cases the evidence sought to be elicited can fall into several categories under the rules. And so I'm going to first ask the Congressman if you can represent to us what the question was about that you were asking, and if you can, it may solve the problem and we won't have to go any further and we can bring your witnesses back, and then I'll let the government respond.

MR. TRAFICANT: The question of Mr. Vogel is different than that of Mrs. Manente. Mr. Vogel requested a public hearing of the Weathersfield Township Trustees relative to the behavior and investigation of the FBI into allegations that George Buccella had received a $25,000 payment to try and fix a DUI case in front of Judge Bailey that I believe was prosecuted by these attorneys seated here.

And he brought it to the attention -- and it was a matter of public record and discussion, and at that public meeting it was aired, those problems, and I can't speak for the witness who is here, but I believe he posed questions, as well, in that process.

Now, being that this was an open public meeting relative to the fact that the FBI had investigated -- was investigating Buccella, and that, in fact, the matter of the $2500 payoff now speaks to the veracity and impeachment of the testimony of Buccella.

THE COURT: Thank you. And do you want to address the second question that you asked of Mrs. --

MR. TRAFICANT: I don't remember the second question.

THE COURT: -- Manente.

MR. TRAFICANT: But at some point I believe the individual himself made mention of it to his supervisor.

THE COURT: Oh, okay. We're all talking about Vogel now, right?

MR. TRAFICANT: No. You asked me about the second instant. I thought that was Manente.

THE COURT: I can go back and find the Manente question for you. Let's deal with the Vogel question first.

MR. TRAFICANT: Okay. It was a public meeting of a public record.

THE COURT: I understand what you're saying, and I'm going to let the government now respond to your statement so that they can reiterate their objection, and also I can rule on the objection now that I know more fully what it is that you were going to elicit.

MR. MORFORD: Thank you, Your Honor. And it's my understanding from what the Congressman just said that the Manente and the Vogel statements both deal with

the same conduct, this allegation of bribery.

Under Rule 608(b), the Federal Rules of Evidence provide that specific instances of conduct of a witness for the purpose of attacking or supporting a witness's credibility other than a conviction of a crime as provided in 609 may not be proved by outside evidence.

And so the rules prohibit this kind of testimony from coming in and having a mini-trial on Mr. Buccella. It would also be hearsay.

THE COURT: Just a second, Congressman. Don't talk.

MR. TRAFICANT: I thought he was finished.

THE COURT: Just a minute, and I will let you, but wait until he finishes.

MR. TRAFICANT: I thought he was finished.

THE COURT: Well, if you listen carefully, you will know he started to say and "also" something.

MR. TRAFICANT: He seemed to be stammering and stuttering and citing laws to gain your attention.

THE COURT: Yes. Well, that would get my attention.

MR. MORFORD: The second thing, Your Honor, is the testimony is all hearsay, as well.

THE COURT: Thank you.

MR. TRAFICANT: The testimony is not hearsay.

THE COURT: Let's go back to the other one. Does this --

MR. TRAFICANT: No, I don't want to leave this one.

THE COURT: Does this involve a conviction of a crime? You just heard him state the rule.

MR. TRAFICANT: No. It involves the veracity of the testimony of a witness, to impeach the witness's testimony. Mr. Buccella was investigated by the FBI relative to a payoff. He had immunity, and the only staff member of mine to have immunity, and they used Mr. Buccella to, in fact, suborn perjury. That man wasn't at my farm or our farm 300 times.

THE COURT: Congressman, thank you very much. The objection that they have made regarding this witness is sustained.

MR. TRAFICANT: I knew you would sustain it. And I'm going to say this for the record: You have given them every opportunity to win, and you are making yourself very uncredible in the legal world.

THE COURT: Thank you, Congressman.

Now we go to the second one with the witness that was just on the stand, and I'll go back and read you the question --

MR. TRAFICANT: Give me the question.

THE COURT: -- that they objected to. This is Betty Manente.

MR. TRAFICANT: Would the Court then stipulate that a public meeting and comments at a public meeting are not eligible under the Federal Rules of Criminal Evidence to be an exception to allow the impeachment of a witness? That's a direct question to the Court. I want an answer for the record.

THE COURT: The answer is no.

MR. TRAFICANT: Thank you. Now let's go to the next one.

THE COURT: Okay. What the question was, was, "Did you ever gain any knowledge of a criminal problem George had?"

Mr. Kall objected. I sustained the objection. "You can't answer that."

"Would George be required to inform you if he had a problem? Objection. Sustained. We'll handle this at the break."

That was the colloquy.

MR. TRAFICANT: Why are you wasting our time? Why don't you just rule? My voice is going, and I need it for my witnesses.

THE COURT: It's your choice, sir. If there's anything you'd like to say --

MR. TRAFICANT: I say that you have allowed them to bring in hearsay that is worthless and have denied me now, including the interview of Judge Aldrich, 11 witnesses to testify relative to the veracity of the testimony of all of their immunized felons.

THE COURT: Congressman, the clock is ticking and running so --

MR. TRAFICANT: I'm not causing it to tick. You're causing it to tick.

THE COURT: Let's hear from the government on this situation.

MR. KALL: Your Honor, I still haven't heard an admissible basis for the question, and until we hear that, we would maintain our objection that it's improper, an improper attempt to impeach the witness that's not permitted under Rule 608(b) or Rule 609.

MR. TRAFICANT: I want to respond. I cite as a pro se defendant the United States Constitution. No attorney, no judge, is totally knowledgeable in all aspects. Every rule of evidence is subject to the document itself, and the amendments therein. And that falls within the province of the Court. And I cite the U.S. Constitution and the common sense of the Constitution that directs us to the veracity of a witness's testimony and the right to impeach the testimony of a government witness.

Now, Ms. Manente is the government witness. They subpoenaed her. They chose not to call her.

They subpoena Nemenz; they chose not to call him because they had a tape on Nemenz and his girlfriend corroborating what they did.

THE COURT: Congressman, this is not your final argument to the jury.

MR. TRAFICANT: No, it's not. But I have nine tapes that you're not allowing to be brought in.

THE COURT: That's true.

MR. TRAFICANT: Where people took the Fifth Amendment and give me no right to defend myself.

THE COURT: Congressman, it's now time for them to respond if they want to.

MR. TRAFICANT: Why can't I continue? Why do you cut me off?

THE COURT: Because what you're saying isn't relevant to what we're doing.

MR. TRAFICANT: Yes, I am. I'm talking about the Constitution.

THE COURT: Thank you.

MR. TRAFICANT: And I am citing any applicable law. I am not the expert; neither are they. You are. You are the decider and presider of facts, and I'm citing the Constitution and asking you to peruse the

Constitution.

THE COURT: I actually am not the decider of facts here, sir.

MR. TRAFICANT: You certainly are.

THE COURT: No, I'm not.

MR. TRAFICANT: You're certainly not Dr. Ruth here.

THE COURT: Okay, Congressman. We're going to bring the jury in now. Who is your next witness? Do you have a witness?

The objection is --

MR. KALL: Your Honor, we would like an opportunity to cross-examine Ms. Manente based on the direct examination.

THE COURT: I'm sorry. You get an opportunity. Bring in Ms. Manente for cross-examination.

MR. TRAFICANT: Let the government bring her in. They called her.

THE COURT: Well, she's your witness.

MR. MORFORD: We did not call her.

THE COURT: You call the witness, Congressman.

MR. TRAFICANT: Ernestine is calling her for me.

THE COURT: Thank you.

MR. TRAFICANT: And I'd ask you to ask these prosecutors to moderate their behavior. They're beginning to upset me.

THE COURT: Congressman, we're going to bring the jury in now.

MR. TRAFICANT: Thank you.

(Jury in at 11:14 a.m.)

THE COURT: You're still under oath. Okay? Thank you. Mr. Kall?

CROSS-EXAMINATION OF BETTY MANENTE

BY MR. KALL:

Q. Mrs. Manente, can you hear me okay?

A. Yes.

Q. Okay. You've been employed by Congressman Traficant longer than any other person on his staff; isn't that correct?

A. I think I'm the oldest by now.

Q. You've been there basically since day one or month one?

A. Yes. Month two actually.

THE COURT: Speak a little louder so everyone can hear you.

Q. Can you repeat your last answer, please?

A. I started in February rather than January, so it was month two.

Q. Of 1985?
A. Yes.
Q. And you are a supporter of Congressman Traficant's, correct?
A. Yes.
Q. You've worked on his political campaigns?
A. Yes.
Q. Now, over the years, how much direct contact have you had with the Congressman while you've worked for him?
A. Very, very little.
Q. You said maybe a handful of times over the course of 17 years?
A. That he actually was in the Trumbull County office.
Q. Now, you stated on direct that when you had problems within your office, you went to Chuck O'Nesti or to Jackie Bobby, correct?
A. Most generally to Jackie.
Q. And you also stated on direct that you didn't like to go to Chuck O'Nesti, correct?
A. Correct.
Q. You were afraid of him?
A. Charlie was gruff and I just would rather not.
Q. Well, you stated you were afraid of Chuck O'Nesti, correct?
A. I guess you could say a little bit apprehensive.

Q. Why?
A. Well, he was just gruff speaking, and I just -- I don't know, I just -- he wasn't one of the people I wanted to talk to, actually.
Q. Now, you mentioned that you would go to Jackie Bobby mostly and occasionally to Chuck O'Nesti, correct?
A. Mostly Jackie Bobby; there were times Henry DiBlasio. I think there were a couple times possibly for Henry.
Q. Now, Henry DiBlasio was supposed to be the chief of staff, correct?
A. Yes.
Q. Or the administrative officer?
A. Yes.
Q. In the course of the 17 years that you worked in the office, how many years was Mr. DiBlasio employed by the Congressman?
A. He started when I did, and I don't recall what year he actually terminated his employment.
Q. Would it be around late '98?
A. Probably.
Q. Over the course of those 13 years, did you ever report in to Mr. DiBlasio as chief of staff?
A. Reporting which way?
Q. Did he supervise the work you did?
A. Actually supervising it, I wasn't aware of actual

supervising.
Q. You never reported to Mr. DiBlasio as the chief of staff, did you?
A. There may have been on occasions for different things. I don't recall. Not routinely though.
Q. Do you recall being asked in the grand jury, "Are you aware of actual duties that Henry DiBlasio had?" And you said, "No, sir. I never worked in the same office"?
A. That's correct.
Q. And you were also asked, "As the office manager in the Niles office, did you ever have any dealings where Henry DiBlasio did anything?" And then you asked back, "For us?

"Yes."

And you answered, "Not that I can recall. Not that I can recall."
A. Okay. I'm a little confused. I was then, too, a little bit. Doing anything such as?
Q. Did you have any dealings that you can recall with Henry DiBlasio?
A. That I can recall, not offhand.
Q. Okay. Congressman Traficant asked you some questions about what you were and were not asked in the grand jury. Do you recall those questions?
A. Some of them.

Q. Now, can you recall sitting here today, on April 4th of 2002, everything that you were asked in the grand jury a year and a half ago?
A. No, I can't.
Q. So you might have been asked some of those questions; you just can't recall them sitting here today?
A. Correct.
Q. You were also asked some questions regarding George Buccella working out at the Congressman's farm, correct?
A. Yes.
Q. Was it common knowledge at your office that George Buccella was working out at Congressman Traficant's farm?
MR. TRAFICANT: Objection as to speculation.
THE COURT: She can answer.
A. That seemed to be -- everybody seemed to think that, yes.
Q. It was common knowledge in the office?
A. Pretty much.
Q. And George Buccella said many times that he was out there?
MR. TRAFICANT: Objection --
A. Yes.
MR. TRAFICANT: -- as to hearsay.
THE COURT: Well I don't know anything that would permit that to come in for the direct. Go on to

something else.

MR. KALL: Your Honor, we'd offer it as a prior consistent statement under 801(d)(1)(B).

THE COURT: To something she said before?

MR. TRAFICANT: I object under the laws of the Constitution. It's hearsay.

THE COURT: Hold on.

MR. TRAFICANT: Your Honor, might I inquire as to the law they cited?

MR. KALL: It's the Federal Rules of Evidence, Rule 801(d)(1)(B).

MR. TRAFICANT: (d)(1)(B). Thank you.

THE COURT: The objection is sustained. Go to something else.

Q. As the office manager, you supervised Mr. Buccella for a period of time, correct?

A. In the office, yes.

Q. And there were many times where Mr. Buccella was not in, correct?

A. That's correct.

Q. He would be gone for whole days?

A. Yes.

Q. Sometimes whole weeks he would be gone?

A. There may have been occasions, yes.

Q. What was your understanding of where Mr. Buccella was

during those times he was not in the office?
A. I never got any direct -- no one ever came to me to actually tell me -- if someone would call for George Buccella, they never ever went through me. They would call and talk directly to him.
A lot of times when George would leave the office he would just say, "I've been told I have to do something for the boss." And so I really didn't -- I mean if he was out of the office, it was because he had gotten a call from somebody to tell him to do something for the boss. So I really -- I was never told exactly where he was.
Q. Well, you've already testified it was common knowledge --
A. Right.
Q. -- that he was working down at the farm at times, right?
A. Correct.
Q. And during those times that he was gone days and on occasions weeks at a time, was it your understanding that he was down at the farm?
A. On occasions, yes.
Q. Now, Congressman Traficant asked you on direct examination about your understanding of whether George Buccella was working on his farm. Do you recall those

questions?
A. Would you repeat them, please?
Q. Congressman Traficant asked you on direct examination about what you understood about whether George Buccella was down at the farm, correct?
A. Yes.
Q. And you testified earlier that your understanding was that he was down there, but you never physically with your own eyes --
A. Exactly.
Q. -- saw him?
A. Yes, that's correct.
Q. So what was the basis of your understanding that he was out at the farm?
A. Well, for one thing, when George would come back to the office, he oftentimes would complain about it or talk about it, about --
Q. Complain about what?
A. About being at the farm.
Q. Congressman Traficant also asked you some questions about whether you ever called Congressman Traficant about George Buccella being at the farm. Do you recall those questions?
A. Yes, I do.
Q. And you stated you never did contact the Congressman

about this, correct?
A. No; no, I didn't. I had --
Q. I'm sorry, go ahead.
A. I had very little contact with the Congressman in my 17 years.
Q. And you never contacted Chuck O'Nesti about this?
A. Never. No.
Q. And you never contacted Jackie Bobby about this?
A. Because they -- I assumed they all knew. And it wasn't my place, because no one told me to send him anywhere, so --
Q. You assumed who all knew?
A. Jackie and Chuck, or whoever.
Q. You assumed they knew what?
A. That George was gone. If he got the call from Chuck, or whoever, and a lot of times I didn't know who called, they would know where he was.
Q. You assumed they knew he was down at the farm?
A. Yes, because no one ever told me, no one ever came and said to me that: I'm going to send him here or there. They did not go through me that I can ever recall. I mean, no one asked if I needed him in the office or whatever, so I mean, it was just a matter of he would say he would get his call and he had to do something for the Congressman. So --

Q. Did George Buccella hide the fact that he was doing farm work at the Congressman's farm?
A. No, he didn't.
Q. Did you ever talk with anyone to say: Is this all right, is this okay?
A. I don't recall. I may have. I don't recall anything in particular.
Q. But you never went to Chuck O'Nesti or Jackie Bobby about that?
A. I can't recall any particular times. I think it was just something that was -- it seemed like everybody knew.
Q. Were you afraid to go to them because they were close to Jim Traficant?
A. I never would go to Chuck O'Nesti.
Q. The question is: Were you afraid to go to them because they were close to Congressman Traficant?
A. I was never afraid to go to Jackie Bobby, no. And there may have been discussions about George. I can't recall anything in particular.
Q. Do you recall being asked in the grand jury, "Were you afraid to go to them because they were close to Jim Traficant?" And your answer was, "Probably"?
A. Chuck O'Nesti I was.
Q. Were you afraid to go to Congressman Traficant and discuss this issue of George being at the farm?

A. I wasn't afraid, but I was told many times to go through the chain of command, which would have been Chuck first, and maybe I was afraid to go over his head.

Q. Do you recall being asked that question in the grand jury, "Question: Were you afraid to go to Jim Traficant and discuss it?

"Answer: I obviously -- obviously I was. I mean, I wasn't afraid, but I didn't know that it was my place to do that."

A. Correct.

Q. It wasn't your place to question where George Buccella was?

A. It wasn't.

Q. But it was your knowledge that he was out working at the farm?

A. True.

Q. And --

A. From what he said.

Q. And it was common knowledge in the office that he was working out at the farm?

A. Yes.

Q. What were some of the things that George Buccella complained about that led to your understanding that you testified about on direct examination?

MR. TRAFICANT: Objection as to hearsay.

THE COURT: Going back to what you testified on direct examination, you can answer that question as part of cross-examination.

Q. What was your understanding of some of the things George Buccella complained about that led to your understanding that he was working out at the farm?

A. He would talk a lot. George would talk a lot in the office to friends that would come in, to anybody, and he would just say, you know, he worked his butt off or something, pretty much just complained about having to go.

Q. He complained that he was having to work on machinery when he was out there?

A. Yes.

Q. He complained --

A. There was a time --

Q. I'm sorry?

A. I think there was a time he did.

Q. And he was complaining about having to bale hay out there?

A. He may have talked about that.

Q. And he was complaining about having to do other farm chores when he was out there?

A. Yes.

MR. KALL: Nothing further, Your Honor.

THE COURT: Thank you.

REDIRECT EXAMINATION OF BETTY MANENTE

BY MR. TRAFICANT:

Q. Who is the district director of the congressional office?

THE COURT: I'm sorry? None of us could hear your answer.

Just wait a minute, Congressman. Who is the --

Q. Who was the district director?

A. Chuck O'Nesti.

Q. And whom would you report to?

A. Supposed to report to Chuck O'Nesti.

THE COURT: Could you speak up a little more? Your voice is kind of falling off at the edge.

THE WITNESS: She told me not to hold it so close.

THE COURT: That's better.

Q. You said you didn't like to go to Chuck?

A. That's right, Jim.

Q. But you did go to others, didn't you?

A. Jackie would discuss it and comment, her or Grace would comment about it. They knew.

Q. Did you ever work in the same office with Henry DiBlasio?

A. No, I didn't.

Q. Was Henry DiBlasio a public persona type of guy?

A. You mean did he get out and about a lot?
Q. Yes.
A. I was not aware of what he did, truthfully, being that I never worked with him.
Q. Was Chuck an outgoing guy?
A. Outgoing in which way? Talking to people?
Q. Out in the public eye?
A. Pretty much.
Q. Was Henry that sort of guy?
A. I don't think. To be out like Chuck was, maybe not.
Q. Now, this common knowledge thing that they're discussing, who, if anyone, ever checked where George Buccella really was?
A. I'm not aware of that. I don't know.
Q. So all George Buccella had to say was he got a call, and he had to see the Congressman?
A. That's --
Q. Is that about it?
A. Yes. When he first got the call, yes, he would say, "I have to do something for the Congressman."
Q. And you'd assume that George would be doing farm work? Is that what you said you assumed?
A. I wouldn't assume that until George would come back and how he talked about the time.
Q. And every time he got that call, he'd come back and

say he was at the farm?
A. Basically. He --
Q. Pardon?
A. I was going to say he referred to the farm as "down south."
Q. Down south. But you assumed, your testimony was you assumed he was down south?
A. When George left the office, Congressman, I had no way of knowing where he was, because it would always be my superiors who would make the call to him, so I didn't question that.
Q. How would you know he wasn't at the racetrack?
A. I wouldn't know that.
Q. How would you know he wasn't at the pizza shop?
A. I wouldn't know that.
Q. How would you know if what George was telling you was the truth?
A. I wouldn't know.
Q. So all George Buccella had to do was say, "I'm going south," and he's just able to go south?
MR. KALL: Objection. This is leading.
THE COURT: You can answer.
A. He would talk about it when he got back.
Q. But if he talked about being at the farm when he got back, how do you know he was telling you the truth that he

was at the farm?
A. Congressman, as you know, I never even had the phone number for the farm, so I have no idea. I mean, I -- it wasn't for me to check on him, so I don't know.
Q. Was there anybody other than me that called to inquire about George Buccella's work habits?
A. I think over the years maybe Jackie, maybe Chuck on occasion would call to ask if he was there.
Q. When I called, what were the purposes of my calls about George Buccella?
A. I remember one specific time you called, it was maybe around 9:00, and you did ask --
MR. KALL: Objection. This is hearsay, Your Honor.
MR. TRAFICANT: It was talked about on cross. Subject to discussion on direct.
THE COURT: She can't testify as to what the purpose -- what your purpose was as to the calls for George Buccella.
The question to her was, "When I called, what were the purposes of my calls about George Buccella?" She would have no way of knowing your purposes.
BY MR. TRAFICANT:
Q. Did I call you and inquire about George's work time activities?

MR. KALL: Objection. Hearsay, leading.

THE COURT: Both. Sustained.

Q. Did you and I have conversations about George's work habits?

MR. KALL: Objection. Hearsay.

THE COURT: The question itself isn't. You can answer that.

A. On occasion you would ask me, yes. Yes, you did.

Q. And what was your impression of those conversations?

A. My impression -- (pause).

Q. Yes?

A. You mean like if you asked if he was there and he wasn't, I remember one time you told me you wanted him there at 8:30 in the morning. You were checking on him.

Q. Now, the government asked you how can you recall if they didn't ask you about all these other businesses that George owned. Was that not a question that the prosecutor posed to you?

A. I'm sorry. I didn't catch that, Jim.

Q. The government talked about your grand jury testimony, and they mentioned that: Do you recall if they talked to you about all these other businesses that George owned?

A. I don't believe they did. I don't remember. I think it was just a discussion of the pizza shop and his time

coming in initially. I don't recall anything else.
Q. Was there a time when somebody got on George's back about his appearing at work?
A. I think that he was reprimanded by our superiors, and you were angry that he wasn't there.
Q. Did you ever get a call from me about any other of your employees about their work habits?
A. No.
Q. Did I micromanage your office?
A. No. You pretty much left us -- you always said as long as we were doing -- you didn't get complaints about our office from the constituents, that you knew we were doing our job.
Q. Did I tell you how to do your job?
A. No, you didn't. We had very little conversation, Congressman, over the years.
Q. Was it business oriented, Betty?
A. Yes.
Q. Did George Buccella put in an average of 30 hours a week?
A. It was always difficult to really pinpoint George's times because I never knew when he said he had to do something for you if he was representing you, or whatever. I never really knew for sure. It was difficult keeping track of George.

Q. Did you know of George doing congressional work on the weekend?
A. Yes. I think everybody does.
Q. Do you know of George working at night for the Congressman?
A. There were occasions that he would tell me that he did, yes.
Q. Did George participate in helping settling strikes?
A. Yes.
Q. Did some of those strikes last five days?
A. I think the RMI strike.
Q. Did George Buccella ever drive me to D.C.?
A. Yes, he did talk about that.
Q. Did he attend trustee meetings throughout the state?
A. He was -- yes.
Q. After hours, is it your time?
A. Yes.
Q. Can I tell you what to do with your time, Betty?
A. No, you can't.
Q. Have I ever asked you to do anything or forced you to do anything?
A. No.
Q. To your knowledge, have I ever forced anyone on my staff to do anything?
A. Not to -- I couldn't say you force anyone.

Q. Was my staff afraid of me?
A. I don't think so.
Q. Was anyone on my staff ever afraid of me?
A. I don't believe so.
Q. Do you know if I ever fired anybody on my staff?
A. I don't -- I was never privy to anything. I don't believe.
Q. In Trumbull County, did you recommend employees?
A. Yes.
Q. Did you recommend employees that I had no prior knowledge of?
A. I think there was a young intern who became an employee.
Q. Did I know this person at all?
A. No.
Q. Did I employ this person?
A. Yes.
Q. On whose recommendation?
A. On my recommendation.
Q. Who was the boss of Trumbull County?
A. I was.
Q. Who had the right to hire?
A. You did.
Q. Did I appoint some political flunky --
A. Meaning --

Q. -- in that spot? Or did I hire your recommendation?
A. You hired the young lady who interned.
Q. Could I have said, "Betty, I'll hire who I want"?
A. You didn't say that.
Q. But could I have?
A. Sure.
Q. Did I let anyone ever act as Congressman for me?
A. No, sir.
Q. Was it understood who the Congressman was?
A. Yes.
Q. Was it understood who the boss was?
A. Yes.
Q. And did I ever threaten anyone, to your knowledge?
A. Not to my knowledge.
Q. When a case met a dead end, what would you do?
A. Most generally, if I had trouble with something and I wasn't sure how to handle it, I would talk to Jackie Bobby, and then she ultimately would maybe discuss it with you or whoever.
Q. Did you ever on occasions have certain issues of trouble that you contacted me directly?
A. There were a few occasions.
Q. And were they major?
A. Pretty much, something we couldn't handle or something that you would need to get involved in

personally.
Q. Were you able to resolve in most cases the matters that came before Trumbull County, Betty?
A. The regular constituent work, yes. VA, IRS, immigration, that stuff.
Q. Now, I have here a box. Are you familiar what's in this box?
A. Those are George's closed cases.
Q. These are closed cases?
MR. KALL: Objection, Your Honor. We've never seen this. It's not been provided to us in discovery.
THE COURT: This will be something that you need to provide to the other side before you get into --
Q. Are these confidential cases, Betty?
THE COURT: Congressman you're talking across me. You're ruining the record in your own case.
These have to be shown to the other side, as you well know, before you use them in any way, and so you can't use those right now.
MR. TRAFICANT: Okay.
Q. I can ask this question, I think. Betty, are our cases confidential?
A. Yes, they are.
Q. Without a subpoena, can I show them to the

government?

MR. KALL: Objection. This calls for a legal conclusion.

THE COURT: It does.

Q. Is anyone allowed to see those cases, Betty?

A. I was always told that they're confidential. If someone has a problem and they come to our office, we're not to share it with anyone.

Q. Did you ever share any matter of any case with anyone?

A. Not that I can recall.

Q. Were you ever subpoenaed for George Buccella's records?

A. No. No, I wasn't.

Q. Did he maintain an active case load?

A. Yes.

Q. Did he service that case load?

A. Yes.

Q. What is the amount of hours that a congressional, full-time congressional employee must put in?

A. I was never aware until April, 2000, when I got the memo from Paul Marcone that it's a 30-hour minimum, but we worked 8:30 to 4:30, and longer sometimes.

Q. How many hours is our offices open, Betty?

A. 8:30 to 4:30.

Q. And how many hours do our workers average a week?
A. That depends. I mean, if you have to go represent -- if we have to represent you in the evenings or something, then it would be longer, but we're there from 8:30 to 4:30.
Q. Was George always seeking pay raises?
A. I really don't know. He wouldn't go through me for that.
Q. As his supervisor, why did you assume George's behavior?
A. Why did I assume his behavior?
Q. Yes. Assume his statements of behavior.
A. I think because right from day one, it was sort of a general consensus. Maybe because he talked about -- maybe because I was never actually involved in what he did, I really didn't have the authority to tell George when to go, when to come back, or where to go.

I took instructions on that myself, as far as where I went in representing you, so I wasn't really -- I was a supervisor, but I wasn't overall supervisor as far as did I have the authority to actually tell George if he received a call from one of my superiors what to do or what not to do, and I never crossed that barrier of command.
Q. Now, did they call George or did they call you for George?

A. They never -- they never went through me, Jim. They never went through me. If they called, they would ask whoever answered the phone, which generally it was some other staff, and they would go directly to George.

I can never recall anyone ever saying to me to send George to the farm or send him south, or any of that. I cannot recall.

Q. Had they said that to you, would you have gone along with it?

MR. KALL: Objection. Speculation.

THE COURT: Sustained.

Q. So you don't know if George was at the farm or at the racetrack, do you?

A. Physically, I don't know where George was when he left the office.

Q. So you don't know if George was at the farm or at the pizza shop, do you?

A. I don't remember when he closed that pizza shop. I don't know if he still had it when he was working under my supervision in Trumbull County. I don't remember what year that was. But I didn't know when he left the office -- the nature of congressional offices are a lot of times you have to attend meetings and go to different places, so -- and I was not the one who gave those directives, so I'm not sure.

Q. So you don't know if George met with the Congressman

about a strike, would you?
A. Not if I wasn't told, no. Sometimes we would just most generally say, "I have to go meet the boss," or, "I have to go do something for the boss."
Q. So sometimes it was do something for the boss and sometimes it was go south? Is that your testimony?
A. Yes.
Q. After our conversations about Buccella, did you establish a time sheet for Buccella's attendance at work?
A. No. Those directives would have come from, again, the chain of command. That wasn't for me to do that. I mean, if he was called by someone else to go somewhere, you know -- I mean, I told him to be in the office at 8:30, yes, I said, many, many times.
Q. At whose direction?
A. His contention was when he was coming in late in the morning that he was doing congressional work by meeting with constituents.
Q. At whose direction did you, in fact, confront George Buccella about his working habits?
A. I think mostly I talked to Jackie, Jackie Bobby. A lot of times he would catch heck from them about different things. So it wasn't where everybody would come to me and say, "You're the supervisor, you take care of this."
Q. Did you ever have a direct order from me about his

work attendance?
A. Yes. I remember when you called and you were really mad because he wasn't there, and you said, "I want him there at 8:30." And I did tell him that. And that lasted for a couple of weeks.
Q. George was the biggest abuser, wasn't he?
A. Well, with the time coming in like that, I didn't set those times for him, so I don't know what -- how that happened.
Q. So George basically didn't listen to anybody, did he?
A. I can't speak for anybody else, but as far as the time element, coming in at 8:30, he did not adhere to that time.
Q. And when that happened, who called you?
A. You mean when that happened --
Q. When he disregarded everybody, who called you about his time?
A. Well, you called me that one time I remember.
Q. Who was in charge of the congressional district? Who was the boss in that district?
A. I was the office manager.
Q. And who was your boss?
A. You were.
Q. And when Buccella's time matter became an issue, and it was disregarded, who finally stepped in?

A. You did. I believe you told me about it. It lasted for a couple weeks.
Q. Did you report back to me that he started to abuse it again?
A. No, because he would get -- if he had to go somewhere, it wasn't from me, the directives. You mean as far as him coming in at that time? Repeatedly I told him to be in on time.
Q. After my call?
A. Uh-huh.
Q. Why were you afraid of Chuck O'Nesti?
A. Okay, I'll answer that. There was a time that I had sent a letter to you asking if you would consider me for a raise, and somehow Charlie must have got ahold of it, and he didn't tell me he did, but he sort of reiterated everything I said in the letter for a period of about a month or so. And I didn't say anything to you about that, but I just figured I didn't want to deal with him anymore on any issues.
Q. Did you have -- was your concern about going over his head?
A. Yes. Yes. We were told that we couldn't go over his head.
Q. Who told you that?
A. Well, it was Charlie, for one thing, said that, "If

you have anything to say, you come to me. You don't bother the Congressman."

Q. Did you ever get your raise?

A. I don't recall at that time. I don't think at that time I did. But maybe. I can't recall.

Q. Did you ever bring it to my attention for a raise at some point?

A. Yes.

Q. Did you get the raise?

A. Yes, I did. You're always fair with that.

Q. And did you go through Mr. O'Nesti that time?

A. For the raise? I think I seen you out one time, and I mentioned it to you.

Q. Personally?

A. Yes. Not another letter.

Q. Were you afraid to send another letter?

A. Yes, yes.

Q. So if Chuck O'Nesti called Mr. Buccella, how would you know he was doing work for me or for Mr. O'Nesti?

A. I would have no idea of that, Jim.

MR. TRAFICANT: No more questions.

THE COURT: Thank you.

MR. KALL: Nothing further, Your Honor.

THE COURT: Thank you. You can step down. Be careful.

(Witness excused.)

THE COURT: We're going to take our lunch recess now. We'll see the jury back at 1:30, and remember all your admonitions. We're also going to wait here while the jury gets organized so they can be taken out before we leave.

Thank you

(Jury out at 11:56 a.m.)

THE COURT: If all of you will be just be seated, they'll be bringing them through in just a minute, and then we'll all go out.

THE CLERK: This Honorable Court is in recess until 1:30.

MR. TRAFICANT: I do have a proffer for the record at some point, and I do have some business and motions for the Court.

THE COURT: Fine.

MR. TRAFICANT: And I have other witnesses.

THE COURT: Good. Who is your next witness?

MR. TRAFICANT: I don't know yet. I don't know who's back there. They're on a subpoena list, and I'll know when I get there.

THE COURT: Okay. These documents that you haven't shown yet to the other side --

MR. TRAFICANT: These are confidential. If they want to look at them, I will not allow them to be

taken without a subpoena. If they want to subpoena them, they can take them. And if they do, I want it placed on the record. These are closed cases of George Buccella, and they are only subject to subpoena. I will not release them.

And they must be reviewed by general counsel of the House of Representatives. If they want to come look at them without looking at names, they're eligible to come see the volume and number of them.

THE COURT: Thank you. Now I'm clear about how you intend to handle this, and we'll let them respond.

MR. MORFORD: Your Honor, based on what he just said and based on the fact that he's been told on numerous occasions that he had to give us discovery of any matters he wanted to use as evidence, I ask that those files be excluded because he did not provide them to us in discovery, and he has not provided copies to us.

MR. TRAFICANT: I will stipulate that I am not offering them to be admitted in evidence. They're confidential matters. They were just brought here to make a point.

THE COURT: Okay. Well, if you're going to make a point, you're doing something in the case that affects the case, so if you will just remove them now while you go to lunch and put them somewhere else, we'll decide

later if we need to -- whether having them sit there makes any sense or not.

MR. TRAFICANT: The government can subpoena them.

MR. MORFORD: We have no reason to, Your Honor.

THE COURT: Thank you. We're in recess.

(Whereupon, at 11:59 a.m., the luncheon recess was had, to reconvene at 1:30 p.m., the same day.)

THURSDAY, APRIL 4, 2002, AFTERNOON SESSION, 1:31 P.M.

THE COURT: Congressman, who is your next witness?

MR. TRAFICANT: Mary Ann Carna.

THE COURT: Mary Ann --

MR. TRAFICANT: M A R Y, C A R N A, relative to the Sugar case.

THE COURT: Very well. You can bring in the jury.

THE CLERK: All rise for the jury.

(Jury in at 1:32 p.m.)

THE COURT: Just sort of go around the court reporter, come up the steps. Thank you. Would you raise your right hand?

(The Witness is Sworn)

THE COURT: Have a seat, please. It's a big courtroom, so you'll need to speak out so everyone can hear you in the back. There is water here. And you might want to pour some water if you think you might want some.

DIRECT EXAMINATION OF MARY ANN CARNA

BY MR. TRAFICANT:

Q. Good afternoon, Mary Ann.

A. Good afternoon.

Q. Would you please give your full name and spell your last name for the jury?

A. Mary Ann Carna, C A R N A.
Q. And where do you reside?
A. 101 Leslie Drive, Edenberg, PA, 16116.
Q. 16116?
A. Correct.
Q. And what is your occupation?
A. I work for a cement company, T. C. Redi-Mix, of Youngstown.
Q. And how long have you worked for T. C. Redi-Mix?
A. Ten-plus years.
Q. What was your employment before you worked with T. C. Redi-Mix?
A. I was an X-ray technician at North Side Hospital.
Q. And how long were you with the North Side Hospital?
A. I went to school there two years and worked for about a year after.
Q. Is that when you went to work at T. C. Redi-Mix?
A. Actually, not right away. I had the children, and then I went to work.
Q. How many children do you have?
A. I have two daughters.
Q. Now, who is the owner of T. C. Redi-Mix?
A. T. C. Redi-Mix of Youngstown is owned by Sherry Andrews.
Q. Were you interviewed by the FBI?

A. About a year and a half ago they came down to the office, asked questions, and I had to produce deposit slips showing them that payments were made on your account.

Q. Do you know if they had a subpoena?

A. No, I don't. I can't remember that. I was upstairs, and they walked up the steps.

Q. How many FBI agents were there?

A. There were two.

Q. Do you remember their names?

A. No, I do not.

Q. What deposit slips were they concerned about?

A. The deposit slips on cement that was taken on Island Drive on Route 170.

Q. And what residence do you know that to be?

A. I don't. I don't know who lives there.

Q. Was there an account number and an individual's name that they inquired about?

A. Yes. James Traficant.

Q. I'm going to show you a number of documents, but first show them to the -- do you have them?

MR. MORFORD: Yes, we do.

MR. KALL: Yes.

MR. TRAFICANT: And show them to the Judge.

THE COURT: Thank you.

MR. TRAFICANT: There are a total of nine,

and there is two of each, Your Honor.

THE COURT: Okay. Let's put their numbers on.

MR. TRAFICANT: There's numbers. They are all numbered. There are two of TC-1, two of TC-2, et cetera, et cetera.

THE COURT: The reporter is writing this down for you, so why don't you just go through --

MR. TRAFICANT: TC-1 through TC-9 at this point.

THE COURT: Thank you.

BY MR. TRAFICANT:

Q. When did you deliver these to me, Mary Ann?

A. Let me see the date.

Q. When did you hand them to me physically --

A. Oh, just now.

Q. Just now?

A. Yes.

Q. Did you just get to town?

A. Yes, I did. I came in as soon as I could.

Q. Are these the documents you handed me?

A. Yes, they are.

MR. TRAFICANT: Your Honor, can I pursue these?

THE COURT: Yes.

Q. Now, this is known as TC-1. Can you describe what this is?
A. Oh, yes. That's our yard order from the office. When we ship out an order, we print a yard order, and it goes with the truck upon delivery.
Q. And where was it sent to?
A. The bill was sent to 11 Overhill Road, Youngstown, Ohio, James Traficant.
Q. And what was it in relation to?
A. Materials used for whatever they wanted to use it for, the cement or whatever. And the fiber mesh is a reinforcement for the concrete.
Q. So how many yards of concrete were ordered at that point?
A. 13 yards of six sack, with 13 bags of fiber for reinforcement.
Q. And what was the date of it?
A. I didn't bring my glasses -- 3-28 of 2000.
Q. Do you know what company ordered this material?
A. I believe it was Sugar Contracting that ordered it. The reason why I know that is because I needed to ask who I bill. They told me I am to bill James Traficant. I asked for the mailing address. I do all the bookwork.
Q. Did you get paid?
A. Oh, yes, definitely, in full.

Q. And how were you paid?
A. By check.
Q. By check, from whom?
A. The name on the check was Traficant.
Q. This is now TC-2. Do you see TC-2 on the right up there?
A. Yes.
Q. And what is the date of the invoice?
A. 3-27. That's the yard order -- oh, that's the invoice. That's the billing, yes.
Q. And where was the invoice sent?
A. It was billed to Jim Traficant, 11 Overhill Road, Youngstown, Ohio.
Q. And how many yards were ordered?
A. There were 12 yards of six sack, 12 bags of fiber, which is the reinforcement, and expansion joint to put, you know, for the cuts of the concrete.
Q. And was that the amount?
A. Oh, yes, definitely.
Q. And how was this account paid?
A. By check through Mr. Traficant. Payments were made on a monthly basis.
Q. They were monthly payments?
A. Yes.
Q. Payment basis?

A. There was one month, I believe there were two checks in one-month's time.
Q. Would you identify the exhibit number?
A. That's TC-3.
Q. And what is it?
A. That's the invoice.
Q. And where was it -- who was it billed to?
A. To James Traficant, 11 Overhill Road, Youngstown, Ohio.
Q. And what was ordered?
A. That was the 13 yards of six sack with the reinforcement fiber.
Q. And is that the amount?
A. Yes, that's the amount you were billed for.
Q. And did you accumulate an amount of costs for concrete?
A. There were two invoices totaling $1800 and some dollars.
Q. And how was this paid?
A. That was paid by check on monthly payments.
Q. By whom?
A. Traficant.
Q. Would you identify this document number at the top right-hand corner?
A. That's TC-4, yard order.

Q. And who was it billed to?
A. James Traficant, 11 Overhill Road, Youngstown, Ohio.
Q. And what was the date on it?
A. That's the 27th of March, 2000.
Q. And what was ordered?
A. Six sack, 12 yards of it, with 12 bags of reinforcement, plus expansion joint.
Q. And what was the amount?
A. Well, that's the yard order that will be turned into the invoice. You have it over there.
Q. And what is the --
A. That's TC-5. That's the customer history of James Traficant. That is when he ordered it and payments posted to his account every time that he paid.
Q. How many invoices were sent?
A. Two invoices were sent.
Q. How many payments were made?
A. Nine payments were made, if I counted right.
Q. What was the amount of those payments? Are they listed?
A. Yes, they are. They're listed on the deposit slips because I have to credit certain times there, but on the deposit you'll see there were some $200 payments applied, some $300 payments applied. When he mailed it, it was applied.

Q. When who mailed it?
A. Mr. Traficant.
Q. Do you know who Mr. Traficant is?
A. I'm looking at him. This is the first time I met you, sir.
Q. And what was the total invoices?
A. $1844.40.
Q. And how was it paid?
A. By checks monthly by Mr. Traficant.
Q. And would you identify this by an exhibit number?
A. TC-6.
Q. And what does this signify?
A. That's our T. C. Redi-Mix deposit slip of people that mail in payments or pay. It goes on a deposit slip, and we take it to the bank. As you can see, there's a lot of customers on that deposit slip.
Q. And what does this signify?
A. I see Traficant for $300.
Q. And how was that paid?
A. That was paid by check.
Q. And it was deposited on that date?
A. Yes, it was. As a matter of fact, that's my handwriting.
Q. Is this the first time you've testified at a trial like this?

A. Yes, sir.
Q. Are you nervous?
A. Not at all.
Q. Do you have immunity?
A. No.
Q. Would you identify this by an exhibit number?
A. TC-7.
Q. And what is this?
A. That's our T. C. Redi-Mix deposit slip on June 5th of 2000, a payment was made and deposited on our deposit slip.
Q. And how much of a deposit --
A. $200 I can see.
Q. There was a payment of $200?
A. Yes. I believe that's the month there were two of them, in June.
Q. I had a good month?
A. You must have.
Q. And can you identify this by exhibit number?
A. TC-8.
Q. And what does it account for?
A. That's our Redi-Mix deposit record on 6-26 -- a check -- well, all checks were deposited that came in.
Q. Into what bank?
A. Sky Bank.
Q. What does that signify?

A. $300 by check, paid by Traficant.
Q. Would you identify the exhibit number?
A. TC-9.
Q. And what does that signify?
A. July 11th of 2000, our deposit slip to Sky Bank.
Q. And what does it signify?
A. James Traficant, $200 payment on his account.
Q. Now, do you have any other items with you that you were not able to photocopy?
A. Yes, I do. I have deposit slips. They're yellow in color. They're my originals, and the copy machine wouldn't accept copying them.
Q. Can I have them now?
A. Yes, you may.

MR. TRAFICANT: Can I show them to Your Honor and then identify them since they would not be copied?

THE COURT: Show it to them first. Thanks.

MR. TRAFICANT: I mark this entire exhibit as TC-10 even though therapy separate. Is that okay?

MR. MORFORD: That's fine.

MR. TRAFICANT: Your Honor, I'd like for you to see them since they couldn't be copied. I would have had them individually copied, and they're all under TC-10 and I would identify them all as TC-10. I didn't have time to do so.

THE COURT: Thank you.

MR. TRAFICANT: Thank you, Your Honor.

Q. Mary Ann, had you been able to photocopy this, would you have done so?

A. Oh, definitely.

Q. So these are all TC-10, and I may make the first one TC-10, and may we designate them.

Would you state what that is?

A. That says TC-10, December 15th, I believe, of 2000. It's kinds of light. T. C. Redi-Mix deposit slip.

Q. And is there a payment on there?

A. Yes, there is. James Traficant, $200.

Q. The next one I will identify as TC-11, although they were in a packet. How was that paid, TC-10?

A. Oh, by check. It's on my deposit slip.

Q. From whom?

A. From James Traficant.

Q. Would you identify this number?

A. TC-11.

Q. And what is it?

A. It's our deposit slip, January of '01. I think that's January 11th. It's kind of light.

Q. And is there a payment listed?

A. Yes. I see for $200.

Q. And how was that payment made?

A. By check by James Traficant.
Q. Next would be known as TC-12. And would you identify this by number?
A. TC-12, February 15th, 2001.
Q. And what is it at the top?
A. That's our deposit record from T. C. Redi-Mix to Sky Bank.
Q. And was there a payment made there?
A. Yes, there was, for $200.
Q. Would you look at it again?
A. I'm sorry, $244.40.
Q. And how was that paid?
A. By check.
Q. This would be TC-13. Would you identify this?
A. TC-13, T. C. Redi-Mix deposit slip.
Q. And what is the date?
A. 11-10 of 2000.
Q. And how much was paid?
A. I can't see. $200.
Q. And how was this paid?
A. By check. Every check we received came through the mail.
Q. Were all of these checks relative to the same order placed by Sugar Construction?
A. Yes. If you add up the payments on the deposits, you

will see that it equals the amount of the invoices that you were billed for.

Q. Were you paid in full?

A. In full to the penny.

Q. Was there any outstanding balance?

A. None whatsoever.

Q. Was it understood that the account would be paid over a period of time?

A. We just mail out the statement and we received a check monthly.

Q. Was there any invoices that failed to be paid?

A. None.

Q. Did you have to call for any late payments?

A. No, absolutely not. What you were billed for you paid for. What you took, you paid for.

Q. Now, when the FBI came in, did you show them this information?

A. I gave them the customer history report, and when they came in, at the time you were still in process of making payments with a balance. They took the deposit slips that I had that you made payments. I offered copies. They took my originals.

Q. They took your originals?

A. Yes.

Q. Did you ever get your originals back?

A. No, not yet, huh-uh.
Q. Did you ever ask for your originals?
A. I wouldn't even know who to call to ask for them. Thank God I made copies of them.
Q. Why do you say thank God you made copies?
A. Because there's other customers also on those deposit slips, and if there was any problems, I would have to look back to see if anybody else paid, too.
Q. You were not served with a subpoena?
A. I was not.
Q. Why did you give them the originals?
A. I was upstairs, and when they came in, they came upstairs, and they asked, and I said, "Sure, he's making payments." He took, you know, concrete, and I can give you the information."
Q. And they would not accept the copies? Did you offer copies?
A. I told them I'd like to keep, you know, my originals. I mean that's how I operate, but they said, no, that they wanted the originals, so I went ahead and made copies for my own purpose.
Q. Would you like to ask for your originals to be returned right now?
A. It doesn't matter. I have the copies now.
Q. Is there anything else you can tell me about the FBI

visit to you?
A. That was it.
Q. Did they ask you to contact them if you received any further payments?
A. No.
MR. TRAFICANT: No further questions at this time.
THE COURT: Thank you. You may inquire.
MR. MORFORD: Thank you, Your Honor.
May I see those?
MR. TRAFICANT: Yes.
CROSS-EXAMINATION OF MARY ANN CARNA
BY MR. MORFORD:
Q. Good afternoon.
A. Good afternoon.
Q. We've never met before, have we?
A. I don't -- I don't remember your face.
Q. Now, as I understand your testimony, you said that the FBI had asked you for the original receipts.
A. I offered them copies from my copy machine, and they took those.
Q. Okay. And you said -- did that create a problem for you, not having the originals, did you say, or is it okay because you have copies?
A. It's okay because I have copies, but the way I do my

books and everything, I keep everything so. I don't like giving my, you know, deposit slips out to anybody.

Q. Congressman Traficant asked you if you gave him some documents this morning, correct?

A. Yes, I did.

Q. Did he tell you that many of those same documents, in fact, all the documents you'd given to the FBI, had been given to him over 12 months ago by us?

A. Oh, I wouldn't have any recollection of that. No, I didn't know.

Q. So when he gave you Exhibits -- or when you gave him Exhibits TC-1, 2, 3, 4, 5, at least any of the documents that you've given the FBI, he didn't tell you he's had those for 12 months, did he?

A. No, he did not.

Q. Now, you didn't actually receive your last payment from Congressman Traficant, it looks like, until February 15th of 2001; is that correct?

A. If that's what that says. I don't know when he made his last payment. However, as long as he pays, that's all that matters.

Q. Right. I'm just trying for the record here --

A. That says 2-15 of '01.

Q. And the actual work, you testified -- not the work, but the delivery of the concrete was March 28th of 2000?

A. That is correct. We have a lot of customers that do make payments on a monthly basis. That's fine with us.
Q. Right. Now, this was about $1800 in concrete and materials, correct?
A. Yes.
Q. And during the 11 months that it took Congressman Traficant to pay it, did he ever offer you a horse in lieu of money?
A. Are you kidding? No.
Q. Did he ever offer you an old bed or a humidor?
A. Nothing.
Q. In place of money?
A. Nothing. It was strictly a customer relationship.
Q. He didn't try to give you any old stuff instead of cash?
A. Nothing. Payments came through the mail, monthly statements were mailed, and that was that.
Q. Now, as I understand your testimony, your company, T. C. Redi-Mix, did not supply the labor used to pour and finish the concrete job. You just --
A. We just delivered.
Q. -- delivered the concrete?
A. Correct. That's all our company does. We don't finish it.
Q. And some other company or crew or workers, whatever,

were there to take care of it?
A. Called in the order, correct.
Q. And so if Dave Sugar testified that he supplied the labor but that it was up to Congressman Traficant to arrange and supply the concrete, your testimony would be entirely consistent with that, correct?
A. I billed James Traficant for the materials.
Q. So there's nothing inconsistent with what you've told the jury today with --
A. No. I billed it.
Q. -- that statement?
A. Mr. Traficant for the materials.

MR. MORFORD: Thank you.

REDIRECT EXAMINATION OF MARY ANN CARNA

BY MR. TRAFICANT:

Q. Mary Ann, have you ever worked at my farm?
A. I don't even know where you live. No, I did not.
Q. Now, you were asked a number of questions. Would you have any knowledge that I ever looked at anything they gave me?
A. No. How -- no.
Q. Did I make steady payments on a regular basis from the original invoice to the conclusion of the contract?
A. Yes, you did.
Q. And did I make it by check?

A. Yes, I did.
Q. Did I ever hug you?
A. This is the first time I've ever met you.
Q. What, if anything, did we do? Did we touch?
A. We shook hands.
Q. Oh. I should have hugged you.
I strike that for the record.
Now, there was some allusion by the prosecutor of some payments made in cash. Were there any payments made in cash?
A. Those checks came through the mail. I open all the mail up and I do the deposit slips.
Q. Now, you just delivered concrete. You don't finish it, do you?
A. Absolutely not. We just supply the sand, the stone, the cement, and the water, and it's mixed in our truck.
Q. And the contractors go ahead and --
A. Absolutely.
Q. Now, do you determine the amount of concrete that's needed?
A. If they ask and give us measurements, we help them out. If they just call and say I need such-and-such yards, we send such-and-such yards.
Q. Well, who instructed you to bill Jim Traficant?
A. The contractor, because I didn't know who to bill. I

was confused, and I always ask for a billing address.
Q. And you billed?
A. James Traficant. That's what I was told to do.
Q. And who told you to do that?
A. The contractor, when he ordered it.
Q. Is there anything unusual about that?
A. No. It happens all the time.
Q. Were you ever asked to appear before the grand jury?
A. No.
Q. Were any other accounts ever asked for by the FBI when they visited you that day?
A. No.
Q. Now, you've worked there ten years?
A. Ten-plus years.
Q. How many times has the FBI visited T. C. Redi-Mix?
A. I recall them one time being there.
Q. And what time was that?
A. I don't know if it was late morning or early afternoon.
Q. On what case?
A. On James Traficant.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: Nothing further, Your Honor.

THE COURT: Thank you. You can step down.

THE WITNESS: Thank you very much.

MR. TRAFICANT: Thank you, Mary Ann.

THE WITNESS: Thank you.

(Witness excused.)

MR. TRAFICANT: I now call Fred Hudach. These are unrelated matters to which he testified earlier.

THE COURT: So you're doing a recall of a witness?

MR. TRAFICANT: On other matters that he was subpoenaed to testify on. He was voir dired on one issue only. This has nothing to do with any hearsay. These are on issues of the trial concerning Cafaro and my case.

MR. MORFORD: Your Honor, you had asked that all matters be taken up outside the jury's presence with respect to that witness. These matters weren't raised. I ask they be raised outside the presence of the jury.

THE COURT: We'll do it at the next break.

MR. TRAFICANT: I have no other witness.

THE COURT: For today?

MR. TRAFICANT: Mr. Hudach is my last witness to testify right now --

THE COURT: Very good. We'll give you a brief recess for a brief period of time while we figure out whether or not Mr. Hudach can testify for a second time.

THE CLERK: All rise for the jury.

(Jury out at 2:03 p.m.)

THE COURT: Jeff, you don't need to do that. This is not a long break.

I believe there was only a voir dire of Hudach.

MR. TRAFICANT: He did not testify.

THE COURT: And he never testified because his testimony was excluded during that voir dire.

MR. TRAFICANT: It dealt specifically with the Kerchum matter only, but he was subpoenaed to testify on two matters: one relating to a Cafaro matter, and one relating to my trial, as an investigator. It has nothing to do with hearsay or any of the matters that have been brought by the prosecution.

THE COURT: Okay. I'll let Mr. Morford respond. We may need some more information.

MR. MORFORD: Before we go there, I just would like, if we can get it on the record, Congressman Traficant said there is not another witness in his room today?

MR. TRAFICANT: I have another --

THE COURT: First of all, let's see whether we have a witness right now. I'll deal with the --

MR. TRAFICANT: I have a character witness there, as well.

THE COURT: Okay. Hold on for just a minute.

Let's do one thing at a time.

MR. MORFORD: I was just wanting to clarify that. I'm sorry, Your Honor.

MR. TRAFICANT: I didn't realize that these witnesses would go so fast and the government would be so astounded and take such a short time on cross.

MR. TRAFICANT: Congressman, your comments are not appropriate even though the jury is not here, so please be seated so I can listen to what this gentleman has to say in response to the situation you're presenting.

MR. TRAFICANT: Certainly. I wouldn't want to prevent him from doing so.

MR. MORFORD: Your Honor, because of the nature of Mr. Hudach's background and information, allegations he's made in the past as a paid investigator for Congressman Traficant, the Court said it was going to conduct a voir dire as to Mr. Hudach's testimony. Congressman Traficant just said he knew about these other matters and did not go into them. He could have testified the other day about those things.

As to the second part that Congressman Traficant just indicated Mr. Hudach would testify to, about an investigation he was conducting for Congressman Traficant regarding this case, those are matters that directly related to the voir dire of him the other day and should

have been brought out at that time.

As to matters regarding Mr. Cafaro, we have no idea if that includes hearsay matters, we have no idea if that includes 608(b) matters, but given the way some of these things have gone on, I would ask that the voir dire -- if Mr. Hudach is going to be allowed to take the stand again after Congressman Traficant knew about these matters and didn't raise them the first time, that if the Court is going to entertain letting him possibly call him yet again, that that be done in a voir dire to make sure that these are not inadmissible areas of evidence that would be put in front of this jury, particularly because of what the Court heard from Mr. Hudach the other day, which inevitably will probably come out at some point during his examination if it's not done by voir dire.

MR. TRAFICANT: It will not come out, and let me say this --

THE COURT: But what you're both -- -- what you're both discussing is a mystery to me --

MR. TRAFICANT: Let me respond. There are assumptions being made by the prosecutor I take offense and object to.

THE COURT: Let me ask you, apparently there are two items here. One is about Cafaro and the other one is about an investigation related to this case.

MR. TRAFICANT: To my trial, my personal trial here that I face.

THE COURT: Okay. Talk to me first about the Cafaro situation.

MR. TRAFICANT: It deals with an analysis and summary of the boat survey relative to testimony that's been granted, and I think we should voir dire him. He is a private investigator, was engaged by me, as was Mr. Robertson, to look at two elements.

The only reason we stopped that day is you cut it off on the Kerchum incident, and he spoke only relative to Kerchum.

THE COURT: But tell me a little more about the Cafaro part, about the boat.

MR. TRAFICANT: The boat and the survey and the analysis of that, and, in fact, speaking to the issues of the boat and the survey and the annualization of that survey.

THE COURT: Okay.

MR. TRAFICANT: As a part of my defense.

THE COURT: Okay. Now, how is this investigation related to this case issue? Because we did cover some of that in the voir dire.

MR. TRAFICANT: No. We have admitted evidence in it, but I have not had a chance to totally get

at that since I only had a chance at government witnesses, and they have testified, relative to the boat survey. And I've asked --

THE COURT: Move off the boat survey for a minute.

MR. TRAFICANT: The other one deals with physical fingerprint evidence. I asked him to do a summary report since he has done such in forensic cases for the years, and had done some reporting relative to it.

THE COURT: Tell me a little bit more about this. So this investigator has done a physical --

MR. TRAFICANT: He has reviewed the documents --

THE COURT: But what do you mean by physical fingerprint evidence? I don't understand --

MR. TRAFICANT: No. He's not a fingerprint expert. He is going to discuss the analysis of recommendations relative to physical evidence regarding fingerprints.

THE COURT: Congressman, that would be totally irrelevant.

MR. TRAFICANT: That would not.

THE COURT: We don't have any issue of fingerprints in this case.

MR. TRAFICANT: The government stipulated

they had no fingerprint evidence, and I want it put on the board, I want the record and want the FBI analysis statement included in this record, and I want Mr. Hudach to testify to it.

THE COURT: There is no fingerprint evidence in this case, Congressman.

MR. TRAFICANT: Well, this is the point: I want the FBI report made a part of the record. Now, I'll let him talk about the boat --

THE COURT: What FBI report?

MR. TRAFICANT: There was an FBI report given to me on discovery of fingerprint analysis. You chose not to use it. I can produce it.

Do you want me to produce it?

THE COURT: Yes. Pull it out right now.

MR. TRAFICANT: I'll have to go find it.

MR. MORFORD: The report says there were no prints that matched Congressman Traficant on any of --

MR. TRAFICANT: So you admit there was a report.

MR. MORFORD: No. We had -- it wasn't a report. It was a report to say that as to these documents, Congressman Traficant's fingerprints aren't on any of them, which we had took testimony and Agent Bushner testified about that.

MR. TRAFICANT: Here is the report. It is labeled JT-1007, parentheses A A.

THE COURT: And does it say your fingerprints were analyzed?

MR. TRAFICANT: It says my fingerprints were not only analyzed, it is an extensive document that was turned over to me on discovery, and I have a defense right to introduce it. Why did they give it to me?

THE COURT: Okay. For the record, this is JT-1007.

MR. TRAFICANT: Parentheses double capital A.

THE COURT: Parentheses double capital A. And this is quite a long series of pages. Let me see if I can tell what it is.

MR. TRAFICANT: I surely didn't get it. Now, I believe my defense will be maligned, harmed --

THE COURT: Hold on. Let's look at what we have.

MR. TRAFICANT: It was given to me in discovery. It's eligible for me to be used. If they didn't plan to use it, they shouldn't have introduced it and given it to me.

THE COURT: Congressman, stop commenting. Just a minute. It appears to be about 17 pages long, and it has stars throughout and some notes on some of these

documents. I don't know what the stars have to do with --

MR. TRAFICANT: That could be a work product. He has a salient product, and I'm only interested in the analysis of it.

THE COURT: Okay. You recognize what this document is. Can you respond to this document?

MR. MORFORD: Yes, Your Honor.

THE COURT: Which is the one he wants to use with this witness.

MR. MORFORD: This document is the out-of-court statement of an FBI lab agent in Washington who was given -- please, sir, would you go stand over there?

THE COURT: Congressman --

MR. TRAFICANT: I don't want to miss his words.

THE COURT: Congressman, come on. Just go over and have a seat like everybody does in a courtroom. Just sit down. You're not talking right now.

MR. MORFORD: As I was saying, Your Honor, this report was done because there were certain items that were submitted to the FBI lab to check for fingerprints, and if you will recall, Agent Bushner testified about that. There was the money and the envelopes and the three notes that were obtained from Allen Sinclair, and there was

the --

THE COURT: Yes, but no fingerprints of this defendant came up on any of that.

MR. MORFORD: Exactly. And then there was also a document, the handwritten list from the Buccis that was sent, and in order to send it they had to send the entire file. And the lab -- I got the entire file fingerprinted, every document in the file, and the report that came back was there were no fingerprints of anyone on any of the money. There were no fingerprints of anyone on any of the burned envelopes. There were no fingerprints of anyone on the letters, but there was no fingerprints of Congressman Traficant whatsoever.

That report was given to Congressman Traficant so that he would know that fact in case he wanted to argue, as he's chosen to do in this case, that his fingerprint is not on anything. So we gave it to him so he would know that, and we gave it to him far in advance of trial.

THE COURT: Right.

MR. MORFORD: Apparently he misunderstood what the report said because immediately upon receiving the report, he filed a motion asking the Court to exclude fingerprint evidence in this case, as you will recall.

THE COURT: Right.

MR. MORFORD: And we then --

MR. TRAFICANT: Which was withdrawn.

THE COURT: Yes. It was withdrawn, I think.

MR. MORFORD: And we went ahead despite the fact he seemed to think there was fingerprint evidence, and we had Agent Bushner candidly testify that his fingerprints were not on any of the documents. And so this is, number one, not relevant; number two, it's hearsay, and therefore, it's not admissible.

MR. TRAFICANT: Now, let me respond. Number one, this is a total misrepresentation. I never looked at their evidence because I know they have no evidence. I have never even opened the box. I found this because this was the subject that they had cash with fingerprints.

I immediately acted, figuring the government has tremendous technology --

THE COURT: There has not been any evidence that cash --

MR. TRAFICANT: Yes, there has.

THE COURT: Congressman, there has not been.

MR. TRAFICANT: Please let me speak.

THE COURT: In this case there is not such evidence.

MR. TRAFICANT: Bushner spoke and said there were no fingerprints.

THE COURT: Right.

MR. TRAFICANT: Now, you're trying to tell me the government didn't send those documents off to try and corroborate some physical evidence against this congressman, that they only sent it off as a happenstance to see if maybe there could be some fun by some laboratory worker?

I have a right to bring it in. They gave it to me on discovery. They sought to seek my fingerprints. It is salient to my defense, and you will be denying me the right to defend myself by not entering this into the trial.

THE COURT: Let's talk about Mr. Hudach now and what in the world he would have --

MR. TRAFICANT: Why don't we voir dire him.

THE COURT: What in the world would he have to do with this FBI --

MR. TRAFICANT: I asked him.

THE COURT: -- hearsay fingerprint?

MR. TRAFICANT: What do you mean "fingerprint"?

THE COURT: Report.

MR. TRAFICANT: Is this a hearsay report or forensic report? Do you want to see it again?

THE COURT: It's both.

MR. TRAFICANT: I want you to look at it again.

THE COURT: I don't need to look at it again.

MR. TRAFICANT: I didn't request it.

THE COURT: No, but you didn't produce this --

MR. TRAFICANT: This is exculpatory for the defendant, and I want to use it.

THE COURT: That's why you got a copy of it.

MR. TRAFICANT: And I want to use it, and I have a right to use it.

THE COURT: You can't use it through this witness.

MR. TRAFICANT: This witness is a private investigator that has analyzed forensic documents over the years and was asked to do that. And you could voir dire him, but for you to deny me the right to bring this into this trial, and to save this from the jury, would taint the process of leaving their paper trail only without corroborative evidence.

They didn't send this because they wanted to know if Ronald McDonald had lunch at Burger King. Come on now. I may be the son of a truck driver, but you know very well that this is exculpatory. It is eligible to be brought into this courtroom, and I want it brought in.

Now, in fact, I do not plan to belabor this. I only asked him to evaluate the summary report. And you allowed

a summary report by a guy who did nothing but add figures, and I'm asking that a summary report of this document be placed on the record in front of this jury, which is my right.

And I am sick and tired of having my people under oath two and three times subject to cross-examination without immunity, subject to perjury, without even a jury hearing them. And that's been 11 times.

THE COURT: Congressman, are you through?

MR. TRAFICANT: No, I'm not.

I want Mr. Hudach to testify about this report that I subpoenaed him to do so. His background clearly is in private investigative work. He is capable of doing so. And I am only asking that one part of this document be reviewed. It is labeled and would be admitted in total, but it will take us not long, because it is only a summary report, and I want it on the record by a person who has done such in other matters.

THE COURT: Thank you.

MR. MORFORD: First of all, Your Honor, this matter is already before the jury because Congressman Traficant did cross-examine Mr. Bushner about the very matters he just argued to the Court. So there hasn't been anything hidden from this jury.

Second of all, this witness just isn't competent to

do what he's asking this witness to do.

And number three, as far as this witness having to come back, the witness had to come back because Congressman Traficant didn't bring this up when he should have when he had him on voir dire earlier in the week.

THE COURT: Thank you.

MR. TRAFICANT: Your Honor, I would like to on the -- I want you to rule first, but I would like to say this: I believe this Court has gone too far in limiting this defense. Now, a sixth grader could read this summary. I've asked a private investigator that has handled a number of forensic documents in capital cases to simply place upon the record his investigation of the report and the summary of the report.

The other element is the boat. But for any reason, if you do not allow this, you will have hurt me and my defense significantly, because what you have here is, you have a bunch of paper that they tried to desperately corroborate and could not corroborate.

Now, let's take a second. Mr. Bushner said they didn't tape me. The boiler room noise was too loud --

THE COURT: Congressman, this may be something you want to argue in closing argument.

MR. TRAFICANT: No. This is something I want on evidence.

THE COURT: Well, this is something --

MR. TRAFICANT: I want the jury to see this.

THE COURT: Yes, I understand what you have in your hand that you want the jury to see, but the remarks you're making are not necessary for me to rule.

MR. TRAFICANT: Okay, fine. But let me say this: I believe I am in my right, having received exculpatory documents from the government, that I was absolutely shocked to find they had no fingerprints, because I've never looked at their evidence because I know they have none.

But having said that, I then took it upon myself to analyze the fingerprint process. This odd lot is only one page of a lengthy document --

THE COURT: Which page is it you're holding in your hand?

MR. TRAFICANT: This is the final page that gives the summary conclusive remarks. Now, I can get you the whole document. They listed every single thing, and I ask for a five-minute break to produce said document right now before you rule on this.

THE COURT: What document are you talking about?

MR. TRAFICANT: All I have is the last page. I want to show you that they gave every single item they

wanted analyzed in this report. All I'm attempting to bring in --

THE COURT: Which page is that?

MR. TRAFICANT: That is the last page. It's the conclusion of their summary.

THE COURT: Look at this page, would you?

MR. TRAFICANT: I want to produce the full, entire document.

THE COURT: I thought you had the full. Entire document.

MR. TRAFICANT: No, that is the boat. I was only dealing with this one page. I will go get it and bring it to this Court, and I ask leave for five minutes to do such.

THE COURT: Apparently, the document that I was handed that I identified as having many pages, the record should reflect, is not the same thing that the Congressman is walking around with.

MR. TRAFICANT: No.

THE COURT: I'll tell you what we'll do --

MR. TRAFICANT: The survey was admitted into evidence, Your Honor.

THE COURT: Well, I understand. That's the survey.

MR. TRAFICANT: But it deals with testimony

of Lange and Cafaro.

THE COURT: No. I understand the survey is a separate thing, but I think what we'd better do is take a break and get the exhibits that you're trying to use for this witness organized.

MR. TRAFICANT: Thank you.

THE COURT: I don't know if you need five minutes. How far away is this document?

MR. TRAFICANT: I don't need five minutes. I'll go get the document.

THE COURT: That would be a good idea.

MR. TRAFICANT: I would appreciate it if there be no conversation when I am henceforth removed from said presence.

(The defendant left the courtroom and subsequently returned.)

THE COURT: Anybody who wants to can stand up and stretch. This will take just a few minutes.

MR. TRAFICANT: Your Honor, can I release these originals or must they be kept, TC-10, to the company or must they be returned after the trial?

THE COURT: Congressman, the whole issue of exhibits depends on what's admitted into evidence, and those haven't even been offered yet, and we'll discuss that later.

Let's deal now with this issue of your witnesses.

MR. TRAFICANT: Your Honor, I have to look through -- I do not believe that I brought that entire document. I'm looking for it.

THE COURT: Let me ask you about this entire document.

MR. TRAFICANT: Well, let me say this though.

THE COURT: Wait. Wait a minute. Is it the FBI report? Is that the entire document you're looking for?

MR. TRAFICANT: This result of examination though lists everything that was in the report, and I'd like to read it for the record.

THE COURT: Well, don't read it yet. That's the first page of something.

MR. TRAFICANT: No. This is the last page.

THE COURT: The last page, I'm sorry. You said that.

MR. TRAFICANT: But it shows everything they examined.

THE COURT: Okay. But it's from the FBI report from the lab about fingerprints? Is that --

MR. TRAFICANT: Yes.

THE COURT: -- the same thing?

MR. TRAFICANT: Yes.

THE COURT: Congressman, it's hearsay. It's hearsay.

MR. TRAFICANT: Your Honor --

THE COURT: You can't use it.

MR. TRAFICANT: If my fingerprint was on this, this wouldn't be hearsay. This would be evidence.

THE COURT: Your fingerprint isn't on anything.

MR. TRAFICANT: Well, that's why I want to put it on the record. Are you denying me that right?

THE COURT: There is no issue that there was testimony on --

MR. TRAFICANT: I now ask it be proffered into the record and I read it in the record.

THE COURT: You can do that later on after 4:30.

MR. TRAFICANT: I ask we do it now.

THE COURT: Well, you can't do it now.

MR. TRAFICANT: Let me go on to the boat survey.

THE COURT: It's already in evidence. You may not call this witness. The boat survey, it is AL-101. It is in evidence in the case.

MR. TRAFICANT: You are denying me the right to impeach the testimony of J.J. Cafaro, who paid Al Lange's attorney, and this boat survey speaks for itself?

THE COURT: Yes, and it's in evidence, Congressman.

MR. TRAFICANT: And it's in evidence, but it has never been explained from the defense side. Only the Cafaro and Lange testimony --

THE COURT: You can --

MR. TRAFICANT: -- has been allowed in.

THE COURT: You can discuss it in closing argument, Congressman.

MR. TRAFICANT: No, I don't want to discuss it in closing argument. I want the right to bring it in like they did during the trial. Why do you give them that chance to do it without giving me the chance? Especially when it's Cafaro who paid for Lange's testimony?

I've never seen anything like this in my life.

THE COURT: Congressman --

MR. TRAFICANT: Don't call me names.

THE COURT: Neither of those reasons are reasons why you can call this particular witness.

MR. TRAFICANT: Well, then I want to proffer it right now.

THE COURT: No. You can proffer it after the jury has finished their work for the day.

MR. TRAFICANT: You are denying me a fair trial.

THE COURT: You say that all the time, but nonetheless we keep going forward step by step, Congressman, and that's what we're going to do now.

Call your next witness.

MR. TRAFICANT: All I have is a character witness on hand.

THE COURT: Who is that?

MR. TRAFICANT: It's Reverend Bob --

THE COURT: What's his last name? Can you spell it?

MR. TRAFICANT: I think it's S A F F O L D, but I'm not ready to call -- I don't know when character witnesses are necessary, because I have other character witnesses, as well. I'm under the impression I'm allowed to offer to this Court evidence that's exculpatory to a jury, and you are now denying me that right.

THE COURT: I haven't denied you anything. I asked you how to spell his name. Could you tell me how to spell his name? If you don't know, we can ask him.

MR. TRAFICANT: I can't exactly spell his name, no.

THE COURT: Bring in the witness.

MR. MORFORD: Your Honor, before we do that, can we -- I would like to ask the Court if it can review the character evidence rule before we get the witness here

and start getting into all kinds of --

MR. TRAFICANT: Shall we now go to voir diring character witnesses?

THE COURT: No.

MR. TRAFICANT: Let me ask a question.

THE COURT: First of all, I'd like to have the witness come in, take the stand, and we'll see what the witness can testify to.

MR. TRAFICANT: Why don't you let Mr. Hudach in and voir dire him on these issues?

THE COURT: Because it is clear the things you want to inquire of of that particular witness can't be inquired of. If you want to go over character evidence, you can state your -- what you think will be your objections now if you want to say them before he --

MR. TRAFICANT: Hear me.

THE COURT: -- before he talks.

MR. TRAFICANT: I'm not done with my case.

THE COURT: I haven't said you were, but you --

MR. TRAFICANT: But you just eliminated half of my afternoon here. I'm presenting witnesses, and you're denying their testimony. Quite frankly, I'm tired of it. You could at least let me proffer for the record the matters you just struck on.

THE COURT: You can do that after the jury has left for the day.

MR. TRAFICANT: Well, I only have one character witness, and I'd like to bring that character witness on when I close.

THE COURT: Let me see if I can find a short way to talk about this that might help you.

This is just generally on character witnesses, because I'm not sure exactly what you're going to do. But generally, character evidence is irrelevant, and that's why it's not admitted. And it's offered about somebody's propensity to act in conformity or in the same way as whatever the person's character trait is you are trying to elicit.

Now, there are certain times when it becomes an issue, and as far as I can tell in this case, we aren't quite there, but I'll leave that to the government to discuss. We may never get there --

MR. TRAFICANT: You're going to leave it to the government to discuss my case?

THE COURT: No. They can respond to whether or not that's the part of the rule they're concerned with.

But if your character were an essential element of some kind of a claim or defense here, then that might be one of the things we'd have to get into.

MR. TRAFICANT: Why don't you voir dire character witnesses now?

THE COURT: Well, actually I don't think it is necessary.

MR. TRAFICANT: I move for mistrial, that you violated my First Amendment rights, my Sixth Amendment rights, when the Sixth Circuit had not yet approved the jury selection pool --

THE COURT: We've already --

MR. TRAFICANT: -- before I was indicted, number one.

THE COURT: Congressman, it's been --

MR. TRAFICANT: My Sixth Amendment right when you said --

THE COURT: That issue, like many other issues --

MR. TRAFICANT: I have a motion on the floor.

THE COURT: Excuse me. You raise issues over and over again that have already been --

MR. TRAFICANT: These are new issues.

THE COURT: The ones you're talking about now are not.

MR. TRAFICANT: I'm going to raise new issues.

THE COURT: Well, you're going to have to get

your witness in here if you want to put a witness on.

MR. TRAFICANT: I don't want a character witness in here now.

THE COURT: Fine.

MR. TRAFICANT: I'm not done with my case.

THE COURT: Fine. Then call your next witness.

MR. TRAFICANT: I have no more witnesses today.

THE COURT: Congressman, you've been told this over and over.

MR. TRAFICANT: I've had witnesses here, and you've denied them the opportunity to testify. They're afraid of these witnesses and taking no time with them. I provided six witnesses here today. Now, look, I have made a good-faith effort with many people ducking me, being pressured by the government, quite frankly.

THE COURT: We have two hours of jury time ahead of us.

MR. TRAFICANT: Send them home. I'm not done.

THE COURT: I'm not sending this jury home again.

MR. TRAFICANT: I'm not closing. I'm not ready to close.

THE COURT: If you have witnesses, call your witnesses.

MR. TRAFICANT: I call Fred Hudach.

THE COURT: Fred Hudach can't testify in this case. Call your next witness.

MR. TRAFICANT: I call Frederick Hudach.

THE COURT: Do you have any other witnesses you're going to call?

MR. TRAFICANT: I call private investigator, forensic specialist Frederick Hudach.

THE COURT: Frederick Hudach cannot testify on the matters which you apparently want him to testify in this case.

MR. TRAFICANT: Since we have some time then, I would like to read in the summary report now.

THE COURT: We have --

MR. TRAFICANT: And I should be at least allowed that.

THE COURT: You will have a chance to read that into the record, but right now -- who are the other witnesses you have here today?

MR. TRAFICANT: All I have in there is a character witness, and I do not want my character witnesses on until I am ready to close.

THE COURT: Well, you may be close to that.

MR. TRAFICANT: That's my decision, not yours.

THE COURT: It may be your decision, but on the other hand, we have to have witnesses to go before this jury and you know it.

MR. TRAFICANT: I've had witnesses and you've denied them.

THE COURT: If you have a witness here and if you want that witness to testify in this trial, bring that witness in and we'll see whether or not the witness can testify. If you're only bringing him on to testify as to character, there may be a problem with it.

Is that why you're standing?

MR. TRAFICANT: You mean you would voir dire this character witness?

THE COURT: No. I don't need to voir dire him.

MR. SMITH: Your Honor, we don't object to a character witness as long as it's done in conformity with Rule 405(a), that he can solicit a reputation or opinion about a specific trait of relevant character, and that he not go into specific instances of conduct.

Other than that, we have no objection to a character witness being called.

But he jumped up and started yelling.

MR. TRAFICANT: I have other character witnesses I want here.

MR. SMITH: And if he's not going to call a witness though, Your Honor, then I do have a motion to make.

MR. TRAFICANT: You're going to entertain a motion from them and you won't allow me?

THE COURT: No. We're waiting to find out whether now that you've heard that they don't object to your calling a character witness as long as you're calling a character witness about some specific trait, do you want to call your witness? This is your chance to call them.

MR. TRAFICANT: I have other character witnesses, and they're not here, Your Honor.

THE COURT: Yeah. Well, this one is here.

MR. TRAFICANT: I don't want to --

THE COURT: He may be right outside the door.

MR. TRAFICANT: I don't want to be entertaining any other motions today. I'll close when I'm ready to close, and I'm sure as hell not going to close on a motion from a U.S. Attorney's Office.

THE COURT: Well, how about if instead of worrying about that, you look -- we've got the door ready to open on your character witness, and apparently the government is not going to have any problems if you go in

conformity with the rules.

MR. TRAFICANT: Bring the jury in. I'm not bringing any more witnesses out without a jury. That's it.

THE COURT: We can bring him in and we'll bring the jury in at the same time.

MR. MORFORD: I do ask that he be ordered not to call Fred Hudach in front of the jury.

THE COURT: Well, he's not going to call Fred Hudach. It's abundantly clear.

MR. TRAFICANT: I would urge you to ask the prosecution to get over their paranoia.

THE COURT: You can bring the witness in and you can bring the jury in.

(Jury in at 2:33 p.m.)

THE COURT: If you will come around this way, please. Around behind this way and all the way up the steps. Thank you, sir.

Would you raise your right hand, please?

(The Witness is Sworn)

DIRECT EXAMINATION OF ROBERT EARL SAFFOLD

BY MR. TRAFICANT:

Q. Good afternoon, Reverend Bob.

A. Good afternoon, Congressman.

Q. Would you please give your full name and spell your last name for the jury?

A. My name is Robert Earl Saffold, S A F F O L D. I prefer to be called Brother Bob, not just because I'm a preacher, but I try to be a real brother to all men and women.

Q. And why were you subpoenaed to testify here?

A. Because I called your office and talked to someone there, I believe it was Mr. Marchese, who is a former fellow firefighter of mine some 25 or 30 years ago in Warren, Ohio, and I know he's a member of your staff. I hadn't talked to Dominic in probably ten years.

And I've been reading the paper and following some of the activities within this Court, and I felt moved to give you a call so I could come and testify on your behalf as a character witness in terms of my knowledge of you as a person and the political activities you've been involved in for the last, I guess, 18 to 20 years that I'm aware of.

Q. Well, let's start out a little bit about you and give us some of your background. You now currently have a ministry?

A. Yes, I do.

Q. And what is that ministry?

A. It is Nazareth missions. It is an alcohol/drug abuse ministry and a prison ministry.

At one time I was the project manager and resident

manager of an alcohol and drug abuse treatment center, 24-hour residential treatment center here in Trumbull County -- I'm sorry, here in Cuyahoga County, here in Cleveland.

Also at the prison ministry, I've been involved since 1977, and I've visited various prisons from Attica to Fort Leavenworth over the last 20, 25 years.

Q. Well, you're not here thinking of me going to jail so you can counsel me, are you?

A. I would hope not. I would hope I can continue to counsel you outside of jail like we had prayer this morning. You don't have to go to jail to do that.

Q. Do you have any other background dealing with youth and other activities?

A. Well, as you know, I'm a former amateur boxing trainer. As a matter of fact, I trained two young men who won national amateur championships, and both of them went to the world championships, including Ernie Shavers, who fought for the heavy weight championship twice in Trumbull County, and his cousin, Randy Stevens, from Trumbull County. They both fought world championship fights.

That was during my amateur boxing career as a trainer.

Q. You were also a trainer then?

A. That's what I did.

Since then I've been inactive in boxing over the years. As a matter of fact, I'm the only African American to ever sit on the National Boxing Hall of Fame Board of Directors up in New York.

I serve as a consultant to the Ohio Athletic Commission, which is the boxing commission for the state of Ohio.

Q. You weren't involved as a trainer with the famous Ali-Shavers fight, were you?

A. No, I wasn't involved at that time, but if I would have been Shavers' trainer, he would have knocked Ali out. As some of you might recall, Ali said he had him out on his feet, but Ernie was not as aggressive as he should have been when I taught him.

Q. He was a ropa-doper?

A. No -- well, he was apprehensive about the ropa-dopes. I didn't know you know about boxing. I thought you was a football player.

Q. We're here to talk a little bit about me. What are some of the traits that you are to state about me that you know about me?

A. Congressman, the first time I heard about you, I think it was the mid '70s, and at that time you was running a drug treatment program. And some of my former proteges, amateur boxers, had been involved in your program, and you

were in Mahoning County and I was in Trumbull County.

And they used to come back talking about this guy, J.T., who related to the brothers, quote, unquote. And that was my first hearing about you.

And the first time I really met you was in 1984, when you was running for Congress against Lyle Williams.

Q. And who were you supporting in that race?

A. At the time I was supporting Lyle Williams.

Q. Were you being paid?

A. I was a paid consultant for Lyle Williams, even though I was a good Democrat and Lyle was a Republican, but I had known Lyle when he was a barber, before he became a County Commissioner over in Trumbull County politics, but I supported Lyle because I really knew him and I didn't know you. I knew about you. And what I had known about you was good, but I knew Lyle personally.

And as a matter of fact, you spoke -- I spoke for Lyle at a black church in Warren, Ohio, because Lyle couldn't make the appearance, and you held your own against me in my own town. And after the election you and I talked. I mean after that meeting, you and I talked, and I became very respectful of you, the way you handled yourself.

And that's one of the reasons I'm here today. You've been always a champion of all people, irrespective of race,

ethnicity, color or what have you. And I've admired that trait in you. And coming from a basically labor background before I got in business, as you know, I was active with the UAW union out of Lordstown when they first opened up out there, and I know how the various union officials, and so forth, always endorse you, because you were the champion of the people.

And I admire you. I've been reading with some mixed emotion some of the newspaper articles that have been printed the last few days, and where you have been depicted as something other than what you are.

I know you to be an intelligent, assertive, very aggressive person who's been a champion, and a lot of folks looking at you in this situation and still has the great admiration for you.

I have not seen anything or read anything that would prove you guilty of some of the things you've been charged with because I haven't seen any evidence, I haven't seen anything shown or demonstrated.

So I think I speak for a lot of folks, and I haven't lived in the Youngstown/Warren area for 20 years. I have been in Cleveland. I can be at my mother's home from Shaker Heights and be there in an hour. I'm down there every week.

Q. Did I call you as a character witness?

A. No, you didn't.
Q. You offered yourself?
A. Yes, I did. I am president of the Ohio Minority Contractors Association. That is a minority business advocacy group located in Columbus, Ohio.

I manage everything out of my home, between my computer and fax and telephone, if you ever see my phone bills out of Shaker Heights. But I'm usually in Columbus on Thursdays, where I do my Columbus business. I'm a registered lobbyist, has been since 1975, representing minority female businesses from around the state of Ohio.

Ohio has the best minority business law in the United States of America. Sandra Day O'Connor in a minority opinion in 1969 said if all the governments, be they local, state or federal governments, if they model their programs after the state of Ohio, they will withstand any kind of constitutional challenge.

As you know, there has been challenge, but the Supreme Court in Ohio in their own wisdom, they don't overturn the Federal Court's, District Court's decision, but the District Court ruled against minority business in the construction end, but in Ohio, we are unique because we have a construction and a goods and services program.

So the state, the District Court, Federal Court in Columbus, ruled against our construction portion,

but they did not deal with the goods and services, so as a result we still have the goods and services program in the state of Ohio where 15 cents of every dollar has to be directed to minority business.

I know you, I read in the paper this past week, where Congressman Traficant has the best record of any congressional district in Ohio in terms of providing opportunity for small businesses. Not minority businesses, but small businesses. And my own Congress person, Stephanie Tubbs Jones, her own record pales in relation to yours. And this is around the state. I think you're to be commended for that.

You've always been a champion of all people, and not just people of Italian extraction, so to speak. But you've been a champion for black people and white people and women and children, and I know your advocacy, and I appreciate that.

Q. Are you familiar with any of the actions I've taken as sheriff?

A. I can recall back, I guess it must have been early to mid-'80s when you was a sheriff in Mahoning County --

MR. MORFORD: Your Honor --

A. Where there was a lot of people had been evicted out of their homes.

MR. MORFORD: Your Honor?

THE COURT: We can't -- one of the things we can't get into, because this is about character evidence, this testimony is about character evidence, and this case doesn't have anything to do with when this gentleman was a sheriff. So we can't get into that.

MR. TRAFICANT: Does my actions --

THE WITNESS: Judge, when he was put in jail by the --

THE COURT: We can't get into that. I'm telling you we can't get into it here. It wouldn't follow the rules that we all observe while we're here to get into something like that. It's what we call irrelevant. But it also makes it difficult for the men and women who have to listen to things that -- to the evidence in this case and make their decision based on the evidence if we have to constantly go back and say that we can't handle certain things or can't put it in front of them.

Now, when he was sheriff won't be relevant here.

MR. TRAFICANT: Your Honor --

MR. MORFORD: Your Honor --

THE COURT: Excuse me.

MR. MORFORD: If I could just state my objection, and that is we do not object to his opinion evidence as to character traits that are relevant to the case, but we would have an ongoing objection to any

specific instances of conduct because the rules don't allow it.

THE COURT: The rules don't permit it, so we can't talk about specific examples about -- what you've been talking about up to now is fine.

BY MR. TRAFICANT:

Q. Were you impressed with my character traits in the early '80s?

A. Absolutely. In the '90s, too. In 1992, after living in Syracuse, New York for six years, I came back, moved to Syracuse from Cleveland, got married, got divorced and came back home.

On my way back through to Cleveland I stopped off in Trumbull County for approximately a year trying to determine which way I was going to go. You can always go home, but you don't run away, and I don't run out of Trumbull County, so I came back to Warren.

While I was there, it was during the election period around this time, and the Republicans had put in the paper they wanted any Republican or independent candidates to come out to see about maybe getting an endorsement for running for office.

I had run for Trumbull County Commissioner in 1970, and I ran as a Democrat. I ran third out of five candidates with two to be nominated.

I missed getting the Democrat nomination on my side by 113 votes. At the time Trumbull was -- Warren was the county seat. And Warren's population was about 17 percent minority, and the county was only about 5 percent. So I didn't run as an African American candidate. I ran as a person who was capable of performing because I had been the human relations director in Trumbull County, which was kind of the go-between for the black folks and white folks in Trumbull County.

Trumbull County was the first county in America to have a human relations commission, and to the credit of Bob Hagan, who you remember -- some of you Cleveland folks might remember Robert Hagan, Sr. -- and Gary Thompson was another person, another person by the name of Bill Klee, in their wisdom they decided we needed someone to act as maybe a liaison between the black community and the white community because we just had a major riot with kids, the kids at Warren -- the children, the kids called it an insurrection, but the establishment, the media called it a riot at Warren Harding Junior High School in 1968.

I didn't have my car. The fire department drove out that day, but I drove my fire truck up to the high school and most of the kids knew me, and they allowed me to bring the things to a head.

So after seven years at the fire department, the city fathers said we need somebody to keep these kids in check. So they asked me if I would resign from the fire department, where I was the first and only black firefighter, to become the first department head in Trumbull County government --

MR. MORFORD: Your Honor, could I object, please?

A. -- on the human relations commission.

THE COURT: This is helpful evidence about you, sir, but we need to have evidence about this man.

THE WITNESS: I'm bringing it back to --

THE COURT: I figured you were bringing in the background.

MR. MORFORD: Your Honor, I would just ask we keep it to opinion as a character witness.

THE WITNESS: Right. I would hope -- I'm not running for anything, and I would hope when I'm talking about what I said, establishing my character in terms of my background so that you know I'm serious what I'm talking about, and talking about me, I hope I can relate to Congressman Traficant in terms of my relationship to him and how I know him.

As he mentioned, one of the questions was in terms of my supporting, at the time I was a Democrat, Congressman

Lyle Williams for that office against you, and he was the incumbent. But you beat him that year. But in your victory you were very modest, and I think, I believe you are still a friend of former Congressman Lyle Williams, who is a personal friend of mine now.

As a matter of fact, he had told me one of the reasons that he was not going to run for Congress this year in that area, his home area, was because out of respect for you. And he's still a good Republican. I don't know what you are. But whatever you are, you're good people, and I can appreciate that.

Mr. Traficant, I can recall back in 1984, I believe it was, when Jessie Jackson was running for president --

MR. MORFORD: Your Honor, I'm going to object to the specific instances. He can only testify to his opinion of his character.

THE COURT: We can't talk about specific instances.

The rule does not permit it on direct examination, and we'll have to interrupt you.

THE WITNESS: Okay. I appreciate that.

BY MR. TRAFICANT:

Q. Let's talk about the time you came to me with a request relative to an issue of concern you had.

A. Okay.

THE COURT: That would be a specific instance, just exactly what we can't get into here.

Q. Well, it dealt with --

A. Could I say this? In terms of --

THE COURT: No, no, you can't say anything right now. Just a minute until I listen to what the Congressman is saying.

Q. Did you ever seek my help?

MR. MORFORD: Your Honor, I'm going to object.

THE COURT: That's a specific instance. We can't talk about that.

MR. MORFORD: I would like to object to any questions that don't go directly to this man's opinion of a relevant character trait of Congressman Traficant, period.

THE COURT: Okay.

Q. Reverend, Brother Bob, if you could in your own words, after hearing the Judge and the prosecutor, could you put in your words what your character analysis of me is?

A. I believe you are honest, I believe you're fair, I believe you're objective. You're certainly subjective by the positions and stances you've taken. I've followed most of your political career since you've been involved, and you took some very, very unpopular stances against a lot of

issues, but for the most part, I believed in. If I was going to decide to run for office tomorrow, I'm not sure if I'd run as a Republican, probably not a Democrat, but I'm not sure if I'd run for Republican or Independent.

And I understand that you have said you're going to run as an Independent because you are an independent person. And I don't believe you could be bought, I don't believe you could be threatened, I don't believe you could be intimidated. I know you'd be a fair and just person, and I know about the millions and millions and probably billions of dollars you've brought to the Mahoning Valley, and I can't --

MR. MORFORD: Objection. Again, we're getting back into specifics.

THE COURT: We're getting into specific instances. It's a long list there.

A. But I know the good that you've done to a lot of folks individually in the community as a whole. And I can't think, I can't recall ever reading or hearing of one incident where you've hurt anybody. I have not heard that. And just like I said, even though I live in Cleveland, I'm in Warren, Trumbull County at least once a week. I go down and visit and spend the night with my 87 year old mother and I spend the night, and I get the Youngstown Vinicator and the Warren Tribune.

MR. MORFORD: Objection to specific acts, Your Honor.

THE WITNESS: I don't know of any.

THE COURT: That's good.

A. And, again, I'm an admirer of yours.

Q. Don't stop now. Keep going.

A. Right on. I can say that. I can. I'm 60 years old and I can say that. I used to be a boxer. You're a football player, but you're a fighter. I think that's been demonstrated in this courtroom.

I will have to say this: I have to say I've kind of watched from afar some of the decorum here, and I have to be respectful and appreciative of the Judge --

MR. MORFORD: Your Honor, I would object to this.

A. -- and the way she has handled herself and the information I get from the community, how she has kind of gone overboard to allow you to do some things.

THE COURT: Well --

A. And I think she is to be commended for that.

THE COURT: Thank you very much, but this is about his character.

Q. You could be wrong about her, too, couldn't you?

A. Well, I could be. I'm not perfect. I'm just appreciative. My name ain't Jesus. It is B-O-B, Brother

Bob. So I could have my --

Q. Do we share common interests?

A. Yes. If I could say what it is, I think it is our concern about people, all people, be they tall or short, fat or thin, dark or light. And I really believe that, you know, from what I know about you, and I've known some of your staff that has worked for you in the past, they share that same feeling. And to me, you know, I think you've been maligned unreasonably.

I've got some political background myself. I know you're a servant, you're a true servant of the people. Like the prosecutors and the Judge and the jury here now, they're servants. They are to be commended for what they've gone through these last few weeks.

I don't envy you. I think I've done everything but served on a jury, but I really don't envy these seven, eight, nine weeks they've been here.

But I think you credited yourself. I don't like your approach, some of the language you use, you know. I had to chastise you back in the room. I don't appreciate it. But you made your points, and I understand it. And if there's anything I can do to help you in your ability to help some other folks, I would do that.

And there's nothing in my background that would lend itself to say I don't mean what I say. And I

think again this trial --

THE COURT: Don't talk about this trial.

THE WITNESS: This trial -- okay.

THE COURT: Don't talk about this trial. These jurors have a lot of responsibility here.

THE WITNESS: They sure do, and I don't envy them.

THE COURT: Let's leave it at that. Thank you.

Q. Do you like the trait that I'm a fashion leader?

A. Well, you're not a Beau Brummell. You're certainly not that. But I don't think the clothes make the man. You don't see me here with a collar. That doesn't make the person, the fashion. It's about what you do. It's not what you say; it's about what you do.

Q. But our lives have intertwined through narcotics treatment --

MR. MORFORD: Your Honor, I object. We're getting back into specific acts. This is a limited character witnesses, and he has stated his opinion.

THE COURT: Thank you.

A. I know, and I read somewhere that you was a farmer.

THE COURT: There's no question in front of you yet.

THE WITNESS: Okay. That's all right.

THE COURT: Okay.

Q. Do you believe that I would, with intent, murder someone?

MR. MORFORD: Objection.

THE COURT: This is really the kind of question you shouldn't try to answer here in the courtroom, and it's certainly not relevant in this case.

Q. Are you concerned about me? Are you concerned about me, Brother Bob?

A. I'm very concerned about you, Congressman. There's not many of us left who really, really truly feel for people. It's almost a lost trait. And I'm 66 years young.

THE COURT: That's a very good age, sir.

(Laughter.)

THE WITNESS: It is. It really is.

MR. TRAFICANT: Is that a stipulation by the Court?

THE COURT: I'll stipulate to that. Yes.

THE WITNESS: Very good.

MR. TRAFICANT: I must stipulate that we measured you to be about 39, Your Honor.

THE COURT: Anyway, this has been a nice, long testimony.

THE WITNESS: Yes.

BY MR. TRAFICANT:

Q. Anything specifically about my character in addition to what you've said, Brother Bob, that could help me defeat these bureaucrats?

A. Well, I just want to see you get justice. I want to -- I don't want to see you defeating anybody. If the jury, in their wisdom, and the Judge find you not guilty, it won't be a defeat for Mr. Morford and his group or the Court, or the state, or the government. It will be a victory for the people, because I truly believe you represent people.

And you don't see a lot of that, folks standing up and really, really representing the down-trodden and the dispossessed, the minorities, and the poor. But you've demonstrated, in the 18 to 20 years I've known you, you've demonstrated that type of appeal, not only through your words but through your actions.

You've taken some unpopular positions, and all of them I have not agreed with, but no one has to worry about Jim Traficant, what side he's on or where he's at, even in the political arena.

We come from a primarily, a so-called Democrat community down in Mahoning Valley.

MR. MORFORD: Your Honor, I'm going to object. We're so far away from what the rules allow.

MR. TRAFICANT: I object to this

jack-in-the-box jumping objector here.

THE COURT: We can't get into specific things, and you've given us a lot of testimony.

THE WITNESS: I'm giving you a range, I believe. I don't believe I said anything specific in terms of what he actually did. I'm talking about what's representative of the ideas that Mr. Traficant has promulgated, to my knowledge.

THE COURT: Right. But as you know, you're getting awful close in stepping over some lines about what this jury has to do, and it's their responsibility and they're up to it. So we're talking about the traits, that's fine, but not anything else.

Q. Did you predict that Ernest Shavers would some day be a world champion?

A. I didn't predict it, but Archie Moore did, who was a former world champion himself, who is a business associate of mine.

Q. Whom did you predict would be a world champion as a sparring partner of Mohammed Ali or Ernie Shavers?

A. Probably Larry Holmes, who was the sparring partner, who became a world champion, but he was a sparring partner to Ali and Ernie Shavers.

Q. You've known people all over the world, haven't you, Brother Bob?

A. Well, I'm probably -- I think I mentioned earlier, I'm the only African American to ever sit on the International Boxing Hall of Fame Board of Directors up in New York.

THE COURT: Okay, Congressman. We can't go back over the same ground.

MR. TRAFICANT: I was trying to. I was trying to get everything good I could.

THE COURT: I know.

A. But if you want to say about the world, the Kofi Anon, he's head of the United Nations of the land, I met him about 11 years ago when he was the fourth man on the ladder in New York. One of his countrymen or a cousin of his was a former business associate of mine. He is a publisher in a newspaper in Syracuse, New York, and I had a chance to visit the United Nations, and that was some experience. If you haven't done that, that's an experience.

THE COURT: Okay. Well, we can't spend any more time talking about that right now.

Q. You can only restrict yourself to my character.

A. To my knowledge, to my knowledge, you're an honest, upstanding American. And I can't think of any person that I know personally that has demonstrated the characteristics and traits that Jim Traficant has as being a truly, truly

an American hero. And I've known people from various stratas of life, from business to industry to labor to religion, but you are truly an American hero.

And I don't look up to anybody. I don't even like people to call me reverend, because my dad told me don't revere no man. When you revere a man, you bow to them.

I prefer minister because I try to minister to the needs of people. But you are a minister in your own right in government, and you have truly ministered to people to the extent I'm aware of.

Q. Have I paid you to come here?

A. You couldn't pay me to say what I'm saying. No one else could either.

Q. But you accepted that money from Lyle Williams?

A. Yes, I did, because that was my business. But I'm not here doing business. This is a public service for us, for the Court, for this land. I knows this case is going to be looked upon from around the country. People will be looking at you.

MR. MORFORD: Objection.

THE COURT: Whoa, whoa, whoa. This is just this case.

A. And I'm concerned that a message is going to go out around this country.

THE COURT: I need you not to be talking about that right now, because it's not anything really that anybody could have an idea about.

THE WITNESS: I appreciate that, Judge.

THE COURT: We're still working on this case.

THE WITNESS: I understand.

THE COURT: Thank you.

THE WITNESS: And I appreciate that. I really do.

THE COURT: Thank you.

Q. Brother Bob, you know I've been charged with very serious crimes.

A. So I've read.

Q. And you still believe in me?

A. I still believe in you. And I believe with you, until I've been shown something.

MR. MORFORD: Your Honor, I object to anything further on this.

THE COURT: Okay. Congressman?

MR. TRAFICANT: Brother Bob, thank you for offering yourself to me, which I did not expect, and I thank you for coming down here and taking your time out of your life.

THE WITNESS: I thank the Court for allowing me.

MR. TRAFICANT: I now conclude my examination.

THE COURT: Thank you.

MR. MORFORD: No questions, Your Honor.

THE COURT: You can step down, sir. Be careful going down the steps because they're strangely built.

THE WITNESS: Thank you.

THE COURT: Okay.

MR. TRAFICANT: Take care, Brother Bob.

THE WITNESS: Thank you.

(Witness excused.)

MR. TRAFICANT: Your Honor, I have called for another witness, and it's possible that witness could be there. I'd like to check.

THE COURT: Okay. I think we also could take an afternoon break right about now. So you can check on that. We'll take a 30-minute break and we'll be back.

THE CLERK: All rise for the jury.

(Jury out at 3:06 p.m.)

(Recess had.)

(Jury in at 3:59 p.m.)

MR. TRAFICANT: Your Honor, I call Edward Nishnic to the stand.

THE COURT: Thank you.

MR. TRAFICANT: Right through here, Ed.

THE WITNESS: Good afternoon, Your Honor.

THE COURT: Good afternoon.

(The Witness is Sworn)

THE COURT: Have a seat. Speak up, because it's a big room with a high ceiling, so everyone can hear you.

THE WITNESS: Thank you.

DIRECT EXAMINATION OF EDWARD W. NISHNIC

BY MR. TRAFICANT:

Q. Good afternoon, Ed.

A. Good afternoon, Congressman.

Q. Will you give your full name and spell your last name for the jury?

A. My full name is Edward, middle initial W, last name N I S H N I C.

Q. And where do you reside?

THE WITNESS: May I have some water?

THE COURT: Yes. Just go ahead and pour it.

Q. Take your time?

A. I live in North Royalton, Ohio.

Q. And what is your employment?

A. I am a technical recruiter in engineering.

Q. And what is your educational background?

A. I graduated from James Ford Rhodes High School, and

I've attended courses at Cuyahoga Community College, and that's pretty much the extent of it. Kind of like a Rhodes scholar, Rhodes High School.

Q. And how long have you lived in the Cleveland area?

A. 45 years.

Q. And how old are you?

A. 46.

Q. Where were you born?

A. I was born in Cleveland, Ohio, at Lutheran Hospital.

Q. Well, if you're 46 years old and you've only lived here 45 years and you were born in Cleveland, what happened? Did you miss a year somewhere?

A. I lived in Massachusetts for about one year.

Q. What is the purpose of your being here today?

A. To basically testify as a character witness of my experience with you and to your character as I know it to be from a personal point of view.

Q. Did I call you or did you call me?

A. I came to visit you today because I was downtown, just to tell you good luck, and said if there's anything that I could possibly do, that I would be happy to do so.

Q. Is that how you're here?

A. Yes. I was called, and the lady who called me said that they'd like me to come in, and they have a subpoena, and I said I would be down here within a half of an hour.

Q. How did you come to meet me?

A. Well, I believe I first met you back in 1992 or '93. My father-in-law was extradited to the state of Israel by the United States, and he was sentenced to death by hanging for being Ivan the Terrible.

And at the time that he was under a death sentence, we tried to get help from anyone that we could that would look into this case and try to help us get to the truth and establish the truth.

I went to Washington, D.C. and lobbied extensively, going door to door to door, to ^ all -- the Rayburn Building, Cannon Building, just about every single senator and congressman that I could go to, and really couldn't get anyone to speak with me about the case, including your own office at my first visit.

I came back at the end of the day and asked one of your staff people if you would just please allow me five minutes of your time, and I'd like to show you some information that I had, and to see if you could help us at least get to the truth of this case, as I believed fully that my father-in-law was not Ivan the Terrible.

And I had information with me that we got from the garbage dumpsters of the Justice Department, and it kind of led the way to me -- you helping me out, when you started looking at those documents.

Q. What, if anything, were you told?

A. Well --

MR. MORFORD: Your Honor, I'm going to object to anything further other than how they met, the relationship got started, and then specific questions, what do you believe my character trait is as to truthfulness or something that would be relevant to the issues in this case.

THE COURT: Right. This is a kind of inquiry which is permitted not as to any kind of specific instances of conduct, but rather to reputation and opinion. And you've talked about sort of the basis for how you have that, and now it would be appropriate for you to talk about reputation and opinion character evidence from there, but not get into specific instances of conduct.

The rules don't permit it, and it would be improper. The jury would then consider things they shouldn't consider.

MR. MORFORD: Your Honor, I would also ask that Congressman Traficant ask about specific character traits, so if they're not relevant, we can object as opposed to just an open-ended question.

THE COURT: All right.

Q. Did we meet?

A. Yes, we did meet.

Q. Why did you come to me last?
A. Because no other senator or congressman on Capitol Hill would speak with me.
Q. And why was that?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. Did you present a controversy?
MR. MORFORD: Objection.
THE COURT: Sustained.
Q. What character traits did you recognize in me after we had met?
MR. MORFORD: Your Honor, I object as opposed to him asking for his opinion or his knowledge of reputation as to specific relevant character traits.
Q. Have you established an opinion relative and in understanding of my character traits?
THE COURT: You can answer.
A. I believe I have, sir.
Q. And what are those character traits?
A. Well, I believe that you were most interested in upholding the rights of the Constitution. It seemed to me throughout a long period of time that you felt that if the rights of one American were violated, the rights of all Americans were violated.
You seemed courageous, that you were willing to take

on the issue at hand. You seemed most helpful to us, and I think somebody who is genuinely concerned about all Americans and the Constitution.

Q. What was so significant about the Constitution that impressed you?

MR. MORFORD: Your Honor, I object because it doesn't relate, it's not relevant to this case. It's not even a trait.

THE COURT: At the core of this case is the superseding indictment with ten counts in it in this case, so you can elicit from him evidence of character traits you believe are somehow relevant to the evidence that's been developed in this case and to those issues, but not just going back to specific things that happened in this case.

He's had an opportunity to lay the foundation for why he knows things, and that's sufficient on that.

Q. Did I seek favors?

A. No, sir. To the contrary. I found you to be a selfless person, most generous in your time, and I can remember that you even offered that if I had no place to stay, that I could stay on your boat, even though the toilet didn't work. You said that you could use the toilet in the restaurant above where your boat was. You offered that to me just out of the kindness of your heart.

Q. Did you stay on the boat?

A. Well, I actually wanted to have a place with a bathroom, so I didn't take advantage of that invitation, sir.

Q. Are bathrooms important to you, Ed?

A. Yes, sir, Congressman, it is.

Q. As our relationship improved, what other character traits became important to you as they related to me?

MR. MORFORD: Again, Your Honor, I would object and ask him to ask his opinion or reputation on specific traits relevant to this case.

THE COURT: Okay.

Q. What character traits do you recognize in Mr. Morford?

A. I'm sorry, I don't know who you're speaking of, Congressman.

THE COURT: Congressman, just put the question out about the specific character trait that you believe is relevant to this case.

Q. Do you believe the U.S. Prosecutors would have used the boat without a bathroom?

THE COURT: Congressman, go on to the next question.

Q. Did you establish any other character traits or recognize any other character traits over the years?

MR. MORFORD: Again, Your Honor, objection,

unless he's asking about ones relevant to this case. I would ask he just specify the relevant ones to this case.

THE COURT: It would go a lot more smoothly if you'd just select them, specify them, and ask this witness.

Q. Did I ask you for money to help in your case?

A. Absolutely not, sir.

Q. Did I offer money to help in your case?

A. Absolutely not, sir.

Q. Did I put conditions on help?

A. Well, I believe when we first spoke, you told me that you were going to look into the case, and that I should make no mistake, that if you felt that Mr. Demjanjuk was guilty, that you would be the first person to pull the switch on him. And under those conditions, you said that you would look into the case. You also had mentioned on conditions --

MR. MORFORD: Your Honor, I'm going to object to this on two grounds. Number one, it's hearsay. Number two, it's not relevant to the charges in this case.

THE COURT: Let's just let the Congressman ask the question, and you answer the question. You have a right to object, but this is getting pretty tedious.

Congressman, ask the question about a particular character trait, you were doing it there for a little bit,

and ask him to answer the question.

Q. Is your knowledge of my character traits related to the experience we had regarding your family?

THE COURT: You can answer.

A. I'm sorry, I didn't quite understand the question.

Q. Is your -- was your development of your opinions of my character traits related to the matters involving your family?

A. Well, my own personal relationship with you which related to matters relating to my family, yes.

Q. And that's what caused you to develop and establish what you considered to be my character traits; is that correct?

A. Yes, sir.

Q. Well, what did you recognize?

A. I recognized that you were a person that was willing to listen when no others would. I recognized that you were -- I don't want to say the word gruff, but from a personal point of view, when we first met it was almost like you were a prosecutor. You know, you grilled me pretty well about the subject I was involved in.

I also recognized that to you, individual rights were the most important thing in spite of how unpopular a cause or a case might be.

Q. Don't stop. Anything else you recognize?

MR. MORFORD: Again, Your Honor, I'm just going to ask him to ask relevant character traits. That's what the rules require.

Q. Are there any other relevant character traits that you recognize?

A. I just -- I believe if I hadn't already said it, I found you to be a courageous person, a person that is very compassionate, a person that cares about the little guy, and a person that would go out on a limb in spite of the sensitivity of certain issues.

I found you to be a tireless individual, a person who once believes --when they believe in the justice of their cause will pursue it relentlessly and without hesitation.

I don't know if I can go any further on that.

THE COURT: That's fine.

Q. No, go ahead.

(Laughter.)

Q. Don't slow down. You're doing great. Anything else?

THE COURT: It's a long list. You're the one who decides when you've covered it.

A. I found you to be very -- a straight shooter. And I don't mean in the terms of a gun, but I mean in the terms of you tell it like it is. You ask it like it is. There's a lot of no nonsense. Humorous, not quick to judge, more interested in investigating before you make a decision, but

willing enough to listen, compassionate.

And I think the strongest point that I've learned from you was how important the Constitution and the rights of individuals to be protected by the Constitution are.

Q. Are you and I great friends, Ed?

A. Well, we -- throughout the period of time that we were involved in the case, which was probably back in 1993, I felt a very good rapport or relationship with you. I trusted you, which is what -- I didn't really trust any of my other elected officials. Even though you weren't my own congressman, I trusted you.

Since the day that you escorted my father-in-law home from Israel -- the last thing I saw as you were taking off on an airplane with him from JFK Airport, and since then until today, I've had no conversations with you whatsoever, not that I wouldn't have wanted to have conversations with you. It's just that we've been so occupied in our own matter that I've just been unable to keep up with you.

But I consider you to be a very, very good person, and in my heart, a good friend.

Q. Do you find me easily to be intimidated?

A. No, sir. That's one of the things that stands out. I may have stated it already three times, that I found you to be fearless in spite of whatever odds. I've never seen

you back down from anything, and I've seen you become pretty aggressive when it came to things that you were doing in this case, my case, that I'm not allowed to speak about right now.

Am I not allowed to speak about that, Your Honor?

THE COURT: That's right.

THE WITNESS: Thank you.

Q. Did you find me to be effective?

A. Absolutely. 100 percent. I think it was your tenacity and your persistence that truly brought success, in my opinion, the most important pieces that we were looking for at that time, of evidence. And in the same respect, never asked for a thank you. We just -- that was it. Off they rode into the sunset, and as many times as I would have liked to, I'm sure you knew we were very thankful.

Q. Did the Israeli Supreme Court teach us a lesson in good justice?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Have you learned through our experience and as a result have developed the character association with me in that regard?

A. I'm sorry, Congressman. I didn't understand the question.

Q. As a side shot of our relationship, have you personally learned certain things as a result of my characteristics?

A. I believe I have --

MR. MORFORD: Objection, Your Honor.

THE COURT: We need to be talking about his character, although these are conversations that you can have with him, but it's the issue of his character that we need to deal with here.

Q. Did my character have an impact on your life?

MR. MORFORD: Objection, unless it's his opinion of his character, which he's already testified to.

THE COURT: Yep. If there's something in addition you haven't said about your opinion of his character, then this will be a question you could answer that with.

A. Absolutely. His character has had an impact on my life personally. Yes. And a great one, at that. He gave me -- his character directly gave me the belief that our system of justice here in the United States, in my opinion, is the greatest system of justice on earth, and that regardless of what the odds are, that the courts are capable of catching wrongs and righting them, regardless. And we have the full faith in the justice system.

Until I met Congressman Traficant, we thought

it was just -- we just didn't really understand why everything could be going, you know, so horribly all the time, but the information used was viewed by our courts, and they righted the wrong that took place, and he always also gave us faith in the Israeli system of justice and the Israeli Supreme Court. He said they're one of the fairest courts in the world.

My opinion is clearly that, you know, we live in a society, you know, we are protected by the Constitution. It might take a long, hard fight to get those rights out, but our system of justice is the greatest on earth, and very capable of righting wrongs that may have taken place.

Q. Did my character affect your appreciation of our Bill of Rights?

MR. MORFORD: Objection. Again, he's not testifying any more about his opinion as to character.

THE COURT: Right.

Q. Were there any other character traits that I have that affected you in a particular way?

A. Well, I thought you were kind of funny and humorous, and when you were -- when we were in the depths of despair, you managed to get a laugh out of us here and there. But I mean, primarily, Congressman, we felt that you were one out of 500 senators and congressmen that would have at least have had the Court and Jury to look into something that no

one else wanted to look into.

Q. Are you a citizen of the United States?

A. Yes, sir, I am.

Q. What's your brother-in-law's name?

A. My brother-in-law's name is John Demjanjuk, Jr.

Q. Was you ever convicted of any crime?

A. No, sir.

Q. Was your brother-in-law ever convicted of any crime?

A. Not that I know of, sir.

Q. Do you believe the Constitution and the Bill of Rights should stand by everybody's side?

MR. MORFORD: Objection.

THE COURT: I guess he does. You've made that pretty clear.

Q. What was the most important elements of my character that you felt impacted your life?

MR. MORFORD: Objection, Your Honor. He's already testified as to his opinion, and that doesn't go to anything that we haven't already heard.

THE COURT: Congressman, maybe there's another relevant question here that you could ask him, but he can't testify just over and over again.

Q. Do you believe I could be bought?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Do you believe I can be intimidated?

MR. MORFORD: Objection.

THE COURT: He's already testified.

Q. Do you think I'd be afraid of a bunch of bureaucrats?

MR. MORFORD: Objection.

THE COURT: Sustained.

Q. Have you ever worked at my farm?

A. I only learned you had a farm from the Cleveland Plain Dealer. I did not know you had a farm.

Q. Do you have personal knowledge that it's my farm?

A. I think what I read in the Cleveland Plain Dealer said you owned a farm.

MR. MORFORD: Objection.

THE COURT: If you didn't even know he had a farm, then -- he's asking you --

Q. So you didn't work at my farm?

A. No, sir.

Q. Did I ever hug you?

A. I believe you have. I mean, in a strong handshake with the arm around you, that kind of thing, yes. Yes. Not like the other kind of hug.

(Laughter.)

Q. Am I a touchy-feely type of guy?

A. I guess it depends on the moment.

(Laughter.)

Q. You wouldn't be talking about the boat and the bathroom, would you?
A. No, sir, not at all. I mean, I find you to be a very serious person 90 percent of the time, and then I find you to be a very gregarious person the other times, that you have feelings. You're not a robot. You are a person with a heart, with a soul, with a mind, and most importantly, look out for the interests of others as opposed to your own political interests.
Q. Keep going.
THE COURT: That's not an order.
Q. Did your father come home, father-in-law come home?
A. Yes, sir, he did.
Q. Did I bring him home?
A. Yes, sir.
Q. Did he sit next to me all the way?
A. I believe so, sir, he did. I believe we all came in with bulletproof vests on, and our lives were threatened continually while we were there.
Q. Did the Israelis help us?
MR. MORFORD: Objection. Again, Your Honor, this isn't the Demjanjuk case.
THE COURT: You can answer.
A. The question was?
Q. Did the Israelis help us?

A. Yes. The Israeli government, I think, you know, provided as much security as they would, but I mean, it depends on which Israelis you're speaking of though. If you're talking about the Israeli Supreme Court, absolutely. If you're talking about the Israeli prosecution, not so much. If you're talking about the Israeli airport security, they were helpful.

I mean, you were the first person to be -- you led the pack. And I think that you spoke to them, and you spoke to the pilots on the El-Al jet that we took home, and, you know, I think they took every precaution that they could.

THE COURT: That's fine. Some of that speaks to his character, some of that is way outside the rule, but let's move on to another question, if you have any further questions.

Q. Am I of the character that if you had a serious problem, you'd call me?

A. Congressman, I'm sorry, I didn't hear the question.

Q. Am I of the character if you had a serious problem, you would call me?

A. 100 percent I would.

MR. TRAFICANT: No further questions.

THE COURT: Thank you.

MR. MORFORD: No questions, Your Honor.

THE COURT: Thank you. Thank you, sir.

THE WITNESS: Thank you, Your Honor.

THE COURT: You're welcome. The steps are curved. Be careful when you walk down.

THE WITNESS: Thank you very much.

(Witness excused.)

THE COURT: Ladies and Gentlemen, it's 4:30. We're going to release you for the day. We're going to begin again tomorrow morning at 9:00. Remember all your admonitions. Don't let anyone approach you, talk to you, read anything, watch anything, or listen to anything regarding this case, and don't investigate yourselves.

Thank you very much.

THE CLERK: All rise for the jury.

(Jury out at 4:32 a.m.)

THE COURT: You can be seated.

So that the jury can exit, what we'll do is take about a ten-minute recess. Then I want the lawyers and the Congressman back in just so we can take care of anything we need to take care of today.

And the rest of you can leave or stay as you wish, but we're going to take a ten-minute recess now so the jury can leave.

(Recess had.)

THE COURT: We have some new master lists of

exhibits for you that we can hand down. I want to know if there are any exhibits anyone is going to enter today.

MR. TRAFICANT: I have some.

THE COURT: Okay. Let's handle that.

MR. TRAFICANT: Number one, I want to offer the resignation letter of R. Allen Sinclair listed as S-24. That was submitted to me in writing and was shared with the --

MR. MORFORD: It's already in evidence.

MR. TRAFICANT: If it's in evidence --

THE COURT: It's already been admitted, Congressman.

MR. TRAFICANT: It is admitted?

THE COURT: Yes.

MR. TRAFICANT: Okay. Number two, the October 31, 1990 contract that was witnessed by Richard Rovnak and attested to his signature on the stand.

MR. SMITH: Your Honor, we objected to that before and still do.

The only thing that's ever been authenticated on that document is Mr. Rovnak's signature as a witness. He said that was his signature and nothing more.

Just a second, Your Honor.

MR. TRAFICANT: He identified it. He said, "Is this the guy that didn't do the work? He said, "Is

this the guy that didn't do the work?"

THE COURT: He was in the middle of speaking and asked for a moment. Thank you.

MR. TRAFICANT: I'm sorry. Go ahead.

MR. SMITH: We believe the Court has earlier ruled this one out on the ground, it's never been properly authenticated.

MR. TRAFICANT: The number is ROV-20.

THE COURT: Hold on, we'll check.

MR. TRAFICANT: The point -- I'm saying he said it wasn't identified. It was identified and further stated this is the guy who didn't do the work, supposedly.

THE COURT: Just wait. If I've already ruled on that, I'll tell you what the ruling was. Just hold on.

MR. TRAFICANT: While you're looking, Your Honor, was S-24 admitted under a different number?

THE COURT: We'll check that, too, but actually I'm not doing the looking, my clerk is looking, and so he'll have to look for that one, too.

MR. TRAFICANT: Thank you.

THE CLERK: S-24 was admitted as S-24.

THE COURT: S-24 was admitted as S-24.

MR. TRAFICANT: Thank you, Your Honor.

THE COURT: You're welcome.

MR. TRAFICANT: ROV-20.

THE COURT: It hasn't been admitted, so now we'll pull up the transcript of the 21st and see what the colloquy was, and then we'll know.

Do you have any others?

MR. TRAFICANT: Yes. I would like to at this point bring in TC-1 through TC-, I believe the last one was 13. TC-1 through 13 inclusive, and those were documents of the payments for the concrete at T. C. Redi-Mix.

MR. SMITH: We have no objection to the admission of any of those. However, the Congressman needs to give us copies of TC-10 through 13.

THE COURT: Okay.

MR. TRAFICANT: I will be glad to do that.

THE COURT: Will you bring them in in the morning?

MR. TRAFICANT: Can I trust you with them to take them and copy them or do you want me to bring you the copies?

MR. MORFORD: Bring us the copies.

MR. TRAFICANT: They have been tough for me to copy or I would have had copies for them, Your Honor. I don't know if I can. They have the technology to maybe be able to copy them.

MR. MORFORD: Kinko's.

THE COURT: If you just get TC-10 to 13,

copies to them tomorrow morning, that will be fine.

MR. TRAFICANT: I'll do my best.

I also ask that JT-1007 --

THE COURT: But wait a minute, because I just want to admit these.

TC-1 through 13 will be admitted.

MR. TRAFICANT: TC-1 through 13 is admitted?

THE COURT: Right. Without objection.

MR. TRAFICANT: Next is JT-1007, parentheses double capital A.

MR. SMITH: We will have to look at it.

MR. TRAFICANT: It was given to me on discovery by the government. I want to proffer it into the record, as well.

MR. SMITH: Your Honor, that's that page out of the FBI lab report which we objected to before. You already have the basis for our objection. We renew the objection.

MR. TRAFICANT: This speaks to evidence, and I reject their argument based on --

THE COURT: Wait a minute. Wait, wait, wait. Hold on a minute. We're still looking up another exhibit. He's still looking it up, and we need to do it one at a time.

MR. SMITH: I believe you will find it on

page 1062 to 1065 in volume 6.

MR. TRAFICANT: Do you have a copy of that that I could see to assure that's the words that I remember?

MR. SMITH: She's got it.

THE COURT: This is the really boring part of any trial, so all of you just sit back and relax or stand up and stretch. Whatever you want to do. But it's all important in the long run.

MR. TRAFICANT: While the Court reads, my memory states his humorous response was, "Is this the one that the guy never worked or performed?" If that's in the record, it shows his identification of the document.

THE COURT: What I'm trying to look at right now is ROV-20, so if you would just let me look instead of trying to listen to you and look at the same time, it would be really helpful.

You could sit down.

MR. TRAFICANT: That might help you though. I'm trying to help the Court.

THE COURT: I found the part that's in here. I just have to be --

MR. TRAFICANT: I believe it is --

THE COURT: I have to see what we did for it.

MR. TRAFICANT: I just said he made a

comment, "Is this the fella that was supposed to do all that work that didn't do it?" And in an attempt to help the prosecution, it should be admissible since he identified it as such. And those words should be in there, unless my failing memory characterized by loss of --

THE COURT: If you want to keep talking to me, I'll keep listening to you. If you'd like me to try and look at this and resolve it, I'll do that, but I don't do both at once.

MR. TRAFICANT: I won't talk anymore.

THE COURT: Thank you, just for a few moments so I can get through this.

MR. TRAFICANT: I promise.

(Pause.)

THE COURT: Well, I don't see anything surrounding the areas of inquiry here where this was even offered, so tell me the pages again if you've got some page for that.

MR. TRAFICANT: I want to see the transcript if they have one.

THE COURT: Well, I have the transcript and I'll be glad to show it to everyone as soon as I can find out what we're talking about.

Tell me again.

MR. SMITH: Your Honor on pages, our

understanding is on pages 1062 to 1065, the only thing that happened was that Rovnak recognized his signature on the document. He did not authenticate the document as a business record of either himself or any entity under Rule 803(6) of the Federal Rules of Evidence. There has not been a proper foundation laid for the document as such, and therefore, it does not come in for the truth of the matter asserted.

That's our objection.

MR. TRAFICANT: Now, my objection is did Mr. Rovnak state as a favor for the prosecution, "Oh, you mean this is the deal with the guy who never showed to work?"

THE COURT: Well, I don't know whether he stated that or not. I just thought what I was looking for here was a prior objection and my ruling on it, but apparently that's something else, and they are correct that --

MR. TRAFICANT: He did identify the document, and he further identified it by saying, "Oh, you mean this is the guy who failed to work," in attempt to help the prosecutors.

THE COURT: I'll hand you --

MR. TRAFICANT: Which now should make it admissible, if he said that, and that, in fact, connotes

identification, and can't be refuted, if it's in there. If it's not, I want to read the transcript.

THE COURT: Well, you don't have to read the transcript, but I have to read the transcript.

There is nothing in this part of the Rovnak cross that shows any identification of this document. I will review it tonight and let you know tomorrow morning, but I'm not going to sit here and read the entire Rovnak examination now.

MR. TRAFICANT: Okay. Then I want to proffer for the record that Mr. Rovnak made an identification by making a statement, "Is this the fella that didn't show for work?"

THE COURT: Okay.

MR. TRAFICANT: The next one is --

THE COURT: You need to leave me a copy of the document that you're concerned about so that I can examine it tonight.

MR. TRAFICANT: I will present this to Jeffrey.

THE COURT: Thank you.

MR. TRAFICANT: Is it Jeffrey?

The next is JT-1007-AA. It was given to me on discovery by the government, and it is a government pursuit which lists all the items they had, in fact, asked for

identification, which include -- and I want to read it for the record --

THE COURT: Excuse me. Just a minute. This is an FBI document that was first presented somehow during the testimony of the agent earlier on in the government's case? Is that right?

MR. TRAFICANT: Yes, it was.

MR. MORFORD: It's never been presented.

MR. TRAFICANT: No, it wasn't presented --

THE COURT: So this is something which you were given as part of discovery in the case?

MR. TRAFICANT: I questioned him about fingerprints. Now, he responded there were no fingerprints.

THE COURT: Where does this come from? I need to know.

MR. MORFORD: Discovery.

MR. TRAFICANT: It came through the government through discovery.

MR. SMITH: Right.

MR. MORFORD: Discovery.

THE COURT: Okay.

MR. TRAFICANT: Yes. In that regard I want to read it into the record, the results of examination of October 10, 2000. "FBI Laboratory report, results of

examination. Specimens Q-1 through Q-415 and Q-436 through Q-503, envelopes, envelope fragments, plastic bags, U.S. currency, money bands, business cards, driver's license, letters, invoices, and other miscellaneous documents, were examined, and 108 latent fingerprints and 16 latent palm prints of value were developed on two attached sheets of paper in accompanying note Q-1, Q-1.1 and Q-2; plastic bag Q-15; cash envelope, Q-298; sheet of paper, Q-371; business card, Q-375.1; two sheets of paper, Q-377 and Q-387; copy of letter, Q-389.2; sheet of paper, Q-398; invoice, Q-408; copy of invoice, Q-410; seven forms, Q-439, Q-444, Q-445.2, Q-445.3, Q-449.4, Q-450.2, and Q-450.4.

"Copy of license, Q-451; two-page letter, Q-54; copy of letter, Q-55; sheet of paper, Q-457; facsimile cover sheet and letter, Q-458.1 and Q-458.2; three sheets of paper, Q-459.3, Q-460, and Q-462; two letters, Q-465 and Q-467; five invoices, Q-468.2, Q-468.4, Q-468.5, Q-469, Q-470.3; two letters, Q-472.1 and Q-472.2; five documents, Q-493, Q-494, Q-496, Q-497.2, and Q-498; and two sheets of paper, Q-500 and Q-501.

"69 latent fingerprints are not fingerprints of James A. Traficant, Jr., FBI number 133497-AA-1. Henry DiBlasio or Charles" --

THE COURT: Henry A. DiBlasio.

MR. TRAFICANT: "Henry A. DiBlasio or Charles

O'Nesti. The remaining 39 latent fingerprints were compared insofar as possible with the available fingerprints of these individuals, but no identifications were effected. No palm prints are available here for these individuals. Major case prints are needed for conclusive comparisons."

Your Honor, this deals with literally close to a thousand documents that the government sought to pursue for the purpose of attaining physical credible evidence to deny the admissibility of this, and yet to deny me the opportunity to have the summation of it with this jury, I believe tainted my case. But to keep this out would further, further injure the defense since the government clearly attempted to take every possible step to establish some sort of physical credible evidence to support their nonevidentiary case.

MR. SMITH: Your Honor, our response will remain the same as it was before. Number one, the document is hearsay. Number two, the only relevant evidence in the case is that which has been admitted. And as to that evidence which has been admitted in this case, there has already been testimony elicited from, I believe, both the government and the Congressman, that Congressman Traficant's fingerprints are on none of it.

Therefore, this report under the relevance

rule does not make any fact which is pertinent or relevant to the inquiry more or less likely than it would be without the document.

So on both grounds, and on redundancy as well, because we've already had the evidence that there were no fingerprints of Congressman Traficant in this case, the document should be excluded.

The Court -- we would ask the Court if it needs to review Mr. Bushner's direct and cross-examination where the lack of fingerprint evidence was fully developed, as to the evidence that was admitted in this case as opposed to extraneous other documents that may have been examined but never admitted.

MR. TRAFICANT: In response to the government, Mr. Bushner fully on direct admitted there was no evidence. Under cross, he was further extensively tested.

THE COURT: Right.

MR. TRAFICANT: But now you are requiring the jury, after eight or nine weeks of trial, to remember the testimony that involved hundreds of people here, or close to a hundred people, these two statements.

These corroborate the fact that the government gave me through discovery what is now exculpatory material, and under the hearsay exceptions, this does not apply. This is

not hearsay. This is a forensic scientific test conducted pursuant to a request of a U.S. Attorney's Office, and if, in fact, it had a fingerprint, it would be in front of this jury.

Now, if you do not let this in, I believe that you will have violated my Constitutional rights, period.

THE COURT: I understand. I know you have very strong beliefs about all of these things.

This is an FBI lab, Federal Bureau of Investigation report of an examination. The report was originally furnished for official use only. The content of it was testified to extensively in earlier testimony, but as a matter of fact, I don't see what harm would come at all from letting you admit this evidence as part of your case if you want to admit it as part of your case.

It is a little redundant, it's a stretch maybe on the hearsay rules, but it seems to me this is a government document, and while there may have been some one step you could have taken somewhere in order to get it introduced a while back, nonetheless it is simply the summary page that was referred to in the Bushner testimony.

MR. TRAFICANT: But it includes --

THE COURT: The summary page here can be admitted.

MR. TRAFICANT: Thank you, Your Honor. Now I

have another issue with the Court.

THE COURT: Okay.

MR. TRAFICANT: In fact, I want to read into the record for proffer relative to the Mineral Ridge matter that was not allowed to be brought into this matter concerning George Buccella.

THE COURT: What is it that you have there that you're going to read?

MR. TRAFICANT: It is a document that has been presented to me in confidence.

THE COURT: Okay. Well, first show it to the other side. Then if you're going to use it in any way or even read from it, you're going to have to assign it some kind of number. But they get a chance to look at this and consider it.

MR. TRAFICANT: This is where Mr. Vogel --

THE COURT: Don't talk for a minute while they look at it. I'll see if I can resolve this other issue in volume 6.

MR. TRAFICANT: I'm not asking it to be admitted, just read and proffered into the record.

THE COURT: I understand.

MR. TRAFICANT: Your Honor, I do not mean to interrupt, but I have notes relating to Mr. Rovnak's testimony.

THE COURT: Okay. Well, we have the actually testimony.

MR. TRAFICANT: I would like to --

THE COURT: I'm having my clerk read it.

MR. TRAFICANT: For the record, I'd like to place the notes that I have on the record.

THE COURT: Just hold on a minute. We can't do two things at once.

MR. TRAFICANT: The notes say --

THE COURT: Don't read the notes into the record. We have a transcript, Congressman. It's the official transcript of the case.

MR. TRAFICANT: It is February 21 --

THE COURT: Okay. Let's go back to this ROV-20. It was identified, it shows up in the transcript on 1064, lines 18 and 19, if someone wants to look at it.

MR. TRAFICANT: Lines what?

THE COURT: 18 and 19.

MR. TRAFICANT: "Is this that guy who never showed up to paint your boat?"

THE COURT: Right. Then it says, "No. I'm asking you what is the document?" And he says, "That's what I'm asking."

"Oh, it looks like a contract to paint the boat."

That's a sufficient identification for this.

MR. TRAFICANT: Thank you, Your Honor.

THE COURT: You're welcome.

MR. TRAFICANT: It will be admitted.

THE COURT: Yep.

MR. TRAFICANT: Thank you. That concludes my business for the day.

THE COURT: Okay. Well, we have a few more things.

Do you have anything else on the exhibit situation?

MR. SMITH: The government does not.

THE COURT: Okay. I haven't -- we're going to give you the master list that we have developed today. I just want to be sure, Congressman, that you understand that at some point in this case all of the exhibits that you wish to enter that have been actually admitted in the case need to be here and organized, the same with the government, and both sides have to spend some time working with one another to make sure that the exhibits that go to this jury actually include only the exhibits that have been admitted. And that's why we make master lists to assist you in that.

But I'm a little concerned because so frequently you don't have with you things that you need here that you know and identify and either keep yourself or put in the custody of somebody who can manage it for you,

each individual item of evidence, because it's the -- the time is going to come, and you have to have them here if you want them to go back to the jury.

MR. TRAFICANT: I have them here now.

THE COURT: Good. And have them organized in such a way that the other side can look at them. In fact, you have to do that sort of reciprocally. We'll cut some time out of the proceedings before we actually give the case to the jury where you'll have to work together to go over all of the documents that have been in evidence, and that's what the master list is supposed to help you with.

MR. TRAFICANT: Your Honor, I've given the prosecution all of the TC documents save for four, and I have an extra copy for the Court if the Court would request it now.

THE COURT: Yes.

MR. TRAFICANT: On these four, I will attempt to have them for tomorrow.

THE COURT: Good.

MR. TRAFICANT: And I would like to know if there is a deadline set on this reciprocity of -- that's TC (handing), TC-9, TC-8 -- if there's a deadline set on this reciprocity of the exchange of evidence -- TC-7, TC-6, TC-5, TC-4, TC-3, TC-2, and TC-1. Do you have them, Jeff?

THE CLERK: Yes. Thank you.

MR. TRAFICANT: I will try and have for you tomorrow copies of these others, as well.

THE COURT: As to your question that you posed, all along for a long time there's been reciprocal discovery in this case. And you have to give them, you have to give the other side things. I think you understand that.

MR. TRAFICANT: I did that. But I'm saying, is there a deadline when we get together to mutually identify all that's been admitted?

THE COURT: The exhibits in the case? Yes. We need to schedule. If you know what they are now, you can do it today. If you've got them all right here, it would be a great time to do it.

MR. TRAFICANT: I don't have all of them here. I have a number of them here.

I would like for a time to be set up for that. I am nearing closing my case. I have perhaps five witnesses, and I would expect to close early next week, and I will make a decision early next week. I should have us a full day tomorrow.

THE COURT: Okay. You'll have your witnesses here?

MR. TRAFICANT: I will have my witnesses.

THE COURT: Who are your witnesses,

Congressman?

MR. TRAFICANT: We have them under subpoena, and I'll know tomorrow. And if I don't, then I'll make the decision tomorrow as to how to proceed.

But I expect to have them here.

THE COURT: Okay. So it's the same as it's been all along. You understand if you have nobody here at any point to testify, then we're going to put the same question to you that I put to you before, are there any further witnesses in the case.

MR. TRAFICANT: I understand that, Your Honor.

THE COURT: You'll need to let us know so we know what to do.

MR. TRAFICANT: And I have in good faith done that, and didn't expect to have two witnesses that were here today.

THE COURT: Five tomorrow?

MR. TRAFICANT: Yes. I'm hoping to have at least five tomorrow, yes.

THE COURT: Okay. And they'll be here at 9:00?

MR. TRAFICANT: Well, I hope they would be.

THE COURT: Well, have you told them they have to be here at 9:00?

MR. TRAFICANT: There are subpoenas out for them.

THE COURT: Okay.

MR. MORFORD: Your Honor, the problem is you just asked him a specific question, and he didn't answer it. The problem with that is some of these may be witnesses that were called before; some of these may be witnesses that aren't admissible.

THE COURT: Are any of them witnesses that were called before?

MR. TRAFICANT: No, they're not witnesses that were called before.

THE COURT: Okay.

MR. TRAFICANT: And they deal with the case.

THE COURT: All right. We'll start at 9:00 in the morning with your witnesses.

Now, as to the next question, we'll ask you then tomorrow over the noon hour to begin the process of looking at one another's exhibits that you're going to admit so that those are all put together. So I need you tomorrow morning, Congressman, when you come here to bring with you the physical copies of whatever your evidence is that you don't have here today, or bring it all so it's all here.

MR. TRAFICANT: I shall do so.

THE COURT: Okay.

MR. MORFORD: Is tomorrow a half day or full day?

THE COURT: Tomorrow is a half day. Okay?

MR. TRAFICANT: I shall do so.

THE COURT: All right.

MR. TRAFICANT: I would like to inquire of the Court if --

THE COURT: I think I should get off the bench.

MR. TRAFICANT: -- if any of the charts that I had made on the board are eligible for admission.

THE COURT: No. But you have a lot of items, and we don't want a problem at the end when everybody is ready to go to work and you don't have the things to send back with the jurors, so --

MR. TRAFICANT: Don't worry about that.

THE COURT: All right. But you understand if you have no witnesses here tomorrow morning or none of your witnesses are available to testify at any time before we get to the noon hour, then we get into this issue that you feel very concerned about, which is although we all know that you have a constitutional right not to testify, if you're going to testify, you will then have to do that sometime within the period of time where we have the jury

here ready to hear evidence.

MR. TRAFICANT: Your Honor --

THE COURT: You understand that?

MR. TRAFICANT: Your Honor, I understand that.

THE COURT: Okay.

MR. TRAFICANT: Now here, I want to read and proffer into the record a matter dealing with Mr. George Buccella.

MR. MORFORD: Your Honor, I object to this being read into the record. He can put the document into the record. It's late. The document speaks for itself. If he wants to proffer the document, he need not read it into the record.

THE COURT: No. But you do have to give it a number. You can give it a designation, and then we will allow you to proffer it into the record.

MR. TRAFICANT: Let's call it MBS-2000. Now, you say it appears in the record. Does the jury get a chance to look at the record?

THE COURT: No. The jury considers evidence. If you're proffering it for the record, then you're making it something which might be considered by the Court of Appeals, might be considered later, but it doesn't by proffering it for the record go to the jury. It has to be

admitted into evidence if it's going to go to the jury.

MR. TRAFICANT: Well, this was the issue that John Vogel would have addressed, and I think I'm going to put that on here.

THE COURT: Have you seen it?

MR. MORFORD: Yes.

THE COURT: Okay. Is there anything you'd like to put on the record?

MR. MORFORD: No, Your Honor.

THE COURT: Thank you very much.

MR. TRAFICANT: Mrs. R. A. Buccella. Jeffrey? Give this to you? Court reporter.

MR. TRAFICANT: That concludes my business.

THE COURT: Okay. I have one other piece of business.

If there's a period of time in the mornings before we actually all come out where we allow you folks to come in and get yourselves organized, and so forth, and it's a time when we have any trial, there's sometimes colloquy among people. It's been brought to my attention that it's really gone overboard in terms of some of the conduct that's going on in the courtroom that goes beyond simple bantering.

This courtroom is a room we ought to all respect. And so I'm just asking that you carry on inside of this courtroom even when I'm not sitting right here on the bench

in a way that respects the justice system and the fact that we're in a trial together.

So if you can conduct yourselves well, then we can continue to allow you to come into the courtroom ahead of the jury in enough time to do something, but there were comments made this morning that really disturbed people who are accustomed to just coming into courtrooms and viewing them, and I don't want that conduct to occur again in this courtroom.

MR. TRAFICANT: Are you directing them at me?

THE COURT: I'm directing it to comments that were made this morning after the courtroom was opened up by you.

MR. TRAFICANT: Okay.

THE COURT: So I want you to just control yourself in this courtroom. It's a place that deserves your respect. And how you conduct yourselves outside is a different matter. But I don't feel like I have to come in here every day and sit here at 8:00 in the morning in order to be a governess to everybody here.

I think it's not too much to expect that people will show one another just sort of common decency. This is a place where we can have a lot of issues hashed out under the system of law, and I just want people to be, whatever their styles are, basically respectful of one

another.

We owe it not just to ourselves but to all the people whose courtroom this is. There have been cases tried in this courtroom since 1910. It's a place you should respect.

MR. TRAFICANT: Your Honor, I respect you and your courtroom, but I'd like to say this: I don't appreciate FBI agents sitting in the first row staring at me, and I will not tolerate that. And I would advise you to ask the prosecutors to keep their FBI agents, unless they want to put them on the stand, from trying and attempting to make contact, eye contact with me, that might, in fact, affect my train of thought.

I'm just a son of a truck driver, and I sometimes wander off into fantasies of who knows, Playboy or anything, and there have been instances where there have been FBI agents who have stared at me with continuous stares.

THE COURT: Well, Congressman --

MR. TRAFICANT: And I won't have that.

THE COURT: You do a lot of inquiry about being touchy-feely. Don't be so touchy about that.

The main thing that happens in this courtroom happens between you and the other lawyers, the Judge, the jury, and the people whose court system this is. And you can handle

some stares.

MR. TRAFICANT: Your Honor?

THE COURT: We're adjourned.

(Trial adjourned at 5:23 p.m.)

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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.

Heidi Blueskye Geizer, RMR, CRR 4-24-02
Heidi Blueskye Geizer, RMR, CRR Date

DIRECT EXAMINATION OF DAVID LUDT
BY MR. TRAFICANT..... 5912:7
CROSS-EXAMINATION OF DAVID LUDT
BY MR. MORFORD..... 5923:2
REDIRECT EXAMINATION OF DAVID LUDT
BY MR. TRAFICANT..... 5931:23
RECROSS EXAMINATION OF DAVID LUDT
BY MR. MORFORD..... 5938:19
FURTHER REDIRECT EXAMINATION OF DAVID LUDT
BY MR. TRAFICANT..... 5939:6
DIRECT EXAMINATION OF JOHN VOGEL
BY MR. TRAFICANT..... 5940:15
DIRECT EXAMINATION OF BETTY MANENTE
BY MR. TRAFICANT..... 5949:21
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DIRECT EXAMINATION OF ROBERT EARL SAFFOLD

BY MR. TRAFICANT..... 6065:20

DIRECT EXAMINATION OF EDWARD W. NISHNIC

BY MR. TRAFICANT..... 6090:9

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, APRIL 5, 2002

Jury Trial

Volume 33

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

FRIDAY, APRIL 5, 2002, MORNING SESSION, 9:08 A.M.(No Jury).

THE COURT: Congressman, do you have witnesses?

MR. TRAFICANT: Pardon?

THE COURT: Do you have witnesses this morning?

MR. TRAFICANT: The defense rests.

THE COURT: Thank you. Are there any motions?

MR. TRAFICANT: Yes. I'm looking for them, and I'd like leave for same. I just got in here a little late. I have, first of all, a motion for dismissal on Sixth Amendment rights on several issues.

THE COURT: Okay. Before you present that, let me just say that the evidentiary part of this case is completed. We still will have to organize some exhibits, and things like that, but now we're moving into a new phase of the case.

And so have you served that motion on the government, the one you have in your hand?

MR. TRAFICANT: No. These are oral motions subject to Davis versus Alaska --

THE COURT: Hold on. I'll let you make some motions, and we'll make them now. But we just need to know exactly what else is going to go on now that we're moving

into another phase of the case.

MR. TRAFICANT: I did share with the government, as you requested, the copies of the remaining TC documents.

THE COURT: Okay.

MR. TRAFICANT: 10 through 13.

THE COURT: You got them?

MR. MORFORD: Yes, Your Honor.

MR. SMITH: We got them.

MR. TRAFICANT: And I believe that if there is anything else that the government requested that I may or may not have presented to them, I'll be glad to do so. If they would make that request, if there's anything I have not done, I'm not familiar with. But I would like to make several oral motions.

THE COURT: Okay. Can you just outline for me which category of motions you're going to use?

MR. TRAFICANT: These would be motions for dismissals on the grounds of several amendment rights violations.

THE COURT: Okay.

MR. TRAFICANT: Number one: My Sixth Amendment right violation by not being allowed to pursue a vendetta theory even though the government went back 15 years to investigate the transaction of the sale of a horse

to a Mr. George Hooker in Uhrichsville, Ohio. Fifteen years ago the horse was transacted, testified to.

Second of all, under my Fifth Amendment rights, I believe you have violated my rights by discussing whether or not I would take the stand in front of the jury and opening up and asking questions relative to closing arguments, time needed for closing arguments, and whether or not I would testify. The inability to testify in one's defense is absolute and protected under the Fifth Amendment and the Sixth Amendment, the right to defend themself and the right to any particular privilege therein granted.

Furthermore, under the Sixth Amendment, during the Robertson testimony, you made a statement in front of the jury that these matters can be taken up under appeal, which clearly indicated that perhaps the Judge had a predisposed position, without assuming that there would be a conviction in this case or that you in your mind believed if you had those concerns, to take them up.

Also under the Sixth Amendment, to provide myself with a fair trial, you denied me the opportunity to impeach witnesses with one Russell Saadey, Jr., whose brother-in-law, Jim Sabatine, said in a moment of distress, immediately after a second meeting with the FBI, that he did not bribe the Congressman, he accumulated a total amount of money over a period of years, and said he gave it

to them cash to stay out of jail and save his $15 million.

You denied me the opportunity to introduce a tape of Henry DiBlasio, who had taken the Fifth Amendment, who was their witness.

You denied me the opportunity to bring Linda Kovachik on, even though you allowed Terlecky and Johnson, and the significance being that Johnson and Terlecky both had difficulties. Johnson had a recent problem with the government in the litigated matter of a questionable DUI, and Terlecky being a felon.

Kovachik, in the similar circumstance, happenstance meeting with O'Nesti, nonscheduled, nonapproached, but approached by Mr. O'Nesti, had a clean record, and yet you denied her to take the stand on my behalf.

Furthermore, the actions that have been taken in regards to excluding my peers. I was indicted on May the 4th. The Sixth Circuit Court of Appeals did not ratify the plan of the Northern District of Ohio's jury selection process until after that. So then they come with the superseding indictment.

You hold the superseding indictment to be the grounds for which you rule that you can exclude my district. Then you further include not just the Eastern District, of which I'm located, you now include the entire Northern District to the Indiana border. Clearly this is not a trial of

peers who know Jim Traficant, but what they've heard about Jim Traficant.

So I believe in this regard, that you have allowed my First, Fifth, Sixth Amendment rights to be violated.

And finally, you have placed as many as 11 witnesses subject to double jeopardy by forcing them to testify under oath outside of the presence of the jury to determine what their testimony was.

And finally, unusually, you take from the archives in Chicago the 1983 trial transcript, the FBI interviews Judge Ann Aldrich as to my style as evidenced by her statement, "crazy but crazy like a fox." And you have demonstrated throughout this trial, whenever it looked as though I moved towards an impeachment of one of your witnesses, not knowing where I was going, you would intervene and intercept and call for a side-bar before I even concluded a question and an objection was raised.

Having said that, I move under David versus Alaska that you failed to allow me to defend myself by presenting the vendetta theory as being the only American in history to defeat the Justice Department and having a bull's-eye on my back for 20 years and a vice around my chest.

You've limited my defense, you've limited my witnesses, and then in front of the jury you admonished me for dillydallying in a nine-week trial that they took seven

weeks. Seven weeks. And you quashed the subpoena on Judge Ann Aldrich.

Now, having said that, the second oral motion under Davis versus Alaska is I want the photocopies of the $10,000 that Jim Traficant was compelled to produce by Judge Ann Aldrich in the first case, I want -- that was never given to me. It was taken by Larry Lynch, for the record, and I asked the Court to compel the delivery of same to me.

Now, having said that, if my behavior at times has been unusual, for that I would apologize.

THE COURT: Thank you.

MR. TRAFICANT: But I will not, I will not overlook the fact there was adequate provocation to produce said behavior. And I believe you've carried on a one-sided trial. You've been an extension of the prosecution, and you have not conducted a fair and just trial.

And I did not have to cite any law. I did not have to even utter a word in my defense. You were to know the law, not even an attorney. And for you to take the position that the government's citations of law were correct and mine were not was inappropriate since the final determinant and decider of facts and laws rests with the Court. And whether I cite a law or did not cite a law is irrelevant. I did make oral argument speaking to the

points that would speak towards such laws.

And I did cite the Constitution on every case, which I think is the ultimate determinant in resolving these matters.

Having said that, the defense sits down, quietly, I might add.

THE COURT: Thank you, sir. You can respond.

MR. MORFORD: Your Honor, all of the matters that were just covered have been covered, many of them have been briefed, they've all been argued, and they've all been ruled upon with the lone exception of his claim that somehow the Court violated his Fifth Amendment right by asking him if he was going to take the stand.

First of all, the Court has a right and duty to manage a trial, and the Court has a duty to keep the trial moving for the sake of those 17 people that have put their lives on hold for eight or nine weeks.

That comment came after Congressman Traficant had run out of witnesses five times in eight days, and on the ninth day, after several admonishments from this Court that he could not continue to have the jury sitting here with no witnesses, he showed up on the ninth day with no witnesses at 11:00.

Now, he says that the government had its case for seven weeks. The government put on 55 witnesses and never

ran out of witnesses once. There were days we had 14 or 15 witnesses, some of them out of town, who stayed here for five days, but we never ran out of witnesses once. The record speaks for itself.

The point is this: The Court said nothing wrong. The Court has instructed the jury, the Court will instruct the jury, as to the fact that the defendant does not have to take the stand, and that they can't draw any inferences from the fact he did not take the stand.

So for all the things that he just raised, they've already been denied. They've already been discussed, and we don't need to go into them further.

There have been no errors in this case. There's a record that can be argued later, and so we would ask that the oral motions be denied.

MR. TRAFICANT: Now, I'd like to respond. Number one, another misrepresentation that must be corrected. When you discussed the Fifth Amendment right, you did not do it at a side-bar. You had never discussed any lawyer issue ever in front of a jury save for two. When you mentioned the Fifth Amendment right, taking the stand, you did so in front of the jury's presence.

THE COURT: Congressman, long ago in this trial --

MR. TRAFICANT: Second of all --

THE COURT: -- we discussed the fact that -- long ago we discuss the fact --

MR. TRAFICANT: Second of all --

THE COURT: Don't interrupt me.

MR. TRAFICANT: I wasn't finished.

THE COURT: Well, just a moment.

Long ago we discussed the fact in the instructions that are routinely given in every case, and we'll give it in this case, that every defendant has the right not to testify. It's the way we opened with this trial with those instructions.

MR. TRAFICANT: I know you did.

THE COURT: And if he chooses to testify, then he's exercising his right to testify. If he chooses not to testify, it cannot be used against him in any way.

We don't wait until final instructions to talk to the jury about it, and we didn't do it in this case.

MR. TRAFICANT: Let me respond. You did so though in front of the jury, knowing I had no witnesses. You could have dismissed the jury and asked me, "Are you going to take the stand." You chose, once again in front of the jury, to make an issue of whether or not I would testify.

And I'd be glad, and I will stipulate today, I'll take the stand today if you give me 15 minutes of cross on

Mr. Morford.

THE COURT: We've been over that.

MR. TRAFICANT: Second of all, when you made the statement in front of the jury during the Robertson testimony that, "Congressman, you can take this up on appeal" --

THE COURT: I understand what you said before --

MR. TRAFICANT: You have poisoned that jury pool.

THE COURT: You don't have to read your motion to me twice. I understood what your motion was.

MR. TRAFICANT: The motion is part of the record.

THE COURT: Okay.

MR. TRAFICANT: I also want to state for the record the following: That Michael Antonoff, my subpoena server, had been followed by FBI agents --

THE COURT: This has been the subject of prior motions and rulings. We won't go over it now.

MR. TRAFICANT: Fine. But I want it placed on the record now for dismissal.

THE COURT: It is in the record.

MR. TRAFICANT: Again. And I want an answer whether or not the FBI at the order of the U.S. Attorney

was instructed to follow my process server so that it had prior knowledge of who my witnesses would be so they could get background material and impeach them.

MR. MORFORD: Absolutely never happened.

THE COURT: Congressman --

MR. TRAFICANT: Fine.

THE COURT: -- the evidentiary part of this case is closed.

You had a motion here which somehow involves something with Judge Ann Aldrich and the 1983 trial. I think that was a separate motion.

MR. TRAFICANT: Yes.

THE COURT: Well, could you say it for me again so I understand?

MR. TRAFICANT: I want produced the photocopies of the money that was delivered as compelled --

THE COURT: Well, this Court has no jurisdiction over any of that, and it is not an issue in this case. If you want a remedy on something that you think happened back there in that case, then you'll have to find it in another courtroom, but not here. That motion is denied.

MR. TRAFICANT: And I do want the tape of the so-called murder involvement of Jim Traficant.

MR. MORFORD: Your Honor, that was filed

under seal. Congressman Traficant can file a motion to unseal it. That is with Judge Oliver, and if he wants to do that, we have no objection.

THE COURT: I have no knowledge of what you're talking about, and I also don't have any jurisdiction over that case.

We have some limitations on what we can do, and that's one of them. But as to your other motion, the motion which reflects -- I think it's the only other motion that you've made.

MR. TRAFICANT: No, there's one other motion.

THE COURT: Okay. Well, the first motion you made that reflects your concern about your constitutional rights, that motion is denied.

Now, if you have yet another motion, say it to me so I can sort these out and rule on each one.

MR. TRAFICANT: Pursuant to the testimony gained herein, that the testimony of Cafaro and Lange should be admitted -- omitted from the record.

THE COURT: Admitted or omitted?

MR. TRAFICANT: Omitted.

THE COURT: That motion is denied. Congressman, do you have any further motions before we go to the next phase of the case?

MR. TRAFICANT: I have to go to the bathroom.

THE COURT: Are you gentlemen ready with your exhibits? Do you have any further --

MR. SMITH: Your Honor, this morning at 8:10, thinking there might be evidence today, we filed a motion in limine regarding character evidence. Obviously, since the Congressman has rested, we withdraw that motion.

THE COURT: All right, fine. It will be withdrawn.

MR. TRAFICANT: You are withdrawing what motion?

THE COURT: A motion they filed this morning.

MR. TRAFICANT: What was the motion?

MR. MORFORD: It's on your table. It's no longer relevant.

MR. TRAFICANT: Well, let me look at it.

MR. MORFORD: You have rested, so it doesn't matter.

THE COURT: Congressman, I need to talk to you a little bit about how we're going to proceed this morning, because as it turns out, with no witnesses we'll go to the next phase of these proceedings, and I will give you a break. But before I bring the jury in to instruct them on the law and go forward, I need to have you clear about the process as we're going forward. Okay?

MR. TRAFICANT: Your Honor, I've been clear

from day one.

THE COURT: Okay.

MR. TRAFICANT: Whatever you're going to do, you're going to do, so do it.

But like --

THE COURT: Would you like a break?

MR. TRAFICANT: Yes. I have to go to the bathroom. But before I do --

THE COURT: No. We'll take a five-minute break right now. Make it ten. It's more realistic.

(Recess had.)

(Jury in at 9:43 a.m.)

THE COURT: Good morning, Ladies and Gentlemen.

JURORS: Good morning.

THE COURT: The defendant has rested his case, and the evidentiary phase of this trial has concluded, and so now we move into new phases of the trial. And you have on your laps some books which contain jury instructions.

I'm not going to go to the first page of those yet.

I want to give you just a few introductory remarks, taking you back to the time when we originally discussed the procedure that's set in the law and the rules for what happens in a trial, so that this all is in context for you.

So I'm going to read you just a short preliminary instruction, and then we'll turn to your books. And you can either follow along or you can simply sit back and listen.

Those books will be in your hands when you need them throughout the rest of the proceedings.

As you know, the procedure for trial is set by law. First we impanel a jury and alternate jurors, and we did that a long time ago, and following that was when I first talked to you about what happens next in a trial.

Next, the United States and the defendant can make opening statements, which they did in this case, to you. And as you know, those opening statements are not evidence, and you can't consider them as evidence, but they can be useful guides to what will then be coming as each side thinks when the evidence comes on in the case.

Now the evidence has been brought forward, and both you and I are aware of what the evidence in the case is.

After these opening statements, the attorneys for the United States and the defendant, if he wishes to, because he's under no obligation to do so, acting as his own attorney, can present evidence and did present evidence to you.

Now that all the evidence has been presented to you, it's my duty to instruct you on the law based on

the evidence before you.

We'll do that today, and because Fridays are a day that run until noon for you, we'll try to do the parts of that that will be useful to you before noon or as close as we can get to that. The lawyers and the defendant will then stay, but you'll be released until Monday morning.

At 9:00 Monday morning we will reconvene so that the parties can give to you their closing arguments, if they wish to do closing arguments, and I expect they will.

Following that, the Court gives you some final instructions in the law which are the pragmatic ones, the practical ones that tell you how you will go about your procedures when you are given the case and it's in your hands for a verdict, choosing your foreperson, and so forth.

So those are practical, and those can wait, and those come after closing argument.

I can mention now, and will remind you as we have talked about previously, that the first and last closing argument is something under the law which goes to the attorneys for the United States, because in a criminal case, they have the responsibility of the burden of proving the charges in the case, and the defendant then, in the middle, gives a closing argument if he chooses, and we put

the lawyers in this case under a time restriction which is a reasonable one for a case of this length.

And so that will, although the government can split their time, it will be an hour and a half limit on the period of time in which they're going to argue the case.

These procedures allow you to hear closing argument, and closing argument, like opening argument, is to assist the jury in this case in analyzing -- meaning in the case of closing argument which isn't a preview of evidence but is after you have the evidence before you -- it is to assist you in analyzing and evaluating and applying the evidence that was admitted in this case.

And there are certain parameters to closing arguments. Although reasonable inferences can be argued from evidence, material misstatements of evidence are not proper, and also, always anything that happened in evidence is in your province, to rely on your own memories. Personal attacks are not permitted in closing arguments.

Closing arguments, like all -- like opening statements, are not evidence, but they can be very helpful to you. And although they cannot exceed the evidence in the record and have to relate to the evidence that was adduced in front of you here at trial, they then take us to a point in the case where we give you your final

deliberating instructions, hand you all the evidence that's been admitted in the case, and then you will have these books to use with you, along with your own notebooks as you go back and start your deliberations.

So that's how it goes as we move up toward that. And the case will then be in your hands for verdicts.

Now, if you open those notebooks, I'll sort of lay out for you what's there. And the way of doing these is that, doing instructions, is that I will be reading you every word in there, even when it is the table of contents. We'll just go slowly. This will acquaint you with the law, which is in there based on what actually was adduced as evidence in this case. So it is a little bit dry. We hope it's very useful to you.

Sit back and be comfortable, and we'll start reading along. You can follow as you wish.

You see on the front page of this, the caption for this case, in the United States District Court for the Northern District of Ohio, Eastern Division. This is the way all filings in court look, and it's a form that's very useful. It shows the United States of America as plaintiff. It shows James A. Traficant, Jr. as defendant. It gives the case number, it gives the Judge's name, and it identifies the document as jury instructions.

Now, for your convenience, and the convenience may

become apparent only when you actually begin to use these in your deliberations, there is a table of contents. And the table of contents reflects page numbers for certain sections.

Before closing argument on Monday, we will have covered with you everything that goes through sections A, B, and C here. So you see on the table, first you have an introduction, a preliminary statement, something called general law. Then we talk first about the presumption of innocence, the burden of proof, reasonable doubt. We define evidence under the law, consideration of evidence. There's more on evidence called inferences.

Direct and circumstantial evidence will be explained. The order of exhibits and witnesses, the credibility of witnesses, discrepancies in testimony, number of witnesses, pro se representation, the defendant's decision not to testify, testimony of witnesses involved in the same crimes that are charged, expert testimony, testimony of law enforcement officers, immunity, testimony of a witness under grant of immunity or who has received a government promise to recommend a reduced sentence, videotape depositions, impeachment by prior inconsistent statement not under oath, impeachment of a witness by prior conviction, joint exhibits, punishment, parties' objections, speech or debate clause, something called on or

about, which when we get to it you'll understand, interviewing witnesses, introduction of part C.

Now, part C, which we'll go over today, is the part that deals with the specific elements of the charges in this case. Parts A and B tend to cover general law that applies in every case no matter what the charges are. But when you get into C, you're talking about the specific charges.

So there is a summary of the counts. There is a section on the single defendant charged with multiple crimes, a section on related counts, and then we have a section on Counts 1, 2, 3, and 4, which are conspiracy to violate the federal bribery and gratuity statute. And you'll see there the citations to the statute.

Basic elements of the offenses, the conspiracy element, and it then breaks out the various elements of the conspiracy charge: Agreement, defendant's connection to the conspiracy, overt acts.

Then there's a section called unindicted, unnamed, or separately tried coconspirators, the crimes that the defendant is accused of conspiring to commit. Then there's a Count 5 instruction, illegal gratuity; Count 6, obstruction of justice; Count 7, conspiracy to defraud the United States; Counts 8 and 9, filing false tax returns.

And you see set forth in this table of

contents the statute designated for each of those.

Then elements, definitions, a section on funds or property from unlawful sources. Proof of signing as proof of knowledge of contents of return.

Then there's one, each tax year is separate. There is Count 10, which is the Racketeering Influenced and Corrupt Organizations Act, or RICO, as the shorthand name is. The statute is cited, and then RICO elements, and it goes through each of the elements: Enterprise, interstate or foreign commerce, employed by or associated with, to conduct or participate, pattern of racketeering activity, racketeering activity, racketeering act of mail fraud, racketeering acts conclusion.

Now, that's the end of where we'll go today. That's pretty dry stuff, and the table of contents is only meant to allow you, if you in your deliberations need to, access part of these long instructions, because it's been a case of several weeks duration. It allows you to get back to them easily. So although it's for your convenience, we always read these off so you kind of have an overview of where this is going to go.

Now I'm actually going to read them to you. And if you go over to page A-1, I'll be reading that part.

Ladies and Gentlemen of the Jury: It's time for me to instruct you about the law you must follow in

deciding this case.

I will start by explaining your duties and the general rules that apply in every criminal case.

Next I will explain some rules you must use in evaluating particular testimony and evidence.

Then I will explain the elements or parts of the crimes the defendant is accused of committing.

And last, and that will be Monday, I'll explain the rules you must follow during your deliberations in the jury room and the possible verdicts you may return.

Please listen very carefully to everything I say.

Before I give you the law in the case, I want to tell you something about the charge to the jury. As you know, the jury is the trier of facts, and the Judge makes all determinations of law.

The charge is divided into three parts: General law, Sections A and B. The first part of the charge deals with the general law that applies in almost every criminal case. It defines what evidence is, the burden of proof, credibility of witnesses, the function of the Judge and Jury, and similar matters.

Next I discuss the law that applies to this case and various elements of that law. I will also define for you terms which require definition. Some terms are

generally understood and do not require definition or explanation.

After I tell you about the applicable law in the case, and on Monday this will be, after closing arguments, I'll give you your instructions for deliberation. This will include the verdict forms, the election of the foreperson, and how you will conduct yourselves during your deliberations.

Then the case will be turned over to you for deliberation and verdict.

You have two main duties as jurors. The first one is to decide what the facts are from the evidence that you saw and heard here in court. Deciding what the facts are, and if the facts are in conflict, deciding where the truth lies, is your job, not mine. And nothing that I have said or done during this trial was meant to influence your decision about the facts in any way.

Your second duty is to take the law that I give you, apply it to the facts, and decide if the government has proved the defendant guilty beyond a reasonable doubt. It is my job to instruct you about the law, and you're bound by the oath that you took at the beginning of the trial to follow the instructions that I give you even if you personally disagree with them.

This includes the instructions that I gave you before

and during the trial, and these instructions. You are not permitted to change the law, nor to apply what you think the law should be. Regardless of your personal interpretation of the law, you would violate your sworn duty to arrive at a verdict if you did so without applying the law to the facts as the law is given in these instructions by the Judge.

These instructions are for your guidance in arriving at a verdict in this case. They are not intended to reflect any opinion on my part. Do not search for any hidden implications, but rather apply the instructions wisely and impartially.

You are not to single out any one instruction as stating the law. Rather, you must give -- you must consider the instructions in their entirety. I may give you more law than you need because I do not know what you will decide the facts to be. That's solely for you jurors to determine. Therefore, I must give you all the law that you could conceivably need regardless of what you determine the facts to be.

You've been selected to serve as jurors in this case to consider and decide the issues of fact presented by the indictment and the evidence. Each of you has taken an oath or affirmation to perform this duty impartially, without bias or prejudice to any of the parties to this action.

The law, the parties, the Judge, counsel, and the public, rely on you to honor your oath or affirmation to carefully and impartially consider all the evidence presented in this case. Accept and apply the law as instructed by me and return a just verdict.

Remember, the law does not permit jurors to be governed by sympathy, prejudice, or public opinion.

This section is called presumption of innocence, burden of proof, and reasonable doubt. As you know, the defendant has pled not guilty to the crimes charged in the indictment. The indictment is not any evidence at all of guilt. It is simply the formal way the government tells the defendant what crime he or she is accused of committing. It does not even raise any suspicion of guilt. Remember that a defendant is never to be convicted on mere suspicion or conjecture.

Instead, the defendant starts the trial with a clean slate, with no evidence at all against him, and the law presumes that he is innocent. This presumption of innocence continues throughout the trial unless and until the government presents evidence here in court that overcomes the presumption and convinces you beyond a reasonable doubt that the defendant is guilty. The presumption of innocence alone is sufficient to acquit the defendant unless the jurors are satisfied beyond a

reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

This means the defendant has no obligation to present any evidence at all or to prove to you in any way that he is innocent. It is up to the government to prove the defendant guilty, and this burden stays on the government from start to finish. You must find the defendant not guilty unless the government convinces you beyond a reasonable doubt that the defendant is guilty.

The government must prove every element of the crimes charged beyond a reasonable doubt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt. Possible doubts, or doubts based purely on speculation, are not reasonable doubts. A reasonable doubt is a doubt based on reason and common sense. It may arise from the evidence, the lack of evidence, or the nature of the evidence.

Proof beyond a reasonable doubt means proof which is so convincing that you would not hesitate to rely and act on it in making the most important decisions in your own lives. If you are convinced that the government has proved the defendant guilty beyond a reasonable doubt, say so by returning a guilty verdict. If you are not convinced the government has proved the defendant guilty beyond a reasonable doubt, say so by returning a not guilty verdict.

If the jury, after careful and impartial consideration of all of the evidence in a case -- the case has a reasonable doubt that the defendant is guilty of a particular charge, it must acquit on that charge. If the jury views the evidence in the case as reasonably permitting either of two conclusions, one of innocence, the other of guilt, the jury should, of course, adopt the conclusion of innocence.

Now we will begin defining evidence. You must make your decision based only on the evidence you saw and heard here in court. Do not let rumors, suspicions, or anything else you may have seen or heard outside of court influence your decision in any way.

The evidence in this case includes only what the witnesses said while they were testifying under oath or affirmation, and the exhibits I allowed into evidence.

Nothing else is evidence. The parties' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. My comments and questions are not evidence.

During the trial, I did not let you hear the answers to some of the questions the parties asked. I also ruled you could not see some of the exhibits the parties wanted you to see. I also did not let you see parts of certain documents. Sometimes I ordered you to disregard things you

saw or heard, or I struck things from the record. You must completely ignore all of these things. Do not even think about them. Don't speculate about what a witness might have said or an exhibit might have shown. These are not evidence, and you're bound by your oath or affirmation not to let them influence your decision in any way.

Make your decision based only on the evidence as I have defined it here, and nothing else.

You should use your common sense in weighing the evidence. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. If your experience tells you certain evidence reasonably leads to a conclusion, you're free to reach that conclusion.

There are two types of evidence from which a jury may properly find the truth as to facts in the case: direct evidence and circumstantial evidence.

Direct evidence is simply evidence like the testimony of an eyewitness which, if you believe it, directly proves a fact. If a witness testified she or he saw it raining outside, and you believe him or her, that would be direct evidence it was raining.

Circumstantial evidence is simply a chain of circumstances that indirectly proves a fact. If someone walked into the courthouse wearing a raincoat, covered with

drops of water, and carrying a wet umbrella, that would be circumstantial evidence from which you might conclude it was raining, following our common experience as women and men.

It's your job to decide how much weight to give direct and circumstantial evidence. The law makes no distinction between the weight you should give to either direct or circumstantial evidence, or to testimonial or tangible evidence. Consider all of the evidence, both direct and circumstantial, and give it whatever weight you believe it deserves.

A number of exhibits and testimony relating to them have been introduced. The numbering or lettering of the exhibits you'll have in the jury room may not be consecutive. Some exhibits may ultimately not have been introduced by the party producing them, or I may not have accepted certain exhibits because of a legal or procedural ruling. Do not speculate or attempt to draw any inference because you do not have a particular exhibit.

In addition, witnesses were called by both sides without regard to any particular order. Do not speculate or attempt to draw any inference from the order in which witnesses were called.

Before we ever heard a witness in the case, I read you this particular instruction, but we read it again as

part of this. Credibility of witnesses, discrepancies in testimony.

Another part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It's up to you to decide if a witness's testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said or only part of it, or none of it at all, but you should act reasonably and carefully in making these decisions.

Let me suggest some things for you to consider in evaluating each witness's testimony.

Ask yourself if the witness was able to clearly see or hear the events. Sometimes even an honest witness may not have been able to see or hear what was happening and may make a mistake.

Ask yourself how good the witness's memory seemed to be. Did the witness seem able to accurately remember what happened?

Ask yourself if there was anything else that may have interfered with the witness's ability to perceive or remember the events.

Ask yourself how the witness acted while testifying. Did the witness appear honest? Or did the witness appear to be lying?

Ask yourself if the witness had any relationship to the government or to the defendant, or anything to gain or lose from the case, that might influence the witness's testimony.

Ask yourself if the witness had any bias or prejudice or reason for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.

Ask yourself if the witness testified inconsistently while on the witness stand, or if the witness said or did something, or failed to say or do something at any other time that is inconsistent with what the witness said while testifying. If you believe that the witness was inconsistent, ask yourself if this makes the witness's testimony less believable. Sometimes it may, and sometimes it may not. Consider whether the inconsistency was about something important or about some unimportant detail. Ask yourself if it seemed like an innocent mistake or if it seemed deliberate.

And ask yourself how believable the witness's testimony was in light of all the other evidence. Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even

two honest people who witness the same event may not describe it exactly the same way.

These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people, and then decide what testimony you believe and how much weight you think it deserves.

One more point about witnesses: Sometimes jurors wonder if the number of witnesses who testify makes any difference.

Do not make any decisions based only on the number of witnesses who testified. What's more important is how believable the witnesses were, and how much weight you think their testimony deserves. Concentrate on that, not the numbers.

Pro se representation: Although Defendant Traficant has the right to be represented by counsel, he has exercised his constitutional right to do without counsel, and represent himself in this trial. This decision is his to make and should not be considered as a factor in your deliberations either for or against him.

The remarks of a person representing himself or herself are to be regarded no differently than those of

the attorneys in a case. Like those of the attorneys, the statements, questions, comments, objections, and arguments, including final argument of Defendant Traficant, are not made under oath, are not subject to cross-examination, and are not evidence.

Remember, evidence includes only what the witnesses said while they were testifying under oath or affirmation and the exhibits I allowed in evidence.

Defendant's decision not to testify: A defendant has an absolute right not to testify. You may not consider the fact that Defendant Traficant did not testify. Do not even discuss it in your deliberations.

Remember, it's up to the government to prove a defendant guilty beyond a reasonable doubt. It is not up to the defendant to prove that he is innocent.

You've heard the testimony of several witnesses who testified that they were involved in the same crime or crimes that the defendant is charged with committing. You should consider such testimony with more caution than the testimony of other witnesses.

Do not convict the defendant based on the testimony of such a witness standing alone unless you believe the testimony beyond a reasonable doubt.

The fact that a witness has pleaded guilty to a crime is not evidence that the defendant is guilty, and

you cannot consider this against the defendant in any way.

You've heard the testimony of Bruce Hess, an expert witness. An expert witness has special knowledge or experience that allows the witness to give an opinion.

You do not have to accept the expert's opinion. In deciding how much weight to give it, you should consider the witness's qualifications and how he reached his conclusions.

Remember that you alone decide how much of a witness's testimony to believe and how much weight it deserves.

Law enforcement officers have testified in this case. In determining the weight or credence to be given to their testimony, apply the same rules you apply in determining the weight and credibility of the other witnesses. Merely because they are law enforcement officers does not warrant the jury in giving their testimony more or less weight, credence -- or credence than that of other witnesses.

Immunity: You've heard the testimony of several witnesses who were given immunity. Under the terms of the immunity statute, whenever a witness refuses to testify on the basis of his or her Fifth Amendment privilege against self-incrimination, the government may ask the Judge to order the person to testify with the promise that the witness's compelled testimony may not be used against the

witness in any way in any future proceedings. However, if that person testifies falsely, he or she may be prosecuted for perjury or for making false statements.

You have heard the testimony of several witnesses who the government has promised not to prosecute or to recommend a reduced sentence for in exchange for their testimony against the defendant. The government has the right to make such a promise, but you should consider such testimony with more caution than the testimony of other witnesses. Consider whether the government's promise may have influenced the testimony. Do not convict the defendant based on the testimony of such a witness standing alone unless you believe his or her testimony beyond a reasonable doubt.

You've seen videotaped depositions of Thomas Williams and David Manevich. You should treat their deposition testimony as if it were testimony of a witness here in the courtroom.

You've heard the testimony of several witnesses who made unsworn statements before they testified at this trial. You've also heard that these statements may be different from their testimony here in court.

These earlier statements were brought to your attention only to help you decide how believable their testimony was. You cannot use these earlier unsworn

statements as proof of anything else. You can only use it as one way of evaluating their testimony here in court.

You've heard the testimony of several witnesses, each of whom before this trial began were convicted of a crime or crimes.

These earlier convictions were brought to your attention only as one way of helping you decide how believable each witness's testimony was. Do not use it for any other purpose. It is not evidence of anything else.

Many of the exhibits that have been presented to you and that are in evidence in this case are joint exhibits. Unlike exhibits designated as government and defense exhibits, joint exhibits are offered as evidence by both parties.

Punishment: If you decide that the government has proved a defendant guilty, then it will be my job to decide what the appropriate punishment should be.

Deciding what the punishment should be is my job, not yours. It would violate your oaths and affirmations as jurors to even consider the possible punishment in deciding your verdict.

Your job is to look at the evidence and decide if the government has proved the defendant guilty beyond a reasonable doubt.

The parties objected to some of the things that were

said or done during the trial. Do not hold that against either side. Parties have a duty to object whenever they think something is not permitted by the rules of evidence. Those rules are designed to make sure both sides receive a fair trial.

Do not interpret my rulings on their objections as any indication of how I think the case should be decided. My rulings are based on the rules of evidence. Remember that your decision must be based only on the evidence you saw and heard here in court.

Speech or debate clause: You've heard objections and some testimony regarding the speech or debate clause in this case. As a United States Congressman, Defendant Traficant has a constitutional privilege not to be questioned regarding any legislative acts he may have taken in Congress. However, he has the right, but not the obligation, to introduce any legislative acts he may have taken into evidence in his defense.

At times, you heard objections and discussion regarding whether or not a particular matter is protected by the speech or debate clause. The issue of whether something constitutes a legislative act protected by the speech or debate clause privilege is a legal issue for the Court, not the jury, to decide. You should consider all evidence that has been admitted in this case and disregard

any discussion you may have heard about the speech or debate clause.

Next I want to say a word about the dates mentioned in the indictment.

The indictment charges that certain crimes occurred on or about, in quotes, certain or specific dates. The government does not have to prove that the crimes happened on those exact dates, but the government must prove that the crimes happened reasonably close to those dates.

Interviewing witnesses: It is proper for an attorney or pro se defendant to interview any witness in preparation for trial.

Now I'm going into the last part I'm going to read. You're very patient and attentive, and I appreciate it. This is the part of the instructions that explain your duties and the general rules that apply.

That concludes the part of the instructions that explain your duties and the general rules that apply in any criminal case. So now I'm going to explain the elements of the crimes the defendant is accused of committing.

Before I do that, I must emphasize the defendant is only on trial for the particular crimes charged in the indictment, and your job is limited to

deciding whether the government has proved the crimes charged.

Also keep in mind that whether anyone else should be prosecuted and convicted for these crimes is not a proper matter for you to consider. The possible guilt of others is no defense to a criminal charge. Your job is to decide if the government has proved this defendant guilty. Do not let the possible guilt of others influence your decision in any way.

Summary of counts: Count 1 of the indictment charges that Defendant Traficant, Anthony Bucci, and others conspired to violate Sections 201(b)(1)(A) and 201(b)(2)(A) of the federal bribery statute.

Count 2 of the indictment charges that Defendant Traficant, Arthur David Sugar, and others conspired to violate Section 201(c) of the federal bribery statute, otherwise known as the, quote, illegal gratuity, end quote, provision.

Count 3 of the indictment charges that Defendant Traficant, J.J. Cafaro, Richard Detore, and others conspired to commit an illegal gratuity.

Count 4 of the indictment charges that Defendant Traficant, Allen Sinclair, Henry DiBlasio, and others conspired to commit an illegal gratuity.

Count 5 of the indictment charges that Defendant

Traficant received an illegal gratuity by receiving $2500 a month from the salary of Allen Sinclair.

Count 6 of the indictment charges that Defendant Traficant obstructed justice by endeavoring to persuade Allen Sinclair to destroy evidence and to provide false testimony and information to a federal grand jury.

Count 7 of the indictment charges that Defendant Traficant, Henry DiBlasio, Allen Sinclair, Charles O'Nesti, and others conspired to defraud the United States out of money or property.

Count 8 of the indictment charges that Defendant Traficant filed a false tax return for tax year 1998.

Count 9 of the indictment charges that Defendant Traficant filed a false tax return for tax year 1999.

Count 10 of the indictment charges that Defendant Traficant violated the Racketeer Influenced and Corrupt Organizations Act, RICO, by conducting the affairs of the office of Congressman James A. Traficant through a pattern of racketeering activity consisting of acts of bribery, illegal gratuity, and mail fraud.

The defendant has been charged with ten crimes. The number of charges is no evidence of guilt, and this should not influence your decision in any way. It is your duty to separately consider the evidence that relates to each charge and to return a separate verdict for each one. For

each charge, you must decide whether the government has presented proof beyond a reasonable doubt that the defendant is guilty of that particular charge.

Related counts: Counts 8 and 9 involve allegedly unreported taxable income. Your decisions regarding Counts 3, 4, 5, and 10 may affect your decisions on Counts 8 and 9,insofar as they may affect your determination of the existence or nonexistence of unreported taxable income.

Count 10 involves multiple alleged racketeering acts. Your decisions regarding Counts 1, 2, 3, 4, and 5 may affect your decisions on Count 10, insofar as they may affect your determination of the commission or noncommission of certain racketeering acts.

Otherwise, your decision on one charge, whether it is guilty or not guilty, should not influence your decision on any of the other charges.

Counts 1, 2, 3, and 4, conspiracy to violate the federal bribery and gratuity statute. Basic elements of the offenses: Count 1 of the indictment charges conspiracy to commit the crime of bribery of a public official, in violation of federal law. Counts 2, 3, and 4 of the indictment charge conspiracy to commit a different crime, the crime of illegal gratuity, in violation of federal law. All four counts involve conspiracy charges.

It is a crime for two or more persons to

conspire or agree to commit a criminal act even if they never actually achieve their goal.

A conspiracy is a kind of criminal partnership. For you to find Defendant Traficant guilty of a conspiracy charge, the government must prove each and every one of the following elements beyond a reasonable doubt:

First, that two or more persons conspired or agreed to commit a federal crime.

Second, that the defendant knowingly and voluntarily joined the conspiracy.

Third, that a member of the conspiracy did one of the overt acts described in the indictment for the purpose of advancing or helping the conspiracy.

In order to find the defendant guilty of a conspiracy charge, you must be convinced that the government has proved all of these elements beyond a reasonable doubt.

Conspiracy element one, agreement: With regard to the first element of conspiracy, the government must prove that two or more persons conspired or agreed to cooperate with each other to commit a crime.

Conspiracy does not require proof of any formal agreement, written or spoken, nor does it require proof that everyone involved agreed on all the details. The proof that people simply met together from time to time

and talked about common interests or engaged in similar conduct is not enough to establish a criminal agreement. These are things that you may consider in deciding whether the government has proved an agreement, but without more, they are not enough.

What the government must prove is that there was a mutual understanding, either spoken or unspoken, between two or more people to cooperate with each other to commit a crime. This is essential.

An agreement can be proved indirectly by facts and circumstances which will lead to a conclusion that an agreement existed, but it is up to the government to convince you that such facts and circumstances existed in this particular case.

Conspiracy element two, defendant's connection to the conspiracy: If you are convinced that there was a criminal agreement, then you must consider the second element and decide whether the government has proven that the defendant knowingly and voluntarily joined that agreement. For you to convict the defendant, the government must prove that he knew the conspiracy's main purpose and that he voluntarily joined the conspiracy intending to help advance or achieve its goals.

The government does not need to prove that the defendant knew everything about the conspiracy or

everyone else involved, or that he was a member of it from the very beginning. Nor does the government need to prove that the defendant played a major role in the conspiracy, or that his connection to it was substantial. A slight role or connection may be enough.

But proof that the defendant simply knew about a conspiracy, or was present at times, or associated with members of the group is not enough, even if he approved of what was happening or did not object to it. Similarly, just because the defendant may have done something that happened to help the conspiracy does not necessarily make him a conspirator. These are all things that you may consider in deciding whether the government has proven that the defendant joined a conspiracy, but without more, they are not enough.

What the government must prove is that the defendant knew the conspiracy's main purpose and that he voluntarily joined it intending to help advance or achieve its goals. This is essential.

The defendant's knowledge can be proved indirectly by facts and circumstances which lead to a conclusion that he knew the conspiracy's main purpose, but it is up to the government to convince you beyond a reasonable doubt that such facts and circumstances existed in this particular case.

Conspiracy element three, overt acts: The third element that the government must prove is that a member of the conspiracy did one of the overt acts described in the indictment for the purpose of advancing or helping the conspiracy.

The indictment lists various overt acts for Counts 1 through 4. The government does not have to prove that all these overt acts were committed or that any of these overt acts were themselves illegal.

But the government must prove that for each of Counts 1 through 4, at least one of these overt acts was committed by a member of the conspiracy, and that it was committed for the purpose of advancing or helping the conspiracy. This is essential.

Some of the people who may have been involved in these events are not on trial here. This doesn't matter. There's no requirement that all members of the conspiracy be charged and prosecuted or tried together in one proceeding.

An indictment can charge a defendant with a conspiracy involving people whose names are not known as long as the government can prove that the defendant conspired with one or more of them. Whether they're named or not does not matter.

The crimes that the defendant is accused of

conspiring to commit: In Count 1, the conspiracy charge relates to the crime of bribery of a public official. In Counts 2, 3, and 4, the conspiracy charges relate to the crime of illegal gratuity.

First of all, it's important for you to recognize that Counts 1 through 4 do not directly charge the defendant with bribery or illegal gratuity. Instead, Counts 1 through 4 each charge a conspiracy to commit either the crime of bribery or the crime of illegal gratuity. There is a difference. The crimes of bribery and illegal gratuity will be defined for you for Counts 1 through 4 so that you can determine not if the defendant committed either of these crimes in those counts, but if he conspired to commit these crimes.

With that understood, I'll explain the distinctions between the crimes of bribery and the crime of illegal gratuity, and I'll define these crimes.

Do you want to stand up and stretch a minute before I define these crimes? Are you okay?

Count 1 involves the crime of bribery which occurs when something of value is corruptly given, offered, or promised to a public official or corruptly demanded, sought, received, accepted, or agreed to be received or accepted by a public official with intent to influence any official act or in return for being influenced in the

performance of any official act.

Counts 2, 3, and 4 each involve the crime of illegal gratuity, which occurs when something of value, other than as provided by law for the proper discharge of his official duty, is given, offered, or promised to a public official or demanded, sought, received, accepted, or agreed to be received or accepted by a public official, for or because of any official act performed or to be performed by the public official.

The difference between bribery and illegal gratuity is intent. Bribery requires intent to influence an official act or to be influenced in an official act, while illegal gratuity only requires -- requires only that the gratuity be given or accepted for or because of an official act.

In other words, for bribery, there must be a specific intent to give or receive something of value in exchange for an official act. An illegal gratuity, on the other hand, may be merely a reward for some future act that the public official will take and may have already determined to take, or for a past act that he has already taken.

The government does not need to show that any official act was actually performed by the defendant for either bribery or illegal gratuity. The government also does not need to show that the public official actually

received something of value. It is sufficient if the public official sought or agreed to receive or accept the thing of value.

Remember that Counts 1 through 4 do not charge bribery or illegal gratuity. They charge a conspiracy to commit either bribery or illegal gratuity. There is a difference. I defined the crimes of bribery and illegal gratuity for you for Counts 1 through 4 only so that you could determine if there were conspiracies to commit these crimes.

Count 5, illegal gratuity: Count 5 of the indictment charges Defendant Traficant with the crime of illegal gratuity. The United States Code describes the crime of illegal gratuity. Section 201(c)(1)(B) of Title 18 provides in part that: "Whoever otherwise than as provided by law for the proper discharge of official duty, being a public official, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official" -- that's the end of the quote in the statute -- is guilty of illegal gratuity.

Therefore, the crime of illegal gratuity has three elements:

One, Defendant Traficant demanded, sought, or

received something of value other than as provided by law for the proper discharge of his official duty as described in Count 5 of the indictment.

Two, Defendant Traficant was at that time a public official of the United States.

Three, Defendant Traficant demanded, sought, or received something of value for or because of any official act performed or to be performed.

In order to find the defendant guilty of the illegal gratuity charge, you must be convinced that the government has proven all these elements beyond a reasonable doubt.

The government does not need to show that any official act was actually performed by the defendant.

The following definitions apply to the charge of illegal gratuity:

The term, quote, public official, end quote, includes a member of Congress.

The term, quote, official act, end quote, means any decision or action on any question, matter, cause, suit, proceeding, or controversy which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit. The term "official act" -- that's in quotes -- includes the decisions or actions generally expected of a public

official. These decisions or actions do not need to be specifically described in any law, rule, or job description to be considered to be an official act.

The phrase, quote, anything of value, end quote, means any item, whether tangible or intangible, that the person giving or offering or the person demanding or receiving considers to be worth something. The phrase , quote, anything of value, end quote, includes a sum of money, favorable treatment, a job, or special consideration.

Count 6 of the indictment charges that from on or about January 21st, 2000, and continuing until on or about February 29th, 2000, in the Northern District of Ohio, Defendant Traficant corruptly endeavored to influence, obstruct, or impede the due administration of justice in a pending federal judicial proceeding, namely, a federal grand jury, by endeavoring to persuade his administrative counsel to destroy evidence and to provide false testimony and information to a federal grand jury that was impaneled in the Northern District of Ohio and which Defendant Traficant knew had issued federal grand jury subpoenas.

Section 1503 of Title 18 of the United States Code provides in part, that: "Whoever corruptly endeavors to influence, obstruct, or impede the due administration of justice," shall be guilty of obstruction of justice.

In order to meet its burden of proof for the crime of corruptly endeavoring to influence, obstruct, or impede the due administration of justice as charged in Count 6 of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

First, the federal grand jury was in session at the time alleged in the indictment.

Second, Defendant Traficant knew that the federal grand jury was in session.

Third, Defendant Traficant endeavored to persuade his administrative counsel to destroy evidence and to provide false testimony and information to the federal grand jury.

Fourth, in doing so, he corruptly endeavored to influence, obstruct, or impede the due administration of justice.

In order to find the defendant guilty of the crime of obstruction of justice, you must be convinced that the government has proven all of these elements beyond a reasonable doubt.

The following definitions apply to Count 6:

To act, quote, corruptly, end quote, means to act voluntarily and deliberately and for the primary -- for the purpose of -- let me start this again.

To act, quote corruptly, end quote, means to act voluntarily and deliberately and for the purpose of

improperly influencing, or obstructing, or interfering with the administration of justice.

The term "endeavors" means to knowingly and deliberately act or to knowingly and deliberately make any effort which has a reasonable tendency to bring about the desired result. It is not necessary for the government to prove that the, quote, endeavor was successful or, in fact, achieved the desired result.

Count 7, conspiracy to defraud the United States: Count 7 of the indictment accuses Defendant Traficant of a conspiracy to defraud the United States by dishonest means. It is a crime for two or more persons to conspire or agree to defraud the United States even if they never actually achieve their goal.

As I instructed you earlier, a conspiracy is a kind of criminal partnership. For you to find the defendant guilty of this conspiracy charge, the government must prove each and every one of the following elements beyond a reasonable doubt:

First, that two or more persons conspired or agreed to defraud the United States, or one of its agencies or departments, by dishonest means. The word "defraud" is not limited to its ordinary meaning of cheating the government out of money or property. "Defraud," and that's in quotes, also means impairing, obstructing, or defeating

the lawful function of any government agency or department by dishonest means.

Second, the government must prove that the defendant knowingly and voluntarily joined the conspiracy.

And third, the government must prove that a member of the conspiracy did one of the overt acts described in Count 7 of the indictment for the purpose of advancing or helping the conspiracy.

In order to find the defendant guilty of the conspiracy charge, you must be convinced that the government has proved all of these elements beyond a reasonable doubt.

The general instructions regarding the conspiracy elements and unindicted, unnamed, or separately tried coconspirators given to you for Counts 1 through 4 apply to Count 7, as well.

Counts 8 and 9, filing false tax returns: Counts 8 and 9 of the indictment charge Defendant Traficant with filing false tax returns.

Section 7206(1) of Title 26 of the United States Code provides that: "Any person who willfully makes and subscribes any return, statement, or other document, which contains, or is verified by, a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every

material matter," shall be guilty of filing false tax returns.

In order to meet its burden of proof for the crime of willfully filing a false tax return, the government must prove the following five essential elements beyond a reasonable doubt:

First, Defendant Traficant made and signed a tax return for the year 1998, for Count 8, and year 1999, for Count 9, that contained false information as to a material matter.

Second, Defendant Traficant knew this information was false.

Third, the false statement was material.

Fourth, the return contained a written declaration that it was being signed subject to the penalties of perjury.

Fifth, in filing the false tax return, Defendant Traficant acted willfully.

In order to find the defendant guilty of the crime of willfully filing a false tax return, you must be convinced that the government has proven all of these elements beyond a reasonable doubt.

The government is not required to prove that any additional tax was due to the government or that the government was deprived of any tax revenues by reason of

the filing of any false return.

A statement is "material" if it has a natural tendency to influence or is capable of influencing the Internal Revenue Service in investigating or monitoring the reporting of income by a taxpayer.

The term "willfully" means to voluntarily and intentionally violate a known legal duty. Proof of any additional bad motive is not required. Negligent conduct is not sufficient to constitute willfulness.

Funds or property from unlawful sources: In determining the issue of the taxable income of the defendant, no distinction is made between income derived from lawful or unlawful sources. Funds or property received from unlawful or illegal sources, therefore, are treated in the same manner as funds or property from lawful or legal sources.

Section 6064 of Title 26 of the United States Code provides in part that: "The fact that an individual's name is signed to a return shall be prima facie evidence for all purposes that the return was actually signed by him."

In other words, you may infer and find that a tax return was, in fact, signed by the person whose name appears to be signed to it. You're not required, however, to accept any such inference or to make such a finding.

If you find beyond a reasonable doubt from the

evidence in the case that Defendant Traficant signed the tax return in question, then you may also draw the inference and may also find, but are not required to find, that Defendant Traficant knew the contents of the return that he signed.

Each tax year is separate: Any willful failure to comply with the requirements of the Internal Revenue Code for one year is a separate matter from any such failure to comply for a different year. The tax obligations of the defendant in any one year must be determined separately from the tax obligations in any other year.

Now, you may not need to stand up and stretch, but I need to stand up in stretch. Anyone else who needs to stand up and stretch, please do.

(Pause.)

THE COURT: Count 10, this is the RICO count. Count 10 of the indictment charges that from in or about January, 1985, until October 26, 2001, in the Northern District of Ohio, defendant James A. Traficant, Jr. violated federal law by associating with an interstate enterprise and then knowingly and deliberately participating in the affairs of that enterprise through a pattern of racketeering activity.

Section 1962(c) of Title 18 of the United States Code provides in part that: "It shall be unlawful for any person employed by or associated with any enterprise

engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity."

RICO elements: In order to meet its burden of proof for the crime of participating in the affairs of an interstate enterprise through a pattern of racketeering activity, as charged in Count 10 of the indictment, the government must prove the following five essential elements beyond a reasonable doubt:

First, an enterprise, as described in the indictment, existed on or about the time alleged in the indictment.

Second, the enterprise affected interstate or foreign commerce.

Third, defendant James A. Traficant, Jr. was employed by or associated with the enterprise.

Fourth, Defendant Traficant participated, either directly or indirectly, in the affairs of the enterprise.

Fifth, Defendant Traficant participated in the affairs of the enterprise through a pattern of racketeering activity as described in the indictment through the knowing commission of at least two racketeering acts within ten years of each other.

In order to find the defendant guilty of the RICO

charge, you must be convinced that the government has proven all these elements beyond a reasonable doubt.

RICO element one, enterprise: As used in Count 10, the term "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity. Thus, the term "enterprise" may include a group of people associated in fact, even though this association is not recognized as a legal entity. A group or association of people can be an enterprise if these individuals have joined together for the purpose of engaging in a common course of conduct. Such an association of persons may be established by evidence showing an ongoing organization, formal or informal, and by evidence that the people making up the association function as a continuing unit. Such an association of individuals may retain its status as an "enterprise" even though the membership of the association changes by adding or losing individuals during the course of its existence.

RICO element two, interstate or foreign commerce: "Interstate or foreign commerce" means trade, business, or travel between the states or between the United States and another country. The phrase "engaged in, or the activities of which affect, interstate or foreign commerce," means to be involved in or to affect in some, even minimal, way

trade, business, or travel between the states or between the United States and another country.

The government need not prove that Defendant Traficant himself engaged in interstate or foreign commerce or that his acts affected interstate or foreign commerce. However, the government must prove that the activities of the enterprise had some minimal effect on interstate or foreign commerce. It is not necessary for the government to show that the defendant knew that the enterprise would affect interstate or foreign commerce or show that the defendant intended to affect interstate or foreign commerce.

RICO element three: "Employed by or associated with" the enterprise means that the defendant was connected to the enterprise in some meaningful way and that the defendant knew of the existence of the enterprise and of the general nature of its activities. The defendant need not have been employed by or associated with the enterprise for the entire period of its existence. However, the government must prove beyond a reasonable doubt that at some time during the period indicated in Count 10 of the indictment the defendant was employed by or associated with the enterprise.

RICO element four: The term "to conduct or participate directly or indirectly in the conduct of" the

affairs of the enterprise means the performance of acts, functions, and duties which are necessary or helpful in the operation of the enterprise. A person may be found to conduct or participate in the conduct of an enterprise even though that person is merely a servant or employee as long as the government also proves that the person participates somehow in the operation or management of the enterprise.

There is a typo on the fourth line from the bottom, and we'll clear it up for you.

RICO element five, pattern of racketeering activity: In order to establish a "pattern of racketeering activity" as alleged in Count 10 of the indictment, the government must prove beyond a reasonable doubt that:

One, at least two acts of racketeering, as detailed in Count 10 of the indictment, were committed within ten years of each other.

Two, the racketeering acts had the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events.

Three, the racketeering acts themselves constitute continued activity or a threat of continued activity. Continued activity may be established when the evidence shows that a series of related acts took place over a substantial period of time. Threat of continued

activity may be established when the evidence shows that the racketeering acts are part of a long-term association that exists for criminal purposes or when the racketeering acts are shown to be a regular way of conducting a defendant's ongoing legitimate business or enterprise.

The government must prove beyond a reasonable doubt that the defendant committed at least two acts of racketeering. You must unanimously agree on which racketeering acts, if any, you believe the defendant committed. It is not enough that some Members of the Jury find that the defendant committed two of the racketeering acts charged while other Members of the Jury find that the defendant committed different racketeering acts. You must be unanimous as to which acts, if any, you believe the defendant committed.

RICO element five, racketeering activity: The term "racketeering activity" or "racketeering acts" means specific illegal actions.

Count 10 of the indictment alleges eleven acts of racketeering. The alleged acts are summarized as follows:

Act number one: Bribery relating to Bucci.

Act number two: Illegal gratuity relating to Bucheit.

Act number three: Illegal gratuity relating to

Tyson.

Act number four: Illegal gratuity relating to Cafaro.

Act number five: Illegal gratuity relating to Sugar, 1999.

Act number six: Illegal gratuity relating to Sugar, 2000.

Act number 7: Illegal gratuity relating to Sinclair.

Act number eight: Illegal gratuity relating to Sabatine.

Act number nine: Mail fraud relating to Buccella.

Act number ten: Mail fraud relating to Traficanti.

Act number eleven: Mail fraud relating to Rovnak.

I have already instructed you on the elements of bribery and illegal gratuity in the instructions for Counts 1 through 5. You should apply those instructions to racketeering acts one through eight.

Racketeering act of mail fraud: The racketeering act of mail fraud has several essential elements. In order to find that Defendant Traficant committed this racketeering act, the government must prove the following essential elements beyond a reasonable doubt:

First, Defendant Traficant knowingly devised or knowingly participated in a scheme to defraud, as detailed in Count 10 of the indictment.

Second, the scheme to defraud was material, that is, it would reasonably influence the United States to part with money or property. The phrase "scheme to defraud" means any deliberate plan of action or course of conduct by which someone intends to deceive or to cheat another or by which someone intends to deprive another of something of value. It is not necessary for the government to prove that the defendant was actually successful in defrauding anyone. It is not necessary for the government to prove that anyone lost money or property as a result of the scheme to defraud. An unsuccessful scheme to defraud is as illegal as a scheme that is ultimately successful.

Third, Defendant Traficant did so with the intent to defraud. To act with an "intent to defraud" means to act knowingly and with the intention or the purpose to deceive or to cheat. An intent to defraud is accompanied ordinarily by a desire or purpose to bring about some gain or benefit to oneself or some other person or by a desire or purpose to cause some loss to some person.

Fourth, in advancing or furthering or carrying out this scheme to defraud, Defendant Traficant used the mails or caused the mails to be used. The government is not required to prove that the defendant actually mailed anything or that the defendant even intended that the mails would be used to further or to advance or to carry out the

scheme to defraud. The government must prove, however, that the mails were used in some manner to further or to advance or to carry out the scheme to defraud. The government must also prove that the use of the mails would follow the ordinary course of business or events or that the use of the mails by someone was reasonably foreseeable. It is not necessary for the government to prove that the item itself mailed was false or fraudulent or contained any false or fraudulent statement, representation, or promise, or contained any request for money or thing of value.

The indictment alleges that Defendant Traficant committed more than one act of racketeering. In order to find defendant guilty of the crime charged in Count 10 of the indictment, the government must prove beyond a reasonable doubt that the defendant committed at least two acts of racketeering. You must unanimously agree on which racketeering acts, if any, you believe the defendant committed. It is not enough that some Members of the Jury find that the defendant committed two of the racketeering acts charged while other Members of the Jury find that the defendant committed different racketeering acts. You must be unanimous as to which acts, if any, you believe the defendant committed.

I know that the other section, D, is there, but you're going to be leaving those books with your notebooks

here when we release you until Monday, and so you don't need to worry about those now.

Also, there are a couple of typos as I read along that I caught, so we'll be replacing those pages.

Now, this section of the case, this phase of the case, is sort of well underway, and it seems to me pretty clear that the best thing to do is to go on with the closing arguments at a time where we know we'll have enough time for the parties to actually put them on, and it's too late now to do that and let you go home, as we must, at 12:00 and let you have a weekend in here.

As you're gone now, and you've heard the evidence in this case, it is still very important that you pay attention to all of those original, we call them by various names, but they're the sort of fundamental rules that your oath is connected to, that your duties as part of this Court are connected to, and I know you know them. We've gone over them so many times.

But you'll now be away from this work for two and a half days. You can set it aside and not be concerned about it. Your instructions, along with your notebooks, will be held safely and here for you when you come in.

You can continue to take notes in this case, so when closing arguments come on, even though it's not evidence, it's okay for you to use your notebooks.

You will take your notebooks, the jury instructions, and all the evidence that's been admitted in the case back with you when you actually go in to deliberate.

MR. TRAFICANT: Your Honor?

THE COURT: Congressman?

MR. TRAFICANT: I have a motion.

THE COURT: Well, we'll make it as soon as the jury --

MR. TRAFICANT: I have a motion that we proceed with closing arguments today.

THE COURT: We're not going to do that. The jury is too close to the time when they could well have expected they would be able to go back to their regular business. So we've given each side here 90 minutes for closing argument, and that adds up to a good period of time.

It will be good for you to be refreshed and ready to listen carefully. I've given you the major instructions in law, and it's a lot to cover, because we've been together here for a long time. And so it's a good time for you to break and recess.

Besides, the lawyers and the pro se defendant and I have work still to do to get things ready for the next phase of the case.

So remembering that although there may be items out

there that relate somehow to this case, you're the ones who have been here from day one, and you protect yourselves against any outside influence. You've been very, very conscientious and very attentive, and so turn yourself away from all of this and enjoy your family and friends, and we'll see you in the box at 9:00 on Monday morning.

(Jury out at 11:16 a.m.)

THE COURT: So that the jury can leave in an orderly way, we are going to recess now for about ten minutes. Then the lawyers will be back in here. We have set aside some time here for us to make sure that all the items that were admitted into evidence will be here, and so forth.

We're going to be doing that kind of work. Of course, you're free to be here. This is all an open process, but it's up to you. And we'll see the lawyers back in ten minutes then.

MR. SMITH: Yes, Your Honor.

THE CLERK: This Honorable Court is now in recess.

(Recess had.)

THE COURT: Congressman, do you have your evidence here?

MR. TRAFICANT: I hope so.

THE COURT: Good. Why don't you just organize it between yourselves. I'm going to sit up here

and do other work.

MR. TRAFICANT: Why don't we sort of like sit down like gentlemen and come to some mutual understandings since you are fine men, you are not on trial, and see if we can do this in an orderly fashion without your continuous instructions.

THE COURT: That's fine. You won't have any instructions from me unless you need me.

The reporters are here and they'll just go off the record now, but sit here in case something comes up, and I will do other work.

Thank you. Everyone can be seated.

(Discussion off the record.)

THE COURT: We are going to go on the record briefly, because as the review of evidence was done cooperatively by the parties, a couple of issues arose. We'll put those on the record now, and then I believe there is still more work, but it won't be necessary to keep the court reporters present for that.

I'm going to have my clerk, Jeff Baran, recite what he's been -- what apparently has been agreed. I've been sitting here, but he can put it on the record more efficiently than I will. And then if there's any problem with it, the parties are here and they can respond.

THE CLERK: My understanding is that the

following exhibits have been stipulated to, their admission has been stipulated to. G-66 through G-74, that's G-66, G-67, G-68, G-69, G-70, G-71, G-72, G-73, and G-74.

And there was one other exhibit that's been stipulated to, that's HSL-1-D.

THE COURT: All right. Then with the agreement of the parties, we will reopen the evidence for the sole purpose of admitting these into the evidentiary phase of the case.

THE CLERK: In addition, there was one exhibit that was admitted as a Government Exhibit, that's 1-23, and my understanding is that Congressman Traficant would like to make that a joint exhibit and the government has no objection to that.

THE COURT: Fine. That will also be admitted.

Now we'll continue with this labor, but I don't anticipate that there are going to be any more changes. So we'll release the court reporters.

Thank you.

(Trial adjourned at 12:45 p.m.)

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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.

Heidi Blueskye Geizer, RMR, CRR Date 4-24-02

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, APRIL 8, 2002

Jury Trial

Volume 34

- - - - -

APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

MONDAY, APRIL 8, 2002, MORNING SESSION, 8:54 A.M.

THE COURT: Gentlemen, I'd like a side-bar with you, please. Somebody has some kind of telephone or something in the courtroom. Would you please turn it off.

(Proceedings at side-bar on the record:)

THE COURT: I was just given information that juror number 3, Scott Grodi, had a death in his immediate family. His aunt died. He's very -- he feels very conflicted, but he really needs to be with his family according to him. Fortunately, we have alternates.

So I've just gotten the information. If you want an opportunity, I can bring him out and we can voir dire him.

MR. TRAFICANT: Yeah, I want him brought out.

THE COURT: All right. And we've got five alternates.

So it would be in the event that he is excused from this case, then we would move the first alternate into that slot.

MR. TRAFICANT: When did you first learn this?

THE COURT: About four minutes ago. If you'd like, we can bring him out and do a voir dire. That we would do in public. Sometimes people just agree, and so --

MR. MORFORD: I mean, I don't see how --

THE COURT: But you have an opportunity to --

MR. TRAFICANT: I don't know how dismissing a juror after all this time -- and I'm not familiar, and I had nothing to do with these 105 selections in the first place. I find this highly unusual the day of the closing arguments for this to happen.

THE COURT: Okay.

MR. TRAFICANT: And I object to this person being dismissed.

THE COURT: Well, he hasn't been dismissed. I'm just telling you the information, and if you want me to bring him out, I'll bring him out.

MR. TRAFICANT: I don't want to be the one that's going to get the guy mad to keep him on the jury. He's sworn here to be on the jury. Does he have a death in the family?

THE COURT: Let me ask -- I got the information from the deputy marshal.

MR. TRAFICANT: I object to --

THE COURT: Let him explain. Just a minute, Congressman. Come back and listen to what he's telling us because he may be able to answer some of your questions or we'll bring Mr. Grodi out.

DEPUTY U.S. MARSHAL: Apparently his aunt, whom he's closed to passed away. He was late this morning

because he was with the family. His family is sort of upset that he can't be with them. He's torn because he wants to be here, he's been here this long. At the same time, he feels it's more important that he's with his family.

MR. TRAFICANT: When is the funeral?

DEPUTY U.S. MARSHAL: The funeral is tonight.

MR. TRAFICANT: He can hear the closing arguments and go to the funeral, and he could deliberate tomorrow and go visit with his family after they continue the deliberations. He can make the funeral.

What is such a big problem here?

I don't like the fact that now we're starting to play around with jurors the day of the closing arguments, quite frankly.

THE COURT: Well, honestly, we just got information that somebody died.

MR. MORFORD: Your Honor --

THE COURT: Nobody is playing around.

MR. MORFORD: Your Honor, our position is that this is a matter of personal tragedy that this person had no control over whatsoever.

We do have alternates, and if he's in a position that he doesn't feel he can sit at a time of personal tragedy, we would not object. That's just our

position.

MR. TRAFICANT: Who would be that next witness -- who would be the next juror?

THE COURT: Regina Perna is alternate 1. She was sitting right here (indicating), and if you would like to talk -- if you would like me to bring him out, he's here. We haven't released him or talked to him at all. He doesn't know anything about what we're doing here. He just brought it to the attention of the marshal, who brought it to my attention.

MR. TRAFICANT: I don't want to get a juror mad. I could see the smooth ploy of the prosecutor here.

MR. MORFORD: It's called compassion.

MR. TRAFICANT: This man knows compassion real well in this case.

MR. MORFORD: I noticed.

MR. TRAFICANT: The funeral is tonight. He could be released to the funeral.

DEPUTY U.S. MARSHAL: The wake is tonight; the funeral would be tomorrow. But his issue was, it is more important for him to be with his family at this time. It's not so much making the funeral.

MR. TRAFICANT: Why could the jury not convene then until on Wednesday? Let the juror go forward. Let him hear the closing arguments. He sat through it all.

And let them go forward on Wednesday.

THE COURT: Why don't we bring him out here and let him speak for himself so that he has an opportunity to say what else is happening. We're getting all of this. You know, it's hard to make plans around him if we don't listen to him.

What is your proposal? Your proposal is that we wait until after the funeral?

MR. TRAFICANT: Wait until after the funeral to send the jury. He sat through a full nine and a half weeks. He understands this case.

THE COURT: Well, so did the alternates.

MR. TRAFICANT: Alternates do, but alternates aren't always sure they're going to be called. This man has certainly grasped this case.

THE COURT: Okay. Well, then let's bring him out here and let him explain what his expectations are and what his concerns are.

MR. TRAFICANT: What would be wrong with holding the jury until Wednesday and let them deliberate on Wednesday? Let them digest the closing arguments today or whatever paperwork they have to do, they could do. I don't think it's an unusual request by the defense.

You have ruled with the prosecution on everything else.

THE COURT: Congressman, putting aside all the other issues that are extraneous, let's find out. I can send my clerk back to talk to him back there or we can bring him out here. Which one do you want?

MR. TRAFICANT: Look, I don't want to bring him out and put him on the stand and have the press have me grilling a witness -- a juror that's going to get back in the press to the remaining jury. Now, come on here. I think it's within your scope and power and --

THE COURT: Well, then I'm going to need some more information from him. I'll just talk to him.

MR. TRAFICANT: Why don't you talk to him in chambers?

THE COURT: Okay. And then I'll come and report back to you. Okay? But I think we should resolve this before we go forward with closing.

(Proceedings had in open court:)

THE COURT: We're going to take a recess. I'm going to talk with a juror either up here or -- that will be fine.

(Juror Grodi and Judge Wells at side-bar on the record.)

THE COURT: I'm sorry to hear --

A JUROR: That's okay.

THE COURT: We just need a little bit more

information on your family's plans and your situation.

A JUROR: Okay.

THE COURT: For example, I understand that there's a wake and then --

A JUROR: Tonight at 6:30. It's in Port Clinton, Ohio.

THE COURT: And then tomorrow there's a --

A JUROR: Funeral.

THE COURT: Services?

A JUROR: That's in Port Clinton, also. I'm not exactly sure of the times of the funeral.

THE COURT: If we were to go through closing argument today and then just not reconvene until Wednesday, would that resolve this for you?

A JUROR: Yeah.

THE COURT: Okay.

A JUROR: If it's not too much trouble, because I mean --

THE COURT: No. I think it's a reasonable accommodation. The jury gets another day off.

A JUROR: Because I told everybody I wasn't going to do anything, so everybody was kind of mad at me. Because I know this is a big deal and everything.

THE COURT: If we did that and came back here on Wednesday morning and I gave you the final instructions

and you took the case to the jury, would that take care of it for you and your family?

A JUROR: Yeah. I just don't want to cause a problem.

THE COURT: Well, that's all right. I think the other jurors would understand.

A JUROR: Right. I mean, it's not so much for me. It's more for my family. It's for my dad. They're pretty close. My dad's brother passed away a few years ago, so it's kind of hard on him. So it's more or less for him.

But yeah, if you can do that.

THE COURT: Let me talk to the lawyers and see if that will work out.

A JUROR: Okay.

THE COURT: All right. Thanks.

(The juror returned to the jury room.)

(Proceedings at side-bar on the record:)

THE COURT: He says -- he has quite a distance to go, but this will work for him and that if he could be with his family all day tomorrow, that that would take care of all the issues and it would certainly make him happy because he'd like to be able to continue. That would mean we would postpone -- we'd go with closing arguments now, and I wouldn't give the jury their final instructions

until Wednesday morning.

MR. TRAFICANT: I support that.

MR. MORFORD: Is the jury going to be sequestered?

THE COURT: They will be when they deliberate.

MR. MORFORD: But they won't be for the next day and a half?

THE COURT: No. Well, they could be for the next day and a half, but he won't be sequestered.

MR. TRAFICANT: Is this becoming the prosecutor's call?

THE COURT: No. Just listen. This is how we conduct trials.

MR. TRAFICANT: I'm ready to go forward with closing arguments.

THE COURT: I understand. If you want to sit down, you're welcome to do it.

MR. MORFORD: The only response, Your Honor, would be this would be highly unusual to have the jury, after closing arguments, take a day or a day and a half off when we have alternate jurors who are perfectly suited to sit.

And I mean there are concerns that the government has in having the jury just out there for a day

and a half before we come back and have them start deliberating, and just the idea that anything that could happen during that time, it could end up in a mistrial and having us have to go through this for another ten weeks at some point, that is something that just (pause) --

THE COURT: So if the jury were sequestered but he were permitted leave to go to the family wake and the funeral, that would be a valid solution?

MR. MORFORD: Yeah. I'd hate to do that to him when he's got the family situation he has, but that's my only concern, is that what, if anything, could happen in a day and a half. You just never know.

THE COURT: If we sequester the rest of the jury --

MR. SMITH: That's better than the alternatives available.

MR. TRAFICANT: I will accept a gag order.

THE COURT: Sir?

MR. TRAFICANT: If that's what you're worried about.

THE COURT: No, I'm not worried about that. You've never been under one. I'm not putting one on you, but thank you anyway.

Okay. All right. Then that's the way we will proceed. We'll go forward with closing argument now.

We'll resume the deliberations --

MR. TRAFICANT: Wednesday morning.

THE COURT: Yeah. But what happens Wednesday morning is I have to give them their final instructions before they go to deliberation.

MR. TRAFICANT: And we'll appear at 9:00.

THE COURT: All we're going to have today is closing argument.

MR. TRAFICANT: That's fine.

THE COURT: Okay?

MR. TRAFICANT: That's fine. I would like to know at some point what the last phase of these closing arguments consist of, and I want joint exhibits explained more thoroughly to this jury.

THE COURT: Well, the jury has already had their instructions on joint exhibits and they have a book, and the instructions are in it, so there's no problem with that part of it.

I don't understand the first part of your question.

MR. TRAFICANT: Don't you have a fourth part that you are yet to share with the --

THE COURT: Right. We give them that right before they go to deliberate. And once they're given that, they're back deliberating.

MR. TRAFICANT: Do we get that at the same time or do you give us that in advance?

THE COURT: You've had it all along.

MR. TRAFICANT: I have?

THE COURT: Yes.

THE CLERK: It's in the binder.

MR. TRAFICANT: I think I just submitted a motion for you to be fair and honest.

THE COURT: Thank you.

MR. MORFORD: And you were.

THE COURT: Thank you. Anyway, now we're going to go with closing arguments. Is everybody ready?

MR. MORFORD: Yes.

MR. TRAFICANT: Do you have any idea how long your opening is going to be, counselor?

MR. MORFORD: It's about two minutes.

MR. TRAFICANT: I don't blame you.

(Proceedings had in open court:)

MR. TRAFICANT: Excuse me, Your Honor. Could we have some notice --

THE COURT: Let's put the --

MR. TRAFICANT: Could we have some notice of where we are in our 90 minutes? Could we get a 30 minute notice?

THE COURT: I think we can arrange that. Can

we arrange that?

MR. TRAFICANT: How would we do that?

THE COURT: He'll put his arm up.

MR. TRAFICANT: I don't -- if I don't see his arm, can he stand up?

THE COURT: No. He has a lot of other responsibilities.

MR. TRAFICANT: Okay.

THE COURT: Are you ready, gentlemen?

MR. MORFORD: Yes, Your Honor.

(Jury in at 9:09 a.m.)

THE COURT: Good morning.

JURORS: Good morning.

MR. TRAFICANT: Good morning.

THE COURT: Ladies and Gentlemen of the Jury, as you know, under the law, the United States in a criminal case is permitted to make the first and the last closing argument. After the first United States' closing argument, the defendant may make his closing argument, and then the United States may close. So it is in every criminal case, and so it will be in this case.

Each side has a total of 90 minutes, which they may use for closing argument. The government is permitted to apportion its time as it chooses. Neither side is required, of course, to use the entire time allotted. 90

minutes is a limit. It's not a requirement.

The purpose of closing arguments is to assist you, the jury, in analyzing, evaluating, and applying the evidence which has been admitted in this case. Although reasonable inferences can be argued to you from evidence, material misstatements of the evidence or personal attacks on the other side have no place in closing arguments.

And now sit back and the lawyers and the pro se defendant will take us through their view considering the evidence that you've all heard admitted in this case.

For the government.

MR. MORFORD: Thank you, Your Honor. Good morning one last time on this last day of the trial.

We've been together for eight weeks, and if you will recall way back eight weeks ago, I told you that the evidence in this case was going to establish that Congressman Traficant used his official actions for personal profit, first by paying certain employees high salaries, and then having those employees make kickbacks to him; second, by having congressional staff members do work at his farm and on his boat; and third, by seeking and obtaining thousands of dollars worth of free construction work, farm supplies, farm chores, boat repairs, and cash from businessmen who were seeking constituent services, which are official acts from his office.

And that is exactly what the evidence has established in this case. Now, in the case of overwhelming evidence that's been presented by the government in this case, Congressman Traficant has asserted that he is a courageous, compassionate, outspoken Congressman who worked hard to create jobs for his constituents. But if you think about the issue in this case under the charges that we filed in this case, they are not whether Congressman Traficant was good or effective. Those things are not relevant to this case, for Congressman Traficant is not charged with being an ineffective congressman.

What he's charged with is, he's accused with doing things that were corrupt, whether he was effective or not.

He's charged with using his official actions to obtain personal gain. And the law, as Judge Wells told you on Friday, is very clear. A federal official cannot accept things of value in return for his official actions as a federal official, period. There's no question about that. The law is clear.

He can't use his position to feather his own nest. He can't use his public office as a trough to feed his selfish appetites.

His duty is to serve the public interest, not his personal desires. His office is a public trust. It's

not a gravy train. And his staff members are public servants; they're not his personal servants. And that's why if Congressman Traficant wanted to put an addition on his farmhouse, if he wanted to have people come out and have a crew of people come out and help him bale his hay, if he wanted to have his boat repaired or to have performed many of the other things you heard about in this case, he needed to do what every other American has to do. He needed to go out and hire workers and he needed to pay them for the full value of their work, just like everyone else has to do.

You see, a Congressman can't ask for tips. He's not a waiter who can stand around with his hand out because he performed good service for someone. We don't allow our public officials to do that.

He's not allowed to use his official duties to obtain things of personal value, no matter who he is, no matter how powerful his office is, no matter how effective he is, regardless of his party affiliation, regardless of his voting record, no matter how much bacon he brought home to his home district, no matter how great an athlete he was, and regardless of his sense of humor or his personal charisma, or anything else.

The law is still the law, and no man is above the law, including the men who make the law.

During the course of this trial, Congressman Traficant questioned a number of our witnesses about their plea agreements. And as I told you in my opening statement, there were five of our 55 witnesses who did have plea agreements. But I want you to imagine something for a minute. Imagine if you found out that in carrying out my official duty of negotiating plea agreements with defendants who have been charged, imagine that in the course of doing, that I had had those plea agreement witnesses come out to my house during the very time I was negotiating with their attorneys, and saying that I would make a recommendation to the Court that they would receive less time than they would had they gone to trial, they're going to get something of value to them, and at the same time I'm carrying out my official duties.

Imagine if I'd gone to one of those plea agreement witnesses and had him come out to my house and paid carpenters and electricians to do $30,000 worth of home remodelling work on my house. Would you have a problem with that?

And imagine at the same time, you found out at the very same time I was negotiating a plea agreement with Tony Bucci, I had the Buccis come out to my house and do $10,000 worth of landscaping work. And when they presented me with a $10,000 bill, I told them I didn't want

to pay it, and at the very same time I was negotiating their plea agreement they agreed to let the debt go, $10,000 in my pocket.

And imagine if at the same time I was negotiating the plea agreement with Dave Sugar, if I had Dave Sugar come out to my house at the very time I was negotiating and sending a crew out and a backhoe to dig around my foundation and replace my drain tiles because my basement was leaking, and I didn't want to have to pay somebody $10,000 to do the work.

In the face of this pattern of misconduct, would it matter whether I was courageous or tenacious, likeable or funny, hard working or successful, in my other duties. The point is simple. These other things may be interesting, but they're not relevant to the charges in this case.

So let's take a look at what is relevant to this case, the evidence that actually relates to the ten offenses that have been charged in this case.

Now, as Judge Wells told you on Friday, there are ten counts that are charged in this indictment, and she reviewed those counts with you, and I'm not going to go into them in detail because you're going to have two things. You're going to have Judge Wells's instructions which lay out these charges, and you're going to have the

indictment.

And the indictment explains in detail all of the facts that are alleged to support these charges. But I just want to go through this briefly. Counts 1 through 4, and Count 7, charge conspiracy offenses. Count 1 charges that Congressman Traficant entered into an agreement with the Buccis, and with the help of Chuck O'Nesti, to engage in a pattern of conduct that would violate the bribery provision of the federal bribery statute.

Counts 2, 3, and 4 charge that Congressman Traficant entered into an agreement, in Count 2 with Sugar, Count 3 with Cafaro, in Count 4 with Sinclair, and there were other people involved, as well, and that the agreement was they would engage in a course of conduct that would violate the gratuity provision of the federal bribery statute.

Count 7 charges that Congressman Traficant entered into an agreement with a number of his employees that he would defraud the United States by having certain employees kick back salaries, do farm work, or do boat work.

Count 5 actually charges the crime of gratuity as relates to the Sinclair kickbacks.

And Counts 8 and 9 charge false tax returns for 1998 and 1999 for the things of value that Congressman

Traficant received in those two years.

And finally, Count 10 charges RICO, and I do want to talk about the RICO count just a little bit.

When you boil down the RICO count, it actually boils down to something very simple, very straightforward. What it says is that Congressman Traficant used his position and his office, the office of Congressman Traficant, which is the enterprise that's charged in this case, and he used that office to commit a pattern of bribery, illegal gratuity and fraud offenses, period. That's it. And as Judge Wells instructed you, the government has to prove five things to establish the RICO.

First, the evidence has to establish the existence of a legitimate enterprise. And the evidence in this case, as you will recall testimony of witness after witness, established this enterprise requirement by showing that Congressman Traficant and his congressional staff members, both in the Youngstown area and back in Washington, associated together to carry out the duties of Congressman Traficant in something we call the office of Congressman Traficant. That's the enterprise.

Second, the evidence shows that this enterprise had an impact on foreign or interstate commerce, and you will recall that one of the things, one of the functions of the office was to provide constituent

services, which they did, to businesses that engaged in interstate commerce, and in the case of Bucheit, foreign commerce.

Third and fourth, the evidence has to show that Congressman Traficant was associated with the enterprise. Obviously, he was. And that he participated in the affairs of the enterprise. Obviously, he did. Those are not even in dispute.

And finally, fifth, the evidence has to show that Congressman Traficant used his position and the office of Congressman Traficant to commit a pattern of offenses -- we call them racketeering acts, but that's just a legal word -- a pattern of offenses that included bribery, illegal gratuity, and mail fraud. And although we allege seven, you only have to find he participated in two.

But Ladies and Gentlemen, if you think about the evidence in this case, you will realize there was a pattern of misconduct that was repeated over and over and over again, and it's important as we go through this evidence that you remember that pattern. It's important as you get back to the jury room and you start looking at the evidence and talking about the testimony that you always keep in mind the pattern in this case, because the pattern is so very important, a pattern in which Congressman Traficant would perform official acts for someone.

He then would ask that same someone shortly thereafter to come out and do something for him, to either give him a kickback for the official act of hiring them and giving them a high salary, or to come out to the farm and do work after he's gone to bat for their business.

Oftentimes he would ask for something small at first, and then once he got them out there, he would add on, add on, just like Sandy Ferrante told you he would do to people.

He would then ask them to do more and more, but in the end, he failed to pay them the full value of what he received from them. Why? Because of what he had done for them in his official position doing official acts that were beneficial to them. That's the pattern, and it was repeated over and over and over again.

Now, as we review the evidence of this pattern, watch for two other very important things: Watch for the substantial amount of physical evidence that corroborates that pattern. There are six books filled with physical evidence, bills and invoices, checks, bank records, deeds, burned envelopes, cash, memos, letters, handwritten notes and lists, congressional records. The list goes on and on. Physical documents that you can hold in your hand that you can read, that you can look at, that you can determine the exact date that he did something or

the exact date that he received something.

Also notice the large number of independent witnesses, people that did not have plea agreements, people that did not have immunity, people that came in to corroborate exactly what the plea agreement witnesses were telling you was what they had experienced.

Indeed, you cannot -- you can even go so far as to set aside the testimony of the plea agreement witnesses. Set aside Tony Bucci's testimony or Cafaro's testimony or Sugar's or Sabatine's, and just look at the documents and look at the independent evidence, and see what that tells you before you even consider their testimony.

Second, focus on the large number of things that are not in dispute in this case. First, that Congressman Traficant did, in fact, perform the official acts that were charged. Ask yourself as you listen to Congressman Traficant and as you think about the evidence, was it even disputed? He did these things. That's not in dispute.

Second, that the recipients of those acts gave Congressman Traficant something of value. It's not disputed that the Buccis were out at the farm working or the -- or that Cafaro did the work on the boat or that Sugar was out at the farm working, or Tyson. All these

different people, they were there. It happened.

Third, that Congressman Traficant failed to pay the full value of the things he received. That's not even in dispute. Sometimes a witness who was a crony of Congressman Traficant would try to explain why that was, like Greg Tyson saying we came out and did a lot more work than he expected. When he's telling you that, what's he telling you? He's saying, yes, right after Congressman Traficant went to bat and got me the loan, yes, I did come out here and did work, and, yes, we did do a lot more work than he paid us for, and then he tries to explain it away.

But the key is, those three things aren't in dispute, and they're not in dispute in every one of these situations. That's where you start in this case, before you even consider the testimony of the plea agreement witnesses.

And then when you finally consider the testimony of the plea agreement witnesses, ask yourself this question: Does the testimony make sense in light of the independent corroboration of physical documents, the independent testimony of other witnesses, the facts that are not in dispute, the repetitive pattern that's repeated over and over and over and over again?

And use your own common sense, because that's why you're here. That's what this is all about. You're

brought in because you have common sense. You don't have legal training. And that's your job, to put your common sense together with the facts in this case and draw conclusions.

So let's start where the evidence started during the trial, with the Allen Sinclair kickbacks. As you will recall the testimony in this case, the essential deal between Congressman Traficant and Allen Sinclair was this: Congressman Traficant came down on Sinclair, and he said, "I'll put you on my staff. I'll let you continue to practice your private law practice on a full-time basis with no supervision. I'll pay you $60,000 a year. I'll continue to have the government rent space and pay you rent in the building you're buying from Henry DiBlasio, and then you'll give me $2500 cash each month."

Congressman Traficant, doing official acts, hiring Allen Sinclair, setting his salary at $60,000, letting him continue to practice law on a full-time basis, giving him minimal supervision, minimal duties, and then renting office space from that building, all official contacts by the guy that's in charge of the office. And then Allen Sinclair giving kickbacks of $2500 a month, something of value to Congressman Traficant.

Allen Sinclair said that he talked to Henry DiBlasio about how to make the kickbacks because that's

what Congressman Traficant told him to do. And when he did so, Henry DiBlasio admitted to him that, yes, he, too, had had to make kickbacks to Congressman Traficant. And he explained how Allen Sinclair should make those kickbacks.

Allen Sinclair's kickbacks are corroborated by both independent testimony and substantial physical evidence.

First, you saw the deposit slips, the treasury checks, the bank statements, the summary of Agent Semesky summarizing those documents. And sure enough, just like Allen Sinclair said, lo and behold every single month, from the month he received his first full congressional paycheck until the month that the FBI finally interviewed him, he kicked back -- he took out $2500 in cash from every single paycheck, 13 months, totaling $32,500.

Second, the office salary structure established by the congressional records shows that although Allen Sinclair was hired without any meaningful experience or qualifications, he was paid more than anybody else in the entire office with the exception of the Washington chief of staff, Paul Marcone.

Think about that. The legislative director, Dan Blair, had been working for the office for years. He's got one of the most important jobs. He's the director of legislation of a congressional office in Washington where

you have a very high cost of living compared to Youngstown, and yet he's making $6,000 less than Allen Sinclair, who has no experience. He's a personal injury lawyer. He has no background in economic development, and he's making more than Dan Blair. He's the second highest paid employee in the whole office.

You heard the testimony of Paul Marcone, Congressman Traficant's loyal chief of staff, who vigorously opposed the hiring of Allen Sinclair at such a high salary because, as he told you, it made no sense. It seemed like a waste of taxpayer money, and it was causing friction with other employees like Dan Blair, who couldn't understand why that was happening.

And think about it, Ladies and Gentlemen. Who was Paul Marcone? Paul Marcone was the Congressman's long-time chief of staff, his friend, his confidante. He stood on the stand and said, "This is the hardest thing I've ever had to do in my life." He didn't want to be here. He loved that man. He didn't have immunity. He didn't have a plea agreement.

Now, you heard the testimony of Paul Marcone that Congressman Traficant allowed Allen Sinclair to maintain a full-time law practice at the same time he was supposed to be a full-time congressional employee. And finally, there are congressional records that establish

that just as he promised, Congressman Traficant did continue to use taxpayer funds to lease space in the building Allen Sinclair had just purchased from Henry DiBlasio, despite the fact that Congressman Traficant had another office just five miles away, despite rules that prohibit a Congressman from renting space from an employee, despite the serious concerns that were raised by Paul Marcone that this was highly irregular and this should not happen.

There's also substantial evidence to corroborate what Allen Sinclair told you that Henry DiBlasio told him, that Henry DiBlasio was also kicking back. First, you had the testimony of Jackie Bobby, who testified that Henry DiBlasio had once confided to her that he was having to kick back salary to Congressman Traficant. And when did that occur? Henry DiBlasio didn't tell that to a law enforcement officer during the investigation in order to get a deal. He told it to Jackie Bobby years ago, in the late 1980s, at a time when he was complaining, one employee to another.

Congressional pay records establish from 1996 to 1998, just like Allen Sinclair was in 1999, Henry DiBlasio was the second highest paid employee in the office. With the exception of Paul Marcone, he was the highest.

And remember what Paul Marcone testified? They had an underpaid legislative staff in Washington, D.C., and it was causing morale problems in Washington, D.C. West Richards told you the same thing. And at the same time that they had an underpaid Washington, D.C. staff compared to the other offices, Paul Marcone told you they were the sixth highest salaried office out of 435 congressional offices.

And when I asked Paul Marcone why that was, he said because Allen -- or because Chuck O'Nesti and Henry DiBlasio were paid so much money. That put their whole salary structure at the high end of Washington, and the Washington staff at the low end.

Third, Congressman Traficant allowed Henry DiBlasio to maintain his law practice on a full-time basis at the same time that Henry DiBlasio was supposed to be the administrative assistant in charge of all the offices, that job that everyone from Paul Marcone all the way down to Anthony Traficanti, the Congressman's own friend and current employee, told you he did not perform.

Fourth, numerous employees, including Jackie Bobby, Grace Kavulic, West Richards, Paul Marcone, and Congressman Traficant's own, witness Anthony Traficanti, testified that staff members regularly complained about the fact that Henry DiBlasio was getting such a high salary and

doing such little work.

Bank records show that Henry DiBlasio cashed every one of his paychecks as far back as we could get paychecks, all the way back to 1996, he cashed every paycheck for cash except one, and on that one paycheck, two days later he withdrew a thousand dollars worth of cash.

And you know what's interesting? If you remember Jackie Bobby's testimony, she said that on one occasion, Chuck O'Nesti, in addition to complaining that he had to kick back, told her the amount he had to kick back. And do you remember the amount? It was a thousand dollars.

So at a time you had Chuck O'Nesti kicking back a thousand, Henry DiBlasio kicking back some amount, he takes out a thousand the one time, and later you have Allen Sinclair kicking back $2500.

Six, the documents show that Congressman Traficant rented space in Henry DiBlasio's law office, again, despite the rule that prohibits that practice.

So ask yourself this: Why would Congressman Traficant and Henry DiBlasio go to all the trouble of going out to get a nominee like Richard Jeran to pretend he owns the building, and when he doesn't want to do it anymore, get another nominee, Nick Chuirazzi, to pretend he owns the building? Why did they insist on maintaining this presence in Henry DiBlasio's law building long after they're

supposed to have moved the entire office in the Federal Courthouse that Congressman Traficant himself had pushed so hard to build?

Why would they have the secretary, the office manager, all the caseworkers, in one office in Youngstown, and five miles away have Congressman Traficant and Henry DiBlasio hanging out in a separate building?

Why did they insist on keeping a small presence in Henry DiBlasio's law office in the face of Paul Marcone's strong objections? And you not only heard Paul Marcone testify about it, you saw the memo he wrote at the time in which he raises strong objections that keeping a second office in Henry DiBlasio's law building would strain the budget, raise serious ethical concerns, and waste taxpayer dollars.

In the face of all that, why would they do it? Why? Because Henry DiBlasio and Allen Sinclair after him couldn't run their full-time law practices if they had to go to the courthouse in Youngstown and work on congressional matters from 8:30 to 4:30 every day like all the other employees had to.

And remember Paul Marcone's testimony about what would happen when he became concerned about these things and he went and raised them with Congressman Traficant as the chief of staff of the Washington office.

He raised the issue of renting the space at Overhill Road with Henry DiBlasio. He raised the issue of renting space at Overhill Road with Allen Sinclair. He raised the issue of hiring Allen Sinclair at $60,000. He raised the issue when he received complaints from Jackie Bobby, Grace Kavulic and Chuck O'Nesti that Henry DiBlasio was making a lot of money and not doing any work.

And every time he raised those issues with the Congressman, what did he tell you the Congressman's response was? The Congressman became angry and told him, "Don't worry about the congressional district office. You take care of the Washington office; I'll take care of the district office. It's none of your business. Stay out of it."

And finally, remember what happened when the FBI interviewed Allen Sinclair in January of 2000. Congressman Traficant told Allen Sinclair not to talk to the FBI. After Allen Sinclair did talk to the FBI, Congressman Traficant started taking him around to different places. They got in a car, but he was afraid to talk because he was afraid the car might be bugged. He had him get another car, and even after he got another car, he was still afraid to talk. He'd put his finger to his lips. He'd talk in code.

They finally ended up in Allen Sinclair's

basement. And what happened when they got to the basement? He started giving Allen Sinclair cash, envelopes full of cash. Why? So that Allen Sinclair could explain when the FBI started asking him detailed questions what happened to the $2500 he took out every month, because there were bank records that were going to establish that every month he took $2500 cash out of his paycheck, and the FBI was going to say, "What did you do with the cash?"

And Allen Sinclair wasn't going to be able to explain how he spent the cash because he'd given it to the Congressman. The idea was if he could give them a bundle of cash, he could say I'm still sitting on 24,500 of it and I spent the other 8,000. 8,000 is a lot easier to explain than 32,500.

What happened in the basement? Congressman Traficant started opening up envelopes, envelopes that had the handwriting of Henry DiBlasio saying J.T. personal on them and taking out cash and having Allen Sinclair count the cash.

Then he told Allen Sinclair to take and burn the envelopes, and he hovered over him while Allen Sinclair burned the envelopes with a butane torch.

The Congressman gave him $16,000 in the basement and then started worrying that that still wasn't enough because Allen wouldn't be able to explain away

$16,000, so that night, he gave him another $2500 and another stack of these envelopes to burn.

And Allen Sinclair told you it was one of the most difficult times in his entire life. He was feeling pressure like he never felt before. His father had just had a stroke and was about to die. He was being drawn into a conspiracy to obstruct justice, and as he sat in his basement in the corner and started to burn these envelopes, he broke down and started to shake and started to cry. And he said, "I can't do this," and he put the envelopes out. And he gathered them up and he took the cash, and he took the envelopes, and he brought them to the FBI. This is physical evidence. You held it in your hands; you looked at it.

Employees, including Henry DiBlasio's own personal secretary, looked at this envelope and said that's definitely Henry DiBlasio's handwriting. And you can look at other evidence in this case and compare it and draw your own conclusion that that is definitely Henry DiBlasio's handwriting.

A few days later, Congressman Traficant, still worried that the 18,500 wasn't enough cash, gave Allen Sinclair an additional $6,000 cash, bringing the total to $24,500.

He also left Allen Sinclair notes, notes that

you read and saw, notes that he had to leave because he had to go to Washington and hadn't had a chance to talk to Allen Sinclair. And he wanted to put words in Allen Sinclair's mouth so if Allen Sinclair went to the grand jury, he could tell a tale that would help Congressman Traficant. The same thing he tried to do with Paul Marcone when he pulled him out to the hall and brought him down by the elevator and started trying to put, as Paul Marcone told you, words in Paul Marcone's mouth.

You can look at those letters, and what's interesting as you look at those notes, you'll notice that his story between the notes doesn't even -- isn't even consistent.

In addition to the evidence of the Sinclair and DiBlasio kickbacks, you heard additional testimony about the kickbacks of Chuck O'Nesti to congressional employees who were there from day one. Jackie Bobby and Grace Kavulic told you over the years Chuck O'Nesti would complain to them that he was having to kick back.

Jackie Bobby further testified, as I told you, that on one occasion Chuck O'Nesti said the amount was $1,000. And it's significant to think about how and when and why Chuck O'Nesti made these complaints. Again, Chuck O'Nesti was not telling this to a law enforcement officer after the investigation had started. These complaints were

made in the early 1980s and mid 1990s at a time when there was no investigation, at a time not when he was telling something to get a deal, but when he was complaining to employees that he was getting a raw deal from the Congressman.

He was doing so at a time when he wouldn't be expected to make such statements unless, in fact, he was having to kick back and was upset about it.

And remember that they testified his complaints were twofold: Number one, that he had to kick back salary; and number two, that he had to pay tax on the salary he was kicking back and not allowed to keep, and it bothered him.

Now, Count 7 also charges the O'Nesti and DiBlasio kickbacks as part of this overall conspiracy to defraud. But it doesn't just charge those two counts. It also charges that the agreement was not only to obtain kickbacks from DiBlasio and O'Nesti, but also Allen Sinclair. But more important, it also charges that part of the agreement to defraud the government was that Congressman Traficant would get free work from Buccella, Rovnak, Traficanti and other employees that worked on his boat during official government time while they were being paid official government salaries that were being funded by the taxpayers.

If you think about the evidence of that, remember the testimony of West Richards, another loyal employee of Congressman Traficant who believed in Congressman Traficant and had a hard time testifying against him in this case. The former chief of staff, what did he tell you? He testified that Congressman Traficant told him to take a group of Washington staffers and spend an entire day with a group of staffers sanding and scraping and painting the Congressman Traficant's boat on official government time.

Rich Rovnak testified that he worked at the farm as a handyman during office hours, and then he said that sometimes he worked at the farm with George Buccella. He testified that he baled hay, did handyman work and did other farm chores, which is what George Buccella testified to.

George Buccella was there between 100 and 300 times. He further testified that he had worked with Rich Rovnak and Anthony Traficanti. Betty Manente, Congressman Traficant's own witness and current employee, testified that George Buccella would receive a call, tell her he was going down south, leave, and the next day come back and complain about how hard he had been working at the farm, a farm at which Rich Rovnak and Anthony Traficanti told you they had seen him work.

Anthony Traficanti, this favorable witness for Congressman Traficant, reluctantly conceded he had to go out and bale hay on the farm during official hours on Thursdays and Fridays, that he felt obligated to do so, and that during the times he was out there, George Buccella was also out there. That was his witness.

Jackie Bobby and Grace Kavulic both testified that Anthony Traficanti and George Buccella were out of the office for long periods of time because they were working at the farm, which is what Betty Manente told you was common knowledge around the office.

And finally, West Richards testified that at one point George Buccella came to him as the chief of staff and said, "I'm spending too much time at the farm." And so he went to Congressman Traficant, West Richards did, and again, Congressman Traficant, like he did with Paul Marcone, got upset and said, "That's a district office issue. Keep your nose out of it."

Now, in addition to being part of the conspiracy to defraud, the work that was done by Rovnak, Traficanti, and George Buccella at the farm is also charged in a pattern of racketeering as mail fraud, because if you will recall, remember each of their testimony, they said they performed work during official hours when they were receiving official government paid salaries and that the

paychecks were sent by the mail, which brings us to the Bucci bribe conspiracy, count number 1 in the indictment.

The evidence proves that Congressman Traficant, Chuck O'Nesti, Tony Bucci, and Robert Bucci all agreed that they -- that the office of Congressman Traficant would help the Buccis, and in return for things that the Buccis were going to give Congressman Traficant of personal value. And completely apart from the testimony of Tony Bucci -- let's set that aside -- the evidence shows that the office of the Congressman did help the Buccis throughout the period 1992 to '96. And the evidence also shows that the Buccis went out and did work for the Congressman throughout that same period.

Take a look at certain exhibits, Exhibit 2-6, which documents that the Buccis did over $10,000 of work at the farm in 1998. Congressman Traficant refused to pay for that work, and it got so bad that Tony Bucci instructed his lawyer to sue the Congressman in November of 1998 for $12,900, which was the original value of the work plus the interest, because he wasn't paying them.

Now, based on the evidence that you've heard in this case about Tony Bucci, ask yourself this: Is Tony Bucci the type of person that would leave $12,900 uncollected without a fight? Is he the kind of person that would back down without a fight? Do you really think that

Tony Bucci would have walked away from this dispute without getting something in return?

And you know exactly what he did get in return. He got a Congressman, a Congressman who would go to bat for him over and over and over again, in even the most unreasonable situations. Indeed, documents show that Congressman Traficant attended a meeting in 1992 with Dave Dreger where he complained about Tom Williams and the way he was treating his friends, the Buccis.

They show how Congressman Traficant contacted the Federal Bureau of Prisons in 1992 to get Tony Bucci moved. They show that Congressman Traficant contacted Will Baccus at the Department of Transportation, United States Department of Transportation, and threatened to conduct a congressional investigation if the U.S. Department of Transportation tried to disbar the Buccis.

They showed that he sent a letter to Bank One in 1994 to help the Buccis' business partner Greg Tyson get a loan; that in 1995, he contacted ODOT inspector Tom Williams and threatened to have Tom Williams fired.

As late as March, 1996, Congressman Traficant was still making staff members contact the Department of Labor on behalf of the Buccis, all the way into 1996, despite the vehement objections of those staff members that the Buccis were really bad guys and they shouldn't be doing

this.

And in May of 1996, he personally called Tom Buckley at the DOL on behalf of the Buccis, all of which begs this question: Why did Congressman Traficant continue to go to bat for Tony Bucci? Knowing that he was a convicted felon as early as 1992, continued to go to bat for him in 1995 and 1996, two years after Greg Tyson had told him what a dirt bag this guy was and all the terrible things he had done to Greg Tyson.

Knowing all that, why does he continue to go to bat for him? After Tom Williams told him what Bucci was doing to his own constituents on Memorial Day weekend, trying to use Mosquito Lake Park in 1995, and after his own staffers, Paul Marcone and Jim Welfley told him they shouldn't be doing anything for Bucci? There's only one plausible reason why, through all of that, Congressman Traficant kept going to bat for this guy. It's because they were agreeing to do free work, and they did free work for the Congressman.

You saw the to-do list in Congressman Traficant's own handwriting he gave to Tony Bucci, and you heard staff member after staff member look at this and say that's definitely Congressman Traficant's writing.

You heard witness after witness identify this list, and you heard Bucci's former employees come in and

tell you the many things they did during the early 1990s, all the way through 1996.

You don't have to take Tony Bucci's word for these things. They were documented.

You have testimony of people who have no stake in this trial whatsoever, people like Buccis' former employees, Joe Alteiro, Bruce Pierce, Merill Whippo, Tim Walsh, James Ragazzine, Don Burkey, civil servants like Will Baccus, Tom Williams, Dave Dreger. These are the people that Congressman Traficant demeaned and swore at and threatened with congressional investigations, all because they had the nerve to try to enforce the law against Tony Bucci at a time when Tony Bucci was doing personal favors for Congressman Traficant.

And as you consider their testimony, ask yourselves, are all of these witnesses lying? Could the documents be lying? And then think about the pattern that's repeated over and over again.

For instance, Greg Tyson, think about the testimony of Greg Tyson's friend and witness -- Congressman Traficant's friend and witness, Greg Tyson. Tyson admitted that he went into business with the Buccis. That's not in dispute. He admitted that the Buccis tried to steal his company. That's not in dispute.

And once again, focusing on the evidence

apart from Tony Bucci, what does the evidence show? Did Congressman Traficant perform official acts for Greg Tyson? Clearly, he did. You've got the exhibit in evidence, the letter that he wrote to get him the loan.

You also heard the banker, and you heard Greg Tyson himself admit that Congressman Traficant went to bat for him and provided official acts of constituent service.

Number two, did Congressman Traficant ask for and receive anything of value from Tyson after Tyson -- after he helped Tyson? Apart from the testimony of what Tony Bucci told you, Joe Sattarelle testified that Tony Bucci took Greg Tyson and Joe Sattarelle out to the farm just after the loan where Congressman Traficant talked about wanting a concrete floor poured in his barn and water lines installed for his horses. And Greg Tyson himself said that after Congressman Traficant helped him obtain the loan, Congressman Traficant said, his words, "One of these days I've got to get you out to my farm."

That's his own witness, his own friend that said that. And there's no dispute that Greg Tyson did send company employees out to the farm to do a substantial amount of work. Those employees testified. John Crump said he dispatched concrete trucks to the farm and installed a pump. Glenn Rose installed catch basins, waterlines, frost free hydrants, and dredged a creek, did

drain work, installed waterlines and poured concrete.

Even Greg Tyson admitted he sent truckloads of slag and three to four guys to work on a barn wall. And don't forget what Walter Diehl told you, because he's real important. He said he was -- he was the bookkeeper. Do you remember him? What did he tell you? He said that Tyson sent workers to Congressman Traficant's farm over a period of several months on and off.

He said that he was sent out to the farm by Greg Tyson to deliver supplies and that they would charge those supplies to other jobs because this was a freebee for Congressman Traficant.

He also said that the company never received any pay for the work that they did. Why would Walter Diehl lie? He had no immunity. He had no plea agreement.

And remember, despite Greg Tyson's attempts to minimize the amount and value of the work he had done for his good friend, Congressman Traficant, he could not deny that, in fact, his company had provided substantially more work than they had been paid for even under what he described to you.

In fact, under cross-examination, he conceded the pay he received was, at best, a small amount of cash that he self-described as chicken you-know-what, and a horse; a horse that he conceded he never asked for, he

didn't want, he never took possession of, supposedly agreed to on a handshake deal with no documentation, and a horse he only saw twice in his whole life and doesn't even know if it's dead or alive.

But this pattern doesn't stop with Sinclair. Henry DiBlasio, Chuck O'Nesti, Bucci and Tyson. It was repeated again with Pete Bucheit. And what does the Bucheit evidence show? First, the evidence establishes that Congressman Traficant performed two years worth of work of official acts for Pete Bucheit. You know that because there's document after document that Congressman Traficant wrote to the United States Departments of State, Commerce, the Saudi Embassy, even to King Faud himself, trying to help Bucheit get this settlement.

Second, the evidence establishes that just four months after he obtained that settlement for Pete Bucheit, Congressman Traficant had Pete Bucheit go out and send Dave Manevich and a crew to do what was supposed to be a simple two-day deck repair job. And once he got Dave Manevich out at the farm, what did he do? He kept adding jobs and adding jobs and adding jobs while Pete Bucheit is paying this man $15 an hour, and ultimately has him put a two-story addition on his house.

How do you know this happened? Because you heard the testimony of Dave Manevich, Bob Gatti, Pete

Bucheit's daughter, and Congressman Traficant's own friendly witness, Sandra Ferrante.

Indeed, the Congressman himself established through his cross-examination of Pete Bucheit when Sandra Ferrante would ask him to do additional work, they'd blow her off, and Congressman Traficant himself would have to come out and tell him to do the work, and only then did they do it.

You also have the checks that Pete Bucheit's company wrote to Dave Manevich, checks that total $26,000 that Pete Bucheit took out of his pocket and paid to Dave Manevich for the work that Congressman Traficant kept asking to have done.

Don't forget the testimony of Tom Passewitz, the electrician, and the business records from his company, that showed, just like Manevich, he was brought out to move an electric switch, and Congressman Traficant kept giving him more and more and more duties until he'd run up hours and hours of work. Bucheit ended up having to pay approximately $4,000 to this electrician. He's now out of pocket $30,000.

And Pete Bucheit's daughter told you, as the bookkeeper of the company, they never got paid, in cash at least. What ended up happening is within a year, they were in another bind, and Congressman Traficant started helping

them in another international situation, contacting Vice President Gore, Secretary Albright, the head of OPEC, and others on behalf of Bucheit.

And when Kim Bliton went to Congressman Traficant and said, "Hey, Pete Bucheit has been lying to the government on some of these things," what was his response? "Just keep helping Pete Bucheit," the same response he gave to Jim Welfley and Paul Marcone when they raised similar concerns about Tony Bucci.

Why? Because Pete Bucheit had something the Congressman something of value. Pete paid 30,000 out of his pocket to laborers, which was a gratuity.

How do you know it was a gratuity and not an unpaid debt that Congressman Traficant intended to pay? Because congressmen are required to file financial disclosure forms every year, and as part of those forms they are required to list their liabilities, the debts they owe people. In years 1994, 1995, 1996, look at those forms, and he lists no debt, no liability to Pete Bucheit. Why? Because he never intended to pay Pete Bucheit. Why? Because this was a gratuity.

But the pattern doesn't stop again with Sinclair or DiBlasio or O'Nesti or Bucci or Tyson or Bucheit. There's James Sabatine. And setting aside the people of James Sabatine, just think what the independent

evidence shows. First, that Congressman Traficant performed constituent services, official acts, for him by going and meeting with the railroad officials and trying to get him a favorable deal. You know that because Rudy Dowe, the railroad official, testified to it and you saw his expense report that memorializes it.

Second, true to his pattern, Congressman Traficant asked Sabatine to do work out at the farm. How do you know that? Because Angelo Delucia came in, the funny guy that was supposed to tear down the building, and he told you that James Sabatine brought him out to the farm to look into doing some work.

Think about this: Why would Congressman Traficant need to have James Sabatine bring out a carpenter? Why is James Sabatine even in the middle of this? Congressman Traficant knows all kinds of people in Youngstown. He's a folk hero. You mean he can't get on a phone and call a carpenter to hire? Why is James Sabatine in the middle of this? The same reason Pete Bucheit was in the middle of the house addition, because he just did something for him and now he wants something in return.

And remember what Judge Wells told you on Friday. It's a crime not only to accept a gratuity; it's a crime to even seek a gratuity.

Now, what did James Sabatine do in the face

of Congressman Traficant's request for help at the farm? He decided to cut his losses. He didn't want to get entangled at the farm in the way that Bucci, in the way that Bucheit had done. And he figured it would be cheaper in the long run and less hassle if he just reached into his pocket and took out $2400, handed it to the Congressman and said, "Thanks, but no thanks. Thank you for helping me, but I don't want to do farm work."

But he was a little bit uncomfortable, and so he said to him as he handed it to him, "Here, take this as a little campaign contribution." But he told you it was never intended as a campaign contribution, and you know it's not a campaign contribution because Congressman Traficant's campaign reports are in evidence, and there's no listing of a $2400 campaign contribution from James Sabatine.

But again, this pattern doesn't stop with James Sabatine. It's repeated with Dave Sugar. Dave Sugar testified that he sought Congressman Traficant's help in 1999 when his son had a DUI case. Congressman Traficant said he would help, and that very same day they had to leave the restaurant and go out to the farm so Congressman Traficant could show Sugar things he wanted done at the farm.

And the physical evidence and the testimony

of Paul Marcone, Congressman Traficant's own witness, own witnesses, Anthony Traficanti and Mark Colucci, clearly established that Congressman Traficant performed official acts for Dave Sugar. It's also not disputed that at the same time, Dave Sugar did work for Congressman Traficant.

And what did Dave Sugar tell you about the work? He told you they ended up doing about 10- to $12,000 worth of work, and it was a favor for a favor. He told you that after the work was done, that for a period of six months, there was no payment, there were no bills, no invoices, not even a discussion of cost. Why? Because it was a favor for a favor.

And then suddenly one day in December of 1999, just after Congressman Traficant has learned from Paul Marcone the government has subpoenaed his records and he's under investigation, he suddenly, for the first time, shows up waving a check for $1142. Not the value of the work that was done, but December 23, he's got this check.

And what does he tell him? He says, quote, "The bastards are watching me real close, and I need to give you this." His words, not mine. He claimed he was giving Sugar every penny he could for now and would pay him the rest later. Why? Because he knew he was under investigation; he knew he had a problem.

He also told Dave Sugar the FBI would

probably come out to see him, he needed to cash the check, and when he did, he needed to show the check as a partial payment to help convince them this was a job for pay.

Just like he told Paul Marcone, he was going on the offensive. Then in the spring of 2000, Dave Sugar needed Congressman Traficant to help him get the million-dollar Higbee project, and he went to him and asked him for work, and again Congressman Traficant wanted something, this time some little jobs, and he said he was nervous about it and he was concerned. But he agreed to it because Congressman Traficant was pressing him, and he really needed his help on the Higbee job.

He told him, "I'll transport your machines, it was a small job, and, "I'll pour and finish the cement floor, but I won't buy the cement. You're going to have to do that yourself," which Congressman Traficant did.

Dave Sugar was concerned about how this stuff would look, so he went on his computer and he created a false invoice for the 1999 work. There had never been an invoice because it had never been a billed job. He also created an invoice for the 2000 work.

And then, finally, when the FBI did show up, what happened? Dave Sugar panicked. He decided he'd better show that these invoices had been sent, and he started creating more false invoices with dates to show

when they were mailed. He instructed his secretary to lie to the FBI, and he himself lied to a federal grand jury. He said that Congressman Traficant offered him an old piano that he didn't want, but turned out to have some value, but not nearly the 10- to $12,000 value of the work he had done.

Why did Dave Sugar create these false documents and tell his secretary to lie to the FBI? Because he knew he and Congressman Traficant were in trouble. He was conscious of his guilt and trying to cover up, but he had a big problem: Computer memories. And because of that memory, Dave Sugar got caught.

Now, ask yourself this: If Dave Sugar's dealings with Congressman Traficant were on the up and up, why did he create false backdated invoices in the first place and why did he drag his secretary into this mess? The answer is simple: This was never a legitimate deal. It was an illegal gratuity, and Sugar was trying to cover it up.

But the pattern didn't stop there. It just keeps going and going and going, like the Energizer Bunny. He just doesn't stop.

USAG comes to him, and USAG needs official acts done. And it's well-documented that Congressman Traficant did major numerous official acts on behalf of

USAG. And there's no question about the value of these official acts to USAG, because Chip Roselli told you how the Cafaro Company was preparing to cut off funding in the summer of 1998, unless the USAG made major progress in getting FAA certification.

What did Congressman Traficant do? He started issuing press releases at the very time they were going to run out of funding, saying that J.J. Cafaro -- saying things J.J. Cafaro could then take to the officials, his brother, and the other officials at the Cafaro Company to get more funds.

Congressman Traficant, in the midst of doing these official acts that were of such value for Cafaro and his attempts to continue to fund the company, once again, wanted something. He wanted USAG to help them out of a bind with his rotting boat. This was not the first time that Congressman Traficant had tried to use his official actions to help him with his boat.

You know the testimony of West Richards about how he had to take employees to work on the boat. Remember what Tony Bucci testified to? That Congressman Traficant at one point had asked him to buy the boat. And remember the testimony of Bob Gatti, how he and Herb Bucheit, Pete Bucheit's son, got called out to the boat and Congressman Traficant showed him problems with the boat, to see if they

could find somebody to repair it.

Paul Marcone testified the boat was musty and run down and smelled, and Congressman Traficant told him that the boat needed repairs and that he needed to unload it. He needed to get it off of his hands.

And with this backdrop, then consider the testimony of Al Lange. During Al Lange's very first interview with USAG, they start talking about his boat that he needs to have moved, and suddenly, Detore and Cafaro start talking about a friend who has a boat, a wooden boat that they need to fiberglass. A few months later, after he starts in the winter of 1998, he's taken out by Rick Detore to Congressman Traficant's boat to look at it and figure out what they can to help with this rotting boat.

By July of 1998 Cafaro had agreed to buy the boat and obtained the $26,000 check, physical evidence that establishes that, during the very time that Congressman Traficant was doing the official acts.

As you look at the evidence in this case, compare the date of that check with the official acts that are documented that Congressman Traficant was doing and look at those dates. It's incredible.

Congressman Traficant decided that it would look bad to the press if he sold this rotting boat to J.J. Cafaro for $26,948 at the same time he was going to bat for

J.J. Cafaro's company. And they decided the boat had to be done another way, so they formed a scheme to have Al Lange pretend he was going to buy the boat. Why? Because both Al Lange and J.J. Cafaro told you: Congressman Traficant was doing important favors for them, and they were going to do a favor in return for him.

Paul Marcone testified that in 1998, Congressman Traficant had him call the Ethics Committee to see if it was okay to buy Al Lange's boat, but he didn't tell him that J.J. Cafaro had presented the $26,000 check. He didn't tell Paul Marcone that until two years later when the media began calling about the boat, and asking whether or not J.J. Cafaro had ever been involved in the boat deal.

Marcone further testified that Congressman Traficant finally did admit to the fact that he knew J.J. Cafaro had presented the $26,000 check.

Al Lange described the scheme that they cooked up whereby he would be the mule and Cafaro would provide the funds. Al Lange already had a boat. He didn't need another boat, and he certainly didn't need a wooden boat, and he didn't need a wooden boat that was running away. He knows boats and knew what a money pit that would be.

And you saw the documentation which establishes that J.J. Cafaro did, in fact, fund these

transactions. And you can see the cryptic way they refer to this in the beginning when they start this boat deal. Look what they call it? "I just wanted to send you a reminder to bring the $3500 cash with you today when you come. This money will be used for the operation that you and Rick talked about."

Who talks like that? The CIA talks like that. People that are trying to cover something up talk like that.

Why doesn't he just say for the repairs on Congressman Traficant's boat?

Now, with respect to the $13,000 cash payment, look at the evidence that supports that $13,000 payment apart from J.J. Cafaro. Patty Direnzo testified that the very day before J.J. Cafaro attended that meeting with Congressman Traficant, J.J. Cafaro came to her and said, "I need $13,000 cash." And she went to the bank and she got the cash, and you can see those checks. You can see the date on those checks.

The very next day, they met at YSU, and it's undisputed that J.J. Cafaro and Congressman Traficant were together at that meeting at YSU. And remember what Allen Sinclair told you happened in the basement the day they were opening the envelopes and counting the money. Congressman Traficant told him at that time that he'd

gotten some money from J.J. Cafaro.

How would Allen Sinclair know that? Allen Sinclair testified to that before the grand jury in February of 2000. J.J. Cafaro didn't even begin cooperating until September of 2000, seven months later. How in the world did Allen Sinclair know seven months before J.J. Cafaro began cooperating and ever admitted to the $13,000 payment that Congressman Traficant had received cash from J.J. Cafaro?

Then there was the testimony about the welder and generator. Congressman Traficant asked Al Lange and Rick Detore if they could get him an aluminum welder to use because, why? He wanted to have a horse trailer built.

Al Lange heard Congressman Traficant and Rick Detore have similar discussions about a generator. He said they went out and bought them, and he and Rick Detore put them on the truck. Think about this: Congressman Traficant's own witness, Brian Kidwell, admitted that Congressman Traficant had them on his truck in Youngstown. How did they get on the truck? And why would USAG buy this equipment, have it drop-shipped to Virginia so they could go and stick it on the Congressman's truck and have him schlepp it up to Youngstown? Does that make sense? They could have drop-shipped to it Youngstown.

You have the receipts in evidence. It's not

disputed that this equipment was bought. It's not disputed that it ended up on the Congressman's truck.

You also recall that Brian Kidwell on cross-examination admitted something very important: That Congressman Traficant had talked to him about building him an aluminum horse trailer just like Al Lange told you. The topic had come up in that very first meeting.

Finally, there's the Corvette rental. There are key questions you need to ask about that Corvette rental: Why is Rick Detore, the COO of USAG, even involved in this transaction? Why is USAG making calls for Congressman Traficant to set up a rental car and why are they putting it on Rick Detore's personal credit card? Congressman Traficant has a whole staff of people that can call and rent him a car if he wants to rent one, and they can run the charge card down and put it on.

With all the evidence you heard about Congressman Traficant's spending habits, ask yourself this question: Is he the kind of person that would willingly spend $5,000 of his own money to rent a Corvette for a month? Does that sound like him?

Does he sound like the kind of person that would waste $300 just to list himself as a second driver when he could have listed himself as the driver himself? And think about the date when Congressman Traficant finally

got around to transferring the credit card from Rick Detore's credit card to his own. December 17, 1999.

What else was going on around that time? Congressman Traficant had just found out he was under investigation. He switches the credit card on the Corvette December 17th. Five days later, December 22nd, he shows up with a $7,000 check for J.J. Cafaro for cars, one of which he's had for ten years. He suddenly wants to pay for it. J.J. Cafaro wasn't even expecting the payment at that time.

The very next day, December 23, he gives Sugar the check for $1142, telling him, "The bastards are after me."

Within a month, he's in the basement having Allen Sinclair burning envelopes. When the story hits the paper about the value of the cars being worth more than $7,000, he suddenly sends J.J. Cafaro $3,000 more because he says, "You know, I think you need a little more money on this transaction."

Does that sound like Congressman Traficant? A short time thereafter, he takes Paul Marcone out into the hallway because he's afraid his office is bugged, and starts putting words in his mouth. He also tells Paul Marcone, "I have to go on the offense because it's the only play I have." Why did he have to go on the offense? Because he's guilty.

And there are six binders of physical evidence that document his guilt, 55 government witnesses, together with the testimony of many of his own witnesses that confirmed his guilt. And there's no legitimate way to counter that evidence.

In closing, Ladies and Gentlemen, remember what Congressman Traficant's dear friend and his own witness Sandy Ferrante told you about Congressman Traficant. These are her words, not mine. Quote: "He's a huckster and likes to trade. If he can get a job trading for something, he loved it," end quote.

And then think of the pattern that's repeated over and over and over again in this case, because that's what this case is about. Congressman Traficant traded his official acts for things of value, and in doing so, he's guilty of all ten counts as charged in this indictment.

Thank you.

THE COURT: Ladies and Gentlemen, we'll take a 15-minute recess. I need the lawyers and the court reporters and juror number three to stay, please.

(Jury out at 10:12 a.m.)

(Discussion at side-bar with Juror Grodi.)

THE COURT: When is this wake?

A JUROR: Tonight.

THE COURT: What time?

A JUROR: 6:30.

THE COURT: I'm going to need you to have somebody transport him to that.

Congressman?

THE COURT: The way I'm going to resolve this issue of this gentleman is the wake is at 6:30, and you know where it is, right? You know the actual location of it?

A JUROR: I can find out.

THE COURT: You can find that out?

A JUROR: Yes.

THE COURT: What we'll do is permit him to go there. We'll send you with the marshals because you're all going to be sequestered. We'll begin tomorrow morning -- you're not going to get to the funeral. You can get to the wake.

Now, if this doesn't work for you, we can send you to one thing, but to take the jury out for a day and a half is too long.

So if this doesn't work for you, then what we can do is put in an alternate. But I can do it today because this will end this morning, and I can defer having the jury instructions until tomorrow morning. But to do it for a day and a half is just too much for everybody.

MR. TRAFICANT: Have you changed your

decision already?

THE COURT: No.

MR. TRAFICANT: That you had just made.

THE COURT: I found out some more information.

MR. TRAFICANT: I believe the juror had sat through the whole thing, and I'm hoping we can accommodate him to hear the evidence, to hear my evidence.

THE COURT: Congressman, all of these people have been here through the whole thing. We're trying to accommodate him.

The accommodation is that we can send you to the wake tonight, and we'll transport you and there will be somebody with you. But we can't send you to the funeral tomorrow.

So you need to think over this break about that situation, and then I'll talk to you after the next break?

A JUROR: Yeah, because they were mad about it being another day.

THE COURT: Well, it's hard on everybody.

A JUROR: I know.

MR. TRAFICANT: We don't need them to carry out another day.

THE COURT: No.

MR. TRAFICANT: I don't want to be changing the jury around after it's been set after ten weeks of trial.

THE COURT: Okay. It's just getting us until tomorrow morning. We can accommodate that because they are not deliberating yet.

Once they are deliberating, it's a whole different story. But nobody is deliberating yet. We have five alternates.

So I'm telling you what we can do to accommodate this.

A JUROR: If it's a big deal and it's a problem, I won't do anything.

THE COURT: No. We can send you tonight if you want to go, and you decide that yourself.

MR. TRAFICANT: Do you want to stay on the jury?

A JUROR: Yeah. I mean I won't --

THE COURT: That's what we're --

A JUROR: I told my family and everybody I wasn't going to do anything, but I mean they're all mad at me and everything like that. I know this is a big deal, and I've been doing it for ten weeks.

THE COURT: What I'm saying is we can accommodate you, and we can send you tonight and then start

with the instructions tomorrow.

MR. TRAFICANT: Let me see if I understand this, Your Honor.

THE COURT: That's --

MR. TRAFICANT: Your Honor --

THE COURT: That's -- excuse me. That's not going to really make much difference to them. It's a matter of an afternoon. Okay? And that's what I'm willing to do.

If we can't do that, if you need to go to the funeral tomorrow, I really can't take them out for a full day.

A JUROR: Right. Well, I understand that.

THE COURT: Okay.

MR. TRAFICANT: Is it my understanding that the marshal will take him this evening and he's will to serve on the jury tomorrow? Is that what I'm hearing?

THE COURT: Well, he has to answer that. Give him a little time to think about it.

You can have the break and so forth to think about it.

A JUROR: Okay. All right. Just think about that then and come back and tell you? Just go think about that?

THE COURT: Well, I mean that's how we can

accommodate you. At the end of the closing argument, what we were going to do was charge the jury in their final charge and send everyone off to deliberate.

The accommodation we can make to you is to delay that part of it, not the closing arguments, just that part of it, until tomorrow morning. You would have to go in the company of the marshals to the wake. And that's it. You don't have to discuss it with the other jurors. You have to decide as a person what you want to do.

A JUROR: So that's the decision then, right?

THE COURT: We'll do that or if you -- I mean if you want us to accommodate you, that's the accommodation. You can go to the wake tonight.

A JUROR: Okay. So that's the option then, right? Either that or nothing at all.

THE COURT: Right.

A JUROR: Okay.

THE COURT: Either that or we put an alternate in. But the jury hasn't started to deliberate, so we have a little flexibility. And we're trying to use the flexibility because this just came out of the blue and hit you. So I want you to have a little time to think about it. Think about it over this break. We'll do closing arguments, and then I'll talk to you at the next break.

A JUROR: All right. Sorry about this.

THE COURT: No, no. You can't help it.

A JUROR: I didn't plan on any of it happening.

MR. TRAFICANT: Well, if you're able to go to the wake, would it be that much of a problem for you to miss the funeral?

A JUROR: I don't know. I'll think about it. You know?

MR. TRAFICANT: Good. Thank you.

A JUROR: Thank you.

(End of discussion at side-bar.)

THE COURT: Everybody in the back can take a break now. What happened is something that happens in life, and we're dealing with it. Okay?

(Recess had.)

(Jury in at 10:33 a.m.)

MR. TRAFICANT: Good morning, Ladies and Gentlemen.

JURORS: Good morning.

MR. TRAFICANT: I want to thank the prosecutor for his endorsement of my tremendous achievements as Congressman, but I now want to talk business.

As a former sheriff, I want to direct you to

Defense Exhibit 1007-AA. The government and the prosecutor has given you a very big dissertation on hearsay. He said, she said, I said, he did, I did, about the same time.

Now, if you're in the mountains and you go to bed at night and there's no snow on the ground, and you wake up in the morning and there's snow on the ground, you have some physical evidence there's snow. But now, if there's no snow on the ground and you go to bed, it's at a ski lift, and you get up and the snow is on the side of the mountain where the ski lift is, you're not sure if it snowed or if they made the snow on that ski lift.

The government furiously and desperately tried to corroborate the words and hearsay of their witnesses. This was responded to on October 10th, 2000, from the Federal Bureau of Investigation. They submitted 912 documents, and the bottom line was, Joe Bushner said, "Not one fingerprint of Jim Traficant was found on a document."

Now, here is the types of documents they're talking about. This isn't Andy of Mayberry here. We're not talking about a civil case. We're not talking about a DUI, we're talking about a RICO, beyond a reasonable doubt. Now, I'm sure you could identify what this is. This is toilet tissue. It is very porous. Very airy. Almost impossible to lift a print off of. Was that sent? No.

This is an envelope. Is that denser than that toilet paper? Why were so many envelopes burned, but yet not burned completely? Why at some point didn't they stop burning and just save the envelopes?

Third of all, they said there was a tremendous amount of cash. This is a currency bill from some candidate running for Congress that's a million dollar bill. I won't give you his name, but the Traficant fingerprint is most unique, because as a child I was a good marble player and had a stone thrown right on top of my right finger and have a scar directly down the middle, and I'm right-handed.

Now, there's not a print on the toilet tissue, naturally you couldn't get one, and none on the envelope, and none on the currency.

But then there's a manila folder. I don't know what size it is. But is this a different density? 912 documents submitted to the FBI laboratory, the best in the world. Still yet, not a print.

Now, Ladies and Gentlemen, you shop. You could put water in these. There wasn't a print of Jim Traficant on any of the 912 documents. They desperately were searching to corroborate their evidence.

Now look. This isn't a Barney Fife case. This is a criminal case. I want to talk some business with

you.

Let's start right now, and you will have this as Defense Exhibit 1007-AA. Let's talk about Sinclair. Sinclair told the FBI on January 24th of the year 2000, when he was asked about the building and why it wasn't in his name, he refused to comment. They then asked him about the kickbacks, and he said, quote, "I will play no part in, quote-unquote, getting Jim Traficant."

Now, when we do find out -- you'll find in your evidence bag when you get back, there were two documents submitted for KAS Enterprises, 11 Overhill Road. The first one I believe was in November. And look carefully at it. KAS Enterprises was established in the state of Ohio by one person and one person alone, Mr. Sinclair.

The next month it had two signatures and was reopened. Raymond Allen Sinclair listed as president, no less, Kimberly Allen Sinclair as secretary.

Mr. Sinclair in his own words was already suspended for a year and on probation for having made ads that were misrepresentative.

Now, you're not dealing with Andy of Mayberry here, folks. You're dealing with the FBI. Mr. Sinclair's life was on the line, his wife was on the line, and these people don't play softball.

Now, they could tell it to the Rotary, but

they can't tell it to a sheriff.

Now let's talk about Mr. Sinclair and let's talk about facts that do not exist. You heard what was -- was DiBlasio before you? The only thing you heard about DiBlasio came from Mr. Morford. Was Manente a government witness? Yes. They didn't call her. Was Pete Bucheit a government witness? Yes. They didn't call him. Was Sandy Ferrante a government witness? Yes. They didn't call her. Was Anthony Traficanti a government witness? Yes. They didn't call him.

Now, let's now look at some facts. First, let me say this: After I'm done, I can't come back to you again. They will rebut. If they attempt to bring up anything that was not yet, heretofore, before discussed, they will do so, because I will not have the chance to cross-examine them, and I doubt if the Judge will allow it, but I'd look very carefully at it.

Ladies and Gentlemen, the FBI of the United States of America -- do you see this pen? It could have been picked up on Mr. Sinclair's desk and picked up our voice from 40 feet away. You mean to tell me the FBI don't have that technology?

Two witnesses testified that Jim Traficant had coffee while he had his tea every morning, he had an L-shaped desk, and could only get around from the far side,

and Jim Traficant sat behind the door.

This, Ladies and Gentlemen, will give you an idea of what I'm talking about. If you could identify this, I won't even say what it is. It's a calculator. It could be sitting in any part of any room on a desk. It will pick up conversation a hundred feet away. A hundred feet away.

Here is what we don't know about this case. When they found they had no physical evidence, you would have to be in Disneyworld to believe that they did not attempt to tape the target. Not that I'm all that important, but I wasn't the secretary of the bank. I was the United States Congressman. You mean to tell me they didn't tape me? You mean to tell me they didn't video me?

Now let's talk about the $6,000 or $7,000, whatever is supposed to have been in some manila envelope. A good FBI agent would have very simply said, "Bring me the envelope," steamed that envelope open, put four marked bills in it, sealed it back up and said, "Take it back to Traficant and say you want no more of this."

Now, you tell him, "I don't care what car we go in, where we go, New Castle, Pennsylvania, Cleveland, Ohio, I don't want nothing to do with this. I'm afraid. I'm not going to hurt you at the grand jury, but when you come out of that restaurant, you have that envelope on

Traficant."

No videos? No bugs on my telephone? No wiretaps? No requests for helicopters, when Mr. Denholm in his own 302 requested overnight travel, airplane, cars, videos, mikes, tapes that I found out in their discovery.

Now, let's further talk about Mr. Sinclair. Misprision is a crime. He was already under suspension. He was a young man. He'd endanger his future, and believe it was a loan? Now, did you ever see anybody go into business with a loan?

Now, Mr. Morford has told you everything that everybody said, but Mr. Morford hasn't proven to you one thing that anybody did. Now, if Mr. Sinclair could sit across his desk and tape Manevich, why didn't they tape me?

So who do they bring to the stand? They bring two federal agents. One is an IRS agent from Philadelphia that only added up the numbers they gave him locally. He had nothing to do with the investigation. Did you meet one IRS investigator in this case? Is this a money case, or is this about Charmin tissue?

You met one FBI agent. Who was he? First-year agent. And what did he say on the stand? We have no prints. And the Judge let you go ahead and see all of that cash. I made it a joint exhibit. Not one of those bills have my prints on it. That is a defense exhibit when

you see joint, just like it is a government exhibit.

Now let's talk about some of these issues that he raised. This isn't preponderance of the evidence. This isn't circumstantial evidence. Why somebody's car was used as a deposit, this is beyond a reasonable doubt. Now, I want you to imagine that you and your spouse are approaching an intersection with your two grandchildren or children in the back seat, and you ask your spouse, "How does it look up there?" And your spouse says, "It's okay." But for some reason you have those two kids in the back, and you know, it might upset your spouse, but even at the expense of maybe upsetting your spouse, you take that quick look, and your spouse gets mad. "I told you no one was coming." But in the back of your mind, "I think maybe she didn't see a cyclist. Maybe there is a bicycle. I've got two kids in this car."

Trust of the spouse? She trusted her spouse more than anyone else in the world, but had a doubt, and wanted to see for himself, wanted to corroborate whether or not there was danger ahead.

So now let's talk about his witnesses that he talked about. He talked about all this Bucheit work that was done by Bucheit. First of all, Manevich said 15 an hour, Gatti said 10 an hour. Two people that come in and build houses said it was a butcher job.

Sandy Ferrante said, "My father and Pete Bucheit were looking at the deck. And they'd have breakfast with my father and asked my father to build the deck. She testified, "I was angry because I didn't want that addition. And my father went to my mother's grave every morning," and she went with him. "And my father was going to move in that farmhouse until he met a woman and rented her apartment."

Now, who was the last Bucheit witness? Forget what he said and look at the record, and ask the Judge for the record. It was Leisel Bucheit, the daughter, who was the bookkeeper. She said she sent an invoice and a bill to the Traficant farm. And she was asked how was it paid. She says, "I don't know. You'll have to ask my dad because I left the employment."

Did they call Mr. Bucheit? Do I have the burden to prove it was paid or not paid? Was Mr. Pete Bucheit called to the stand?

They feverishly tried to corroborate physical evidence, and they couldn't do it. Now let's listen to Mr. Bushner. He's on the stand. Cross-examination. "When you realized you had no physical corroborative evidence, what, in fact, did your team do?" And he was tricked, wasn't he? I tricked him into admitting he had a team. He even admitted who the team leader was. It was Mr. Bernard

Smith sitting right here.

I said, "What did Mr. Smith say?" "Smith said Traficant is cool, you'd better be careful."

Then he caught on. "Who else was there?

"I don't remember.

"What else was said?

"Well, maybe the boiler room noise, but it was loud.

"Traficant is touchy-feely. You'd better be careful.

"Sinclair is deathly afraid of him."

You had every one of my staff in here saying that nobody feared me. You had Sandy Ferrante not only say she saw me repay Mr. O'Nesti, she one time gave him a thousand dollars of her own money at my request because I couldn't get there in time.

Where is O'Nesti? Where is his affidavit? The government visited him 11 days before he died on his death bed.

Did I bring that money into my district? Damn right. I did those jobs for my people, yes, I did. Cafaro? Let's just tell it like it is. He said, "I lied under oath but it wasn't perjury." And then he admitted that he paid for the testimony of Al Lange.

Now, I want you to tell me what local IRS investigator or FBI investigator came in here and told you

that we went to Al Lange and we went to every place they supposedly bought these supplies for repairs for this boat, because Mr. Cafaro testified he never went to look at the boat. How do you know that Mr. Lange and Mr. deGroot weren't putting the money in their pocket? We know one thing, they sunk the boat.

Now, what's in evidence, and be very careful with it and look at it carefully, is the Virginia Military Institute. Who is it made out to? Survey performed on behalf of Captain Al Lange, which signifies he was certified to drive a boat of 37 feet.

And what does it say on page 3? The boat value, as is, as is, is between 30 and $35,000. I could have accepted Mr. Cafaro's check of $26,000 and would not have broken the law.

He didn't need that boat. Lange wanted the boat. And they're lying through their teeth. And when he said he paid $26,000 to fix the boat and had only 60 percent of it completed, I want you to think for a minute. Look at the next line. This vessel will have fair market value between 38 and $42,000 with repairs and corrections. So we go from 35,000 to 42,000.

What did the surveyor who had the prod evaluate the cost of restoration to be? He was paid $3600 and was certified as a marine surveyor. All they had to do

was say, "We need money for the boat." Mr. Cafaro sent him money for the boat. Where did they show you that money went into that boat? How do you know where it went? That's not my burden.

They ruined my boat. Now, when you pickle engines, you pickle engines because engines will be damaged and ruined, and they cost tens of thousands of dollars for marine boats of that horsepower.

Now, Mr. Nishnic said, yeah, the toilet didn't work, but as is, you take a look at the marine survey, you look at the repairs and conditions, you look on page 3 and see what it's worth.

Now let's look at the lease. You had the man in here, he testified. It was picked up my Mr. Richard Detore. Did he try and lie? That car was for me. And I was supposed to go to Louisiana, but the way it worked out, I went a month later, and it cost me 5,000. And what they don't know is, it ended up costing me 7,000.

But you can't take a rental car without a credit card. And was Mr. Detore my friend? Yes.

Now let's get into some of their witnesses. Bucheit, Leisel Bucheit said, "If you want to find out if the account was paid, check with my father." Did you hear testimony from his father? Do you think I'm going to make their case? You don't know if that, in fact, was paid in

full, do you? You have no idea.

Sandy Ferrante, she testified over the years at least several times a year Chuck O'Nesti came to the farm and would be repaid, and she testified they handed him $1,000, if you recall, because her husband, when they sold their farm, put her 13 horses in with another barn. They were two weeks late, and when they come to get their horses, the guy sold them at a sheriff's sale.

Now, who brought cash into this case? What did Sandy Ferrante also say? She was picked up in Canton and played a tape, led to believe she was being murdered. They spent a thousand dollars to put her two little dogs in kennels. Four times back and forth from Kentucky, testified before the grand jury, treated like a queen. When she told them the truth, she was treated like a dog. And Mr. Morford said, "Isn't it a fact when you walked out, Sandy, I came out and apologized?" She said, "That's a lie. Mr. Charles Perkins come up to me, put his arm around me and consoled me, and I was crying. He belittled me, demeaned me. Mrs. Ferrante also knew about that addition, and she asked my father for that addition," and she testified to that. Now, did they run back a check and show you a deed at that time?

Now let's talk about the Buccis. If you believe the Buccis, put me in jail, just ship me off. Greg

Tyson come right to the point. When it hit the fan, I was outside with him standing next to him and told him, don't you touch his property.

If Tony Bucci or anyone in my district called my office and asked me, their family, to have them moved closer to home, I don't give a damn if their name was Al Capone, I would have done it. I will admit to that, because I represent their families.

Let's talk about Bucci. Who testifies against him? His sister-in-law. Sandy says they almost knocked the barn down. Harry Manganarro said if he didn't show up and put the two braces on with me, the barn would have been completely destroyed. How much would a barn cost to completely replace? A hundred thousand dollars?

Susan Bucci not only said that, she came to me because she felt her brother-in-laws were taking -- her husband when he was sick, and they were taking her money, and I told her get a lawyer. That's her testimony. And she didn't. And they took every penny she had.

And she said when her husband died, he said, "Give Jim the wagons. He brush-hogged 40 acres a year for five years, bailed the third cutting of alfalfa, five years of his own time, his own equipment, his own fuel, his own money." She brought me out food, she brought me out drink. She testified they owed me money. And they were worried

about I was going to sue them over that barn.

Now, what was the last thing Tony Bucci said after his third plea agreement? I said, "Did you and your attorney engage in conversations with the U.S. Attorney about your brother Robert, who is a fugitive from justice who has fled the United States of America?" And Tony said he has heard from him from Cuba. And they said if he comes in and pleads guilty, they'll look into possible consideration.

Who do the key factors all have in common? What do they have in common? Now let's look at Sabatine. Sabatine couldn't identify the building. Mr. Morford said he was out there twice with Mr. Alteiro. Mr. Alteiro wouldn't walk in the building. Do you remember how funny it was? But what did he fail to say Mr. Alteiro apologized for? For not calling me and giving me the price I asked him to give me. He didn't say that, did he?

But Mr. Sabatine could not only not identify the building, he said he couldn't identify the floor. And now you have Sandy Ferrante that was there through that period of time and John Innella that said, "No matter what you do, you clean the floor, because if you get flies and certain types of insects in that barn, you'll get those horses sick." And they were concrete with rubber mats. This is an asphalt man.

And he said, "I had to watch because of all the manure." What is manure? Does manure draw flies? Does manure draw ticks? He couldn't tell what the floor was, couldn't identify what the building was. So what we have Mr. Sabatine saying is he gave me cash.

Why did George Buccella on my staff need immunity? And he admitted under immunity that many times -- he said only several -- he'd tell the people that he was going to see the Congressman or going south, but he didn't go south.

And what did Betty Manente testify to? After the pizza shop closed, who called and wanted to know why the hell he wasn't at work like everybody else? It was Jim Traficant.

Was he an expert driver? Yeah. Did he drive that rake? Yeah. They put in 30 hours. Well, let me tell you something: If you're an American and you on your own time want to help somebody out, and you're not being compelled, and no one said they were compelled -- in fact, Anthony Traficanti said it was his health spa until his allergies got him, and who do you ask if you don't ask a friend? Were they my friends? Yes.

THE COURT: 30 minutes, counselor.

MR. TRAFICANT: That's all I have left?

THE COURT: Nope. That's where you've gotten

to now.

MR. TRAFICANT: You mean I have an hour? Hooray.

THE COURT: Well, you asked --

MR. TRAFICANT: Here is when we found out. Don't take any more of my time. And you didn't interrupt Mr. Morford.

THE COURT: He didn't ask us to be his time keeper.

MR. TRAFICANT: I know. He was just telling everybody what he heard everybody say.

Ladies and Gentlemen, George Buccella owned a pizza shop while he worked for me, had a recreational sales dealership, managed a racetrack, and he bought the racetrack, and was a township trustee. And all he had to say was he was going south, and he was able to get out of work.

I asked Betty Manente if she ever called me or ever went out to see if he was out there, and she said no. Who did? Now, where is a Congressman -- do you have a congresswoman or man that represents you? Where are they during the week? Some of them don't even come home on the weekend.

She said the only person -- and Betty Manente was a government witness, subpoenaed to the grand jury by

the government, the only person to check his punctuality was the Congressman himself.

And Anthony Traficanti said he helped Buccella on occasions. He was a great driver and had a truck that was so dangerous he wouldn't drive it. And there were times when Sandy said she called herself because they didn't have sawdust and the horses would be on bare ground. And they went and got sawdust.

Well, just go ahead and lock me up.

Now let's talk about Cafaro. How can you talk about Cafaro when talking about Lange? Cafaro admitted he paid for Lange's testimony. His attorney is sitting there right where our great Marshal Troutman is sitting, second from the right.

Mr. Lange hadn't been in the employ of United States Aerospace for a year. Why was Cafaro paying for his testimony? And did you notice how good it sounded? He called Cafaro a liar three times, but then got on the same in book on all of the conspiracy business, didn't he?

Now, you can run by Clouseau, chief inspector, that is, but use your head now. As Americans, what is the difference here? This isn't my courtroom. This isn't actually Judge Wells' courtroom. Right now this isn't the prosecutor's courtroom. This is your courtroom.

Do you know what separates us from every

other country? When you go to the ballot box, don't let anybody tell you how to vote. He said I'm guilty. Well, if I'm guilty, you look me in the eye and you say guilty. But if you think I'm not guilty, I want you to look at him right in the eye, square, flush, right in the face. This is what makes America free. No one tells you how to vote, and don't let anybody start. And you don't need a congressman to tell you that.

And when you've got a high profile guy, the only one in American history to not be an attorney to beat the Justice Department, why did they go back to a guy by the name of George Hooker, one of the nicest guys you will ever meet, who sold me a horse 15 years ago, if they didn't want to, quote-unquote, to use Sinclair's words, get Jim Traficant?

Where's the tapes? Where's the photos? Where's the videos from afar? Where is the airplane surveillance tapes? Where is the agent? Why did they bring a guy from Philadelphia seven times, spends 37 days, that had to be thousands of thousands of thousands of dollars to add up something your ten year old son or granddaughter could do?

You give your ten year old granddaughter the numbers they gave them to add them to the Traficant tax return, and they'll come up with the same answer. And what

did he admit? He did not meet with an investigator and had nothing to do with the investigation. What the hell was he doing here? Where are the people that did it? Or did they?

You see, the government is under an obligation to provide me with what is known as exculpatory material. Exculpatory means it is favorable to the defendant.

I love America. I bend over backwards for our military. I fight for transportation, General Services Administration. In fact, I authorized that new courthouse you're moving into. I did. And I lost the postal workers. Many of them are getting screwed.

But you know what? When an agency comes before the United States Congress and says, if you change the burden of proof and change the seizure laws in the IRS, you take away the only leverage we have to collect taxes. And they say, "What's that?" And they said, "Fear. If the taxpayers don't fear us, the dead beats will get over."

Now, we changed those laws, and do you know what? We went from 10,067 seizures of homes to 51 in the whole country when the IRS had to prove it in court.

Does the IRS like me? Hates my guts. Do I like them? I'd like to break their damn necks.

I have a bill in right now that would abolish

the Sixteenth Amendment and get them out to get a real job and exempt everybody up to the poverty level --

THE COURT: Congressman, these folks have to deal with the evidence in the case.

MR. TRAFICANT: They are dealing with the evidence. This is part of it. It was brought out in the trial by their own specialist from Philadelphia.

THE COURT: Ladies and Gentlemen of the Jury, you heard the evidence in this case. You rely on your own memories of what the evidence is.

MR. TRAFICANT: I hope that doesn't come out of my time.

Now let's talk about Angelo Delucia. He wouldn't walk in the building, but called and apologized for not giving me a price. So evidently I asked him about the price.

DiBlasio, why didn't you hear about him? Why is he talking for DiBlasio? How can he speak for DiBlasio?

I could break all the rules of the court and introduce a tape on DiBlasio and Sinclair if she'd allow me. And I've had it with that.

George Hooker, what did he say? "This is a hell of a horse, Jim. If you don't come back and get busy, I want $500 down." Who brought the only cash into this trial? Jim Traficant. He said that Sandy and I put

together $500 down. He delivered it the next week and got a $3,000 check.

And who is the other guy that said he got cash? Was it their guy? It was Tyson. He said, "Give me 500, Jim." I went up, talked with Sandy, as he said, and we put together 500.

The next time he wanted 400 cash. Who brought cash in? Now, why do you think they went to speak with George Hooker? Did they bring one witness in -- and let's look at it this way: I want you to imagine you drink a gallon of water because they say if you don't drink enough water, you're going to kill your kidney. Now, you drink a gallon of water and you don't pass it, and you drink a gallon of water the next day and you don't pass it, you'd better start passing some water.

Now, from 1987, when that horse was purchased from George Hooker, they were looking for cash transactions of the defendant. Did they bring one person in here that says, "Jim Traficant paid me money in cash?" One. I brought in three. It's been proven by every witness on this stand, I don't pay by cash. I write checks. And I accept checks.

And Sandy said Mr. Pennington wanted to pay 7,000 because you buy a $5,000 horse for 3500, and I didn't want it. I refused it. But I needed to sell those horses,

and I accepted that 7,000. They bring up the fact that I also had $500 a month coming in board money on those horses that Sandy testified to. What does my deposit show? The big thing they put on the board with these big numbers. You add them up. $26,600 cash. Do you know what it averages up to? About $480 a month, the average deposit of a Congressman.

Now let's look at Rovnak. Anthony Traficanti said he worked right next to him and never saw him miss a day of work. Sandy said the only time she saw him was before he got the job. After he got the job, she never saw him.

He got mad when he got another job. He wanted me to keep him on part time. I said I couldn't, it was a conflict, it was a semi-government job, and he had to go.

Also, look at the exhibit of George -- of Richard Rovnak, if I could find it. He witnessed a repair document to the boat. Remember, it wouldn't have been admitted into evidence if he hadn't made the funny remark. He not only admitted it was his signature, he said, "Oh, you mean this is the guy that never showed up for work." So he documented it, didn't he?

Contract to paint and make repairs on Egg Harbor, supplies, paint, signed by Peter McQueen.

Did they ever go talk to Peter McQueen, black fellow from around the Potomac River in Washington, D.C.? I don't have to prove this. That's their burden.

Now let's talk about O'Nesti. Dennis Johnson didn't even want to talk to him. He came looking for Dennis Johnson and said, "I gave no kickbacks, I did nothing illegal with Jim. Please, maybe he's not getting my calls. Have him call me."

Mike Terlecky saw him out at the speedway looking at a photograph, said, "What are you going to do next?" I didn't give him kickbacks. Why don't they let him alone.

Why isn't there an affidavit in this courtroom that Mr. O'Nesti gave me kickbacks? Because I could prove that 11 days before he died, they were there pressuring him for an affidavit.

MR. MORFORD: Objection. There was no substantive evidence to that, Your Honor.

THE COURT: There was no substantive evidence --

MR. TRAFICANT: I'll put the 302 out by Mike Pikunas.

THE COURT: Just move right along, Congressman.

MR. MORFORD: On his death bed. And what was

he talking about the Army for? Because he wanted to die at home. And Denny Johnson just cut him right off. He didn't want to die in a medical facility separated from his grandchildren.

Now let's talk about Sugar. He talks about the piano. Sugar testified, and it was testified to by Manganarro, that it was a 1856 Steinway, one of only two made that year registered in the book, Handmade in New York. And he said that the defendant was honest and told him they weren't the original ivory. If it were, it would have been worth $100,000. He had it appraised between 500 to $6500.

I asked him, "Did you report it on your income tax?" He said he did. Now, if I owe Mr. Sugar any money, he could sure as hell have billed me for it.

Mr. Harry Manganarro also said, and testified, that he was not a good bookkeeper and backdated, backdated a bill to a local government entity he forgot to bill. If I'm not mistaken, it was New Middleton, Ohio, for some work he did in that little city.

But what did Sugar have? Sugar had immunity. What did Bucci have? Bucci had immunity. What did Sinclair have? Sinclair had immunity. What did Sabatine have? Sabatine had immunity. What did Cafaro have? Cafaro had immunity.

And what did Attorney Percy Squire say? Percy Squire was the chief counsel to Chief Judge Thomas Lambros, who was in charge of this whole courthouse, over Judge Wells. I don't know if she was on the bench then. But he was the boss. And Percy was his right-hand man. And Percy was invited to that YSU meeting, come in late, walked out with me, and saw me get into the green truck.

And the amazing thing was, Mr. Kidwell said he picked me up in the green truck. But J.J. Cafaro said we waited until everybody left, then we got in his green Cadillac and he gave me money.

Because of the circumstances that there was some withdrawal of cash? His secretary said he averaged $20,000 cash out of his account every week.

By the way, Johnson did not have immunity. Terlecky did not have immunity. Manganarro did not have immunity. Allen Marchese didn't have immunity. Kidwell did not have immunity. Ferrante didn't have immunity.

Greg Tyson? He was their witness. They didn't call him because he told them there was nothing illegal wrong. So they wanted him on cross, hoping I'd call him. They tried to make it look like I'm in some deal with the Buccis to screw Tyson. And Tyson's exact words were, when we went outside and drove down the street and went into that parking lot, I drove in the truck with him.

And he said, "Big Jim was standing next to me and told them you don't mess with his property."

And did I go to the bank and get him a loan? You're damn right. And I got him the first 108 major government loan in Washington for a minority in my city's history. And the Youngstown city screwed it up because they had an investigation into minority contracts, he got caught up in it, and that's how he got bankrupt, not that Jim Traficant banked it so the Buccis could gain.

Mark Colucci testified, Sugar said he would shake him down for $25,000.

How much time do I got?

THE CLERK: 42 minutes.

MR. TRAFICANT: Be exact.

Sugar said he was shaking him down for 25,000. Mark Colucci drove down there about four or five times, got his case reversed. He dropped his fee from 15,000 to 5,000, and his dad didn't want him to go ahead, and he could have had that taken off his record.

Do I have the power to tell Judge Wells whom she can release from prison? Do I have the power to get some Judge to move a prisoner? Do you think that your congresspeople at times do not intervene for families for hardship?

Now, Mr. Cafaro was called a liar by Mr.

Morford in the last trial, but he said, "I lied but I didn't perjure myself."

Joseph Alteiro, Sandy said she saw him three times, Buccella said he saw him a couple times, and Sandy said he looked so decrepid, he explained to her she was taking KFC chicken out of their dump baskets to survive, and she felt sorry for him.

And Rovnak said he spent 16 hours out there for 16 straight days and slept overnight.

Now let's talk about Anthony Traficanti. Every one of my staff who was here said they didn't fear me. There's no one on my staff that feared me. He kept bringing up the point I could fire you. I have never fired a person. The records are public documents. I let one woman go and gave her six months to find a job because she was incompetent, almost blew our courthouse, gave her six months to find a job in D.C.

Linda Kovachik testified. She said Jackie Bobby and Grace Yavorsky were not all the good friends they acted they were. They were rivals, and they wanted the big job. And she said Chuck O'Nesti did not care for them and would not even allow them in his office.

And Linda Kovachik quit because she was belittled by Jackie Bobby. And she said she asked Chuck, after Jackie left, if there was an opening, and he said

there was. And she come back to work.

Here is where we are here, folks. This isn't a case about what Mr. Morford is saying. This business on the boat, that was a recommendation by some of our staff. It was a staff building thing. If I'm not -- if my memory hasn't faded me, because I haven't bought those transcripts like they have, I think West Richards thought it would be a good idea, and not everyone was compelled to go, and not everyone went. And Congress was out of session.

Now, I'm going to sit here and I'm going to listen to this garbage? Now, I'm a sheriff. Whenever you have an informant that gives you information, you never trust that contraband unless you independently corroborate it. You know what they showed you? They showed you envelopes, money. Boy, it looks exciting.

And you know what Mr. Sinclair said. But if you look carefully through his testimony, he said he never lied to the FBI. But on January 24th, when they asked him about KAS Enterprises, he refused to comment. That's what Mr. Bushner said on the stand. And he was very upset. And then they talked to him about kickbacks, and he stood up and says, "I'll have no part in, quote-unquote, helping you get Jim Traficant."

Does that sound like a guy that fears me? And one week later, he signs a proffer. And do I blame

him? I don't blame Cafaro, I don't blame Sinclair, I don't blame Sabatine, I don't blame Buccis. They're trying to save their asphalt. And they had an opportunity to do it with a license to do it.

My witnesses did not have immunity. They were subject to going to jail. And they corroborated truthfully what transpired here.

Now, there's a lot of things I can and cannot talk about, but I do know this: When you find that you have no evidence and you're a law enforcement agency, you wouldn't bring this case on a deep deal with a reliable snitch.

And the point I'm making is, who are we talking about here? Is this Lakewood Police Department? Not that they're not any good, but how many laws are there in the state of Ohio? How many laws are there in organized crime for the Feds?

If you believe in your heart they didn't tape me, then find me guilty. Because I've been around, and when they say they have no tapes, the boiler room noise was too loud, Ladies and Gentlemen, they could take a tape in a tornado, wipe out the background, and give you the clearest sound of that tape. Nobody has the technology of the Federal Bureau of Investigation and the Central Intelligence Agency. And you know what the difference is?

FBI is domestic; CIA is foreign.

And quite frankly, one of my bills was that they should combine the two with the FBI, because neither of them communicate with each other and don't know what the hell is happening.

You know, I listened to some of these questions. I'll never forget when Marchese was on the stand, and Mr. Morford is asking about these photographs. I was tempted to stand up and say, "Were you present when you took the photographs?" That's how ridiculous it got. I mean, absolutely ridiculous.

They paint the strong picture, when Mark Twain made a statement once, he said, "There are lies, more lies, and then there's statistics and paperwork, and I don't know which is worse." Mark Twain.

And I'm not a historian, but there's another statement that always got me. I think Ed Nishnic talked about it. I think it had a bearing on my life. Our second president, Thomas Jefferson -- and it's no offense to Judge Wells, and I apologize if I've done anything to offend you, I apologize, and it is not to gain favor. I am not an attorney, I admit that. And at times I was testy with the Judge, and I do have some problems with the Judge, but it is not personal. She is a fine person. And I don't want her to take offense to this.

But I believe America is afraid of our government. And our second president, Thomas Jefferson, said, "Beware of the appointment of federal judges for lifetime terms, because they could take the Constitution and mold it like clay in their hands. God bless juries." He said it again: "God bless juries."

We have parts of our system of American jurisprudence who are trying now to limit jury powers. I'm a member of Congress, and you know what? I can only speak for myself, but no one wants their name in the paper before an election, with an IRS or FBI ticket on it. And Congress has been passing laws. They have given the IRS and FBI too damn much power. And when you are born in the United States of America, you are born into a partnership with the Internal Revenue Service the day you're born.

I don't think we live in a free nation. I believe our freedoms are eroding.

It is very easy, you see, but when you deal with a congressman, there is a different element, too. And that element calls for full-blown surveillance, corroboration.

Now I want to talk about something that I am familiar with. Fingerprints are routinely found on cash from bank robberies, betting parlors, and illegal activities. Fingerprints can even be lifted from dead

bodies. The larger the volume of documents, the more likely a print can be identified. Many thousands of dollars in cash, it would be almost impossible to fail to recognize one print. And the more the documents, the impossibility of having not one print shown is almost unheard of.

There was testimony by Anthony Traficanti that I didn't even look at the evidence in this case. I haven't read it yet. It was testified to. Anthony Traficanti said he come to my office where he delivered some of it. He said, "Jim, I think you'd better look at this. I'm worried about this." He couldn't believe I didn't look at it.

I haven't looked at their evidence because I knew they had no evidence. Because if they had evidence, they wouldn't treat me so damn nice. They'd have handcuffed me and they would have put me in that cruiser like everybody else, and they would have treated me just like everybody else. I'm no special animal.

But I stood up to them. And America had better start standing up. They have too much power. They don't like me. It's nothing personal. They're not on trial. In fact, let me tell you what: I have never met, nor have I witnessed, three more competent attorneys in a trial. They're good.

How much time do I have, Jeffrey?

THE CLERK: 27 minutes.

MR. TRAFICANT: I want you to imagine I'm an artist. I've got an easel. I've got ten different colors of oil paint on that easel. And I take that brush, and I'm painting and I'm painting and I'm painting, and I'm trying to put it together. I'm trying desperately to put it together. And I'm frustrated with it.

So I go to Mickey D's, I go to McDonald's, and I get those little plastic condiment cups about three-quarters of an inch high, about an inch in circumference, and I take them back with me, and I put ten different colors of oil paint in those ten cups. And I take them, and I throw them at that canvas and see what sticks.

Now, here is what I can tell you: If you in your heart believe they have proven beyond a reasonable doubt my guilt, find me guilty. But I want to tell you something, when you start taking down the burden of proof and you start putting people in jail for circumstantial evidence predicated on what someone said without being corroborated, you have taken the Constitution and you started to shred it. And if you don't understand that by now, you don't need the explanation.

Proof beyond a reasonable doubt would be

this --

THE COURT: Excuse me, Congressman. Before you do that, as you know and the jurors know, the definition of that is in the jury instructions. They've heard it, they have copies of it, and the same is true of direct and circumstantial evidence, and they're bound to follow the law. They've already heard it. You don't need to give it to them. It's not the proper thing for you to be doing in closing argument.

MR. TRAFICANT: Are you taking that out of my time?

THE COURT: No.

MR. TRAFICANT: Give me some additional time.

If I'm not allowed to tell you that a criminal case requires proof beyond a reasonable doubt, then go ahead and lock me up right now.

No, I want you to ask yourselves some questions. I don't have a lot of time left and I can't come back, and they're going to have a lot more hearsay, because they don't have a damn thing. If they bring up anything new, disregard it if the Judge should happen to overlook it, which I doubt if she will. She's been conscientious. But if they do, they will, because I can't come back and examine.

But the question you must ask yourself is,

why did they not have one local FBI agent, one local IRS agent, come in here and say, we went and checked on all those people that wrote checks to Mr. Sinclair and proved that they were okay.

Now, you want to talk about circumstantial? Why is it after the spring of 2000 there have been 22 straight months without $2500 in the account? Now, I brought an expert on money, and did he lie? Mr. Morford asked him directly, could those have been kickbacks? He said, yes, they could. He didn't lie, did he? But did he say there were kickbacks? No. He concluded by saying they had no corroborative physical evidence to document any of that money.

Now, you all had it passed between you. You all handled it, you handled the joint exhibit. If I handled 900 and some documents, and the report comes back on October the 12th -- when did we go to trial? February? They got the document October the 12th -- and you're trying to tell me, you're trying to tell me October the 10th they just decided to go to trial, and every one of these witnesses admitted they were my friends and would have met with me.

And look at the things they ask for. Do you know when I heard in the newspaper about this? I had a motion to quash it. And you know why?

MR. MORFORD: Objection. This isn't even in evidence, Your Honor.

THE COURT: Yes. Just move along about your motions to quash. That's not relevant.

MR. TRAFICANT: I don't trust them. You're looking at a man who had a confession against him in his first trial, proven to be false.

MR. MORFORD: There's no evidence on this either.

THE COURT: This is the case they have to work with, Congressman. This is your chance to give them the closing argument. It's in this case.

MR. TRAFICANT: And they're getting it.

And you know what the problem is? They got a guy to embarrass the hell out of them who then went after the IRS. Through my efforts there is now an Inspector General in the FBI office, and that isn't enough. There should be a three-member team, independent, and when there are matters like Chinese Red Army money, Waco and Ruby Ridge, the FBI shouldn't investigate themselves. And they don't like me.

And are all FBI agents bad? No. And there are some great patriots. But they've gotten so powerful they can just put a case up on you and scare you, and scare your wife, and scare your kids, and take your property.

And my response? Take this. This is one American who don't want to hear it.

Now, I want to know how 60 percent, $26,000, only accounts for 60 percent of the repairs on a boat that a professional surveyor with a prod -- a prod is where you stick it in the wood, and if it's soft it at some point hits something hard. What did they have to do? I need money. What did the prosecutors say? Traficant had a code.

I had codes. Where does he get the right to testify for me, to say what I said? How could he say what Bucheit says? How could he say what DiBlasio says? What are we here about, what people are talking about or what people did?

Now -- how much time, Jeffrey?

THE CLERK: 19 minutes.

MR. TRAFICANT: Don't lie. I'm just kidding.

I want to talk about Mrs. Ferrante. I want to talk about rights.

They picked her up at her husband's home in Canton. A week before they picked her up her husband long-lined horses. Now, when you sit on a horse's back you're steering with reins. When you long-line them you get about a 30-foot line, you run it from the bit through a wrapping around the stomach, and you go along the line and

exercise the horse. They played her a tape. They played it for her twice. She believed that I was responsible for attempting to have her murdered.

She testified, and the government agent told her it was in her best interests to go public, no one would harm you. She said, "Well, who is going to harm me?" They said, "Do you want to hear the tape again?" She went public. I'm up for reelection. Greg Tyson, Percy Squire said it, as well, six-inch headlines: "Murder."

Then she comes to the grand jury, after all this expense, but when she told them what really happened they said she was a lying shoplifter. She was a queen before then, because they thought they had her just right, mad enough, too. Man, she knew what Jim Traficant did, all those bad things. After she testified she came and apologized to me. She said, "I was used. I was used to hurt you, and I'm sorry."

That was her testimony. And she called my wife, apologized to my family, because when the indictment come down her name wasn't mentioned. Neither was the $150,000 barn I supposedly had built. It's not in this indictment, because it had both of the damn parties taped. And you can throw me out, but I have tapes on every damn one of these people.

And they didn't tape me? And none of them are in

evidence, are they?

MR. MORFORD: Objection, Your Honor. This is entirely improper, and he's been instructed of such, just making things up that aren't in evidence.

THE COURT: Numerous times. Congressman --

MR. TRAFICANT: Let me ask you this question --

THE COURT: Congressman, you don't have much time left.

MR. TRAFICANT: How much time do I have?

THE CLERK: 15 minutes.

MR. TRAFICANT: I'm going to close.

THE COURT: No more of this discussion that's --

MR. TRAFICANT: When the prosecution --

THE COURT: -- outside the evidence of this case.

MR. TRAFICANT: When the prosecution had their witnesses on the stand, did you ever have to leave the jury box? Now, when my witnesses were on the stand, how many times did you have to leave the jury box? The only testimony you were allowed to hear that was of any significant value to me was from Dennis Johnson and Michael Terlecky; and quite frankly, because Terlecky had a felony conviction and Johnson had a DUI. But the same

circumstances that affect those two affected many others.

I've stood right here, I'm ready. I made up my mind. I will not take their bullshit. Excuse my mouth, but that's it.

Now, you hurt my family, you don't just hurt me. I mean, where does it end? Where do we call an end to this?

If you believed Cafaro, Sabatine, Sinclair, Bucci, Lange, over Tyson, Squire, Anthony Traficanti, Kidwell, Betty Manente, and my witnesses, put me in jail, because they could have said any damn thing they wanted, and they made big friends by saying it. My people told the truth.

I want you to make your own mind up. As an American, I'm asking you what separates us from all these other countries is that Bill of Rights that gives us our own choice. Let no one else make it for you.

If you believe I'm not guilty, you say it. If you believe I'm guilty, you say it. But don't let anybody else say it for you.

Now, the prosecutor said, "Jim Traficant is guilty; guilty, guilty, guilty." It resonated throughout this beautiful room, and all the people heard it.

Well, Jim Traficant is just going to say this to you: That's not for him to say, and that's not for me to say. But I don't have the burden. I didn't even have

to stand up and take an oath. And if I was worried about this bullshit case, I would have looked at their evidence, quite frankly. And that worries them, that somebody has looked them in the eye, and his voice ain't cracking, and he's mad, but, you must admit, controlling it quite well.

How much time, Jeffrey?

THE CLERK: 11 minutes.

MR. TRAFICANT: I've been a real pain in the ascot. I don't know if you were in the room when I threw the box. If you were, I apologize.

I don't totally understand our courts, and I don't want to know them, and I hope to God you never do, either. But you are the Court now, you are the trier of last resort. You're the one who makes the decision.

Now, those jury instructions, in my opinion -- all I did was write a note to the Judge and asked her to be fair. And I haven't heard her last part, but I think she's been fair so far. And if I don't think she's fair in the last part, you'll sure hear about it.

I'm tired of being pushed. When they go back 15 years, you can tell that to Barney Fife.

Several last things. Look very carefully. Who took this off the screen? Matthew?

I've written it down there, Defense Exhibit 1007-AA. They feverishly attempted to corroborate the

testimony of their witnesses. And when they come with the lame excuse "the boiler room," spare me.

There's a thing in the courtroom called the truth. There are people who walk out of court that are guilty, and there are innocent people who go to jail. There have been people in jail for rape for 27 years; now new technology through DNA has found they weren't the rapist.

That's why it's so important that you don't just accept what someone says. You look and see what they do. In this case, you look and see what they proved.

I sure as hell didn't go investigate Al Lange. I don't know if Al Lange put money in his pocket, but I know that J.J. Cafaro and Al Lange were a team when they testified.

Mr. Cafaro surely didn't pay for his testimony to put Mr. Cafaro behind bars.

It's been a long trial, quite frankly. They took seven and a half weeks, I only took three. I think it would have been shorter.

There are other matters of evidence I want you to look at. Look at the exhibits. Look at that survey on the boat. Remember what the guy said from the rental car: He was paid by the Congressman. Remember what the woman said from T. C. Redi-Mix: That was concrete

evidence.

I was under no obligation to do that. But you know what predeposition is? You want to see signs of innocence.

And now I want to close with Jackie Bobby and Grace. They were two of my most important employees, but they got to the point where they thought they were the damn Congressman. And I'll be damned -- and they objected to an appointment I made of an older woman because of the wage I paid her, because she tolled all her life at a low wage, and I decided to pay her a decent wage so she'd have maybe some retirement, and I don't have to explain that to nobody.

I never compelled anybody to go to my farm, I never threatened anybody that they had to go to my farm. There's not one damn bit of evidence that anybody gave me any money other than their circumstantial rap.

And if Mr. Kidwell wasn't in to build that prototype, why did he have the blueprints? And by the way, Mr. Kidwell testified I owned two horse trailers, and he had just repaired the one, and he owed me money because he said I gave him a cap worth a thousand dollars for a pick-up that wouldn't fit mine anymore, and he had to repay me. And he was in that truck when he picked me up in front of that YSU building where Cafaro said he took me around

the block and gave me $13,000. You know, that guy that lied under oath but said he didn't lie and commit perjury?

And you know what? Mr. Kidwell would build this better than the prototype. And if the Judge finds it in her heart, she'll let you read a 302 --

MR. MORFORD: Objection, Your Honor.

THE COURT: Sustained.

MR. TRAFICANT: I'm going to leave this here for you, because that's about the only thing they can't lift a print from. They might have a hundred or 200 or 300 or 400 or 500, I don't know what denomination those bills are in, as many of them as there are supposed to be. Do you think the FBI goes over them with a fine tooth comb? I don't know.

If I've offended you, I apologize. For taking too much of your time, I apologize. But you have a tough duty. If you believe I'm guilty, you come out and just say it. I'll accept it like a man. But if you believe in your heart I'm not guilty, I want you to look at that prosecutor right in the damn eye, because that's what makes us free.

In this courtroom the people still govern. I wish I could say that about our government.

Thank you for listening.

THE COURT: Thank you. We'll take about a

ten-minute break. We are not going to take a lunch break at this point because the remaining time on closing argument and final instructions is not a long time. So I'm going to give everybody a ten minute break, but ask the lawyers and the defendant to stay back for a moment, and juror number 3.

Thank you.

THE CLERK: All rise for the jury. This Honorable Court is now in recess for ten minutes

(Jury out at 12:01 p.m.)

(At side-bar with Juror Grodi off the record.)

(At side-bar with Juror Grodi on the record, with counsel and pro se defendant present.)

THE COURT: We have enough alternates.

JUROR GRODI: In fairness to you and to you, I mean, my head hasn't -- I probably heard probably not half of what you guys said this morning, and I don't think that's fair to you.

THE COURT: That's an important consideration, but let me just tell you a few things, because you still have some continuing obligations.

JUROR GRODI: You don't have to worry.

THE COURT: Let me just tell you what they are. You're excused, and we will put an alternate in.

Until there is a verdict delivered in open

court, and we don't know when that will be, but you can call in and check if you want to, you're still under your admonitions not to let anybody talk to you about the case, not to talk to anyone about the case.

You have the 24-hour number. If anybody puts you under any pressure on this case, then you call that 24-hour number, but do not let anybody get you involved in talking about this.

JUROR GRODI: Okay.

THE COURT: Because you're leaving at a key time. You've been here for a long time, and the jury is just about to go into deliberations.

JUROR GRODI: Well, I mean, you don't have to worry about that.

THE COURT: Okay. I won't worry about it, but I have to say it and say it to you with everyone here, and on the record.

JUROR GRODI: Right.

THE COURT: And so then let me take you beyond that. The verdict will come in at some point, and once that's happened, like every other person who served on the jury or who was an alternate, you're free to talk or not, as you wish.

Remember though that you never speak for another juror.

JUROR GRODI: I won't.

THE COURT: It's been nice having you here.

JUROR GRODI: I'm sorry about this.

THE COURT: But you can't help it.

MR. MORFORD: We understand.

THE COURT: Especially right at the end, too. Thank you.

JUROR GRODI: Pretty good learning experience.

THE COURT: My clerk will give you some things so you can actually go. And please go back and say good-bye to everybody.

JUROR GRODI: Yeah. They were all upset, too. This isn't that easy, too. Sorry.

MR. MORFORD: We're very sorry for that.

THE COURT: We appreciate your work.

JUROR GRODI: What do I do? Go back there?

THE COURT: Lynn will help you out. You go home, and stay under the admonitions.

JUROR GRODI: No, I won't talk to anybody.

THE COURT: Could you tell Alternate 1 to come sit here, and I'll make an announcement to the rest of the world at some point.

I guess I should do that now.

(End of discussion at side-bar.)

THE COURT: For those of you who are in the back, as soon as we come back in after this ten-minute recess, we'll announce what went on, why it went on, and you'll all have the same information at the same time.

Okay? Thank you.

(Recess had.)

(Jury in at 12:18 p.m.)

THE COURT: Juror number 3 has asked to be excused due to a death in his family, and alternate number 1 has replaced juror number 3. That bumps each of our alternates up a number just in terms of the way we seat you and refer to you when we use your numbers.

Thank you. We'll proceed. Mr. Morford.

MR. MORFORD: Thank you, Your Honor.

Ladies and Gentlemen, Congressman Traficant just spent an hour and a half addressing the evidence in this case.

In the final analysis, what did he tell you? He told you he's never even looked at the evidence in this case. Six binders full of documentary evidence that firmly establishes that he did the very things he's charged with doing, that he did perform official acts for these people, that he did immediately have them out to his farm and his boat to do work, and that he did not pay them for the fair value of that work.

Those things are not disputed, and that's where you start as you start to look at these charges.

Now, if you think about what Congressman Traficant just told you, he just described for you a world that is very different from the world in which we live. He described for you this incredible world that's filled with coincidences, convenient excuses and convoluted conspiracy theories.

In his world, it's just a coincidence that he asked Tony Bucci, Greg Tyson, Pete Bucheit, Dave Sugar, James Sabatine, and the people from USAG to come out and do things for him immediately after he'd done official acts for them. That's all just a big coincidence.

It's also a coincidence that none of them is actually in the business of doing what he has them out to do. Think about it. What are Tony Bucci and James Sabatine? They're commercial highway pavers, and they're out cleaning up the farm, taking down trees, dredging out creeks. That's not the business they're in. There are people that do that work. He could have looked up in the Yellow Pages and called them and had them out. But he doesn't do that. He has these contractors come out and do work they don't even do.

Greg Tyson and Dave Sugar were commercial utilities contractors. Pete Bucheit builds malls and

office buildings. He doesn't have a home improvement business. In fact, he had to go out and find a carpenter and hire him to send him out to do the work because they didn't do that kind of work. These were not legitimate business transactions.

And USAG is a high tech laser company --

MR. TRAFICANT: Objection. Bucheit didn't testify. That will be enough of that.

THE COURT: You can continue.

MR. MORFORD: Look at USAG. They're a high tech laser company. They're not a car rental agency. They're not a boat repair company.

Allen Sinclair was a personal injury lawyer. He was not an economic development specialist. He had no experience in that area whatsoever.

It's also convenient that Congressman Traficant's employees, employee after employee after employee, are out there working on his farm and working on his boat. That's not disputed, that they were out there. It's just a coincidence. And it's a coincidence that witness after witness after witness, including many of his own witnesses -- he keeps wanting to call them government witnesses. He called them. He put them on the stand. Those were his witnesses. Those are his employees. Those are his friends, his cronies. And even they came in and

testified to this repetitive pattern that occurs over and over and over again.

But that's how it is in his world. Everything is a coincidence or some nefarious conspiracy.

The problem is: Common sense doesn't exist in the world he just described to you for the last hour and half, but it does exist here. You see, that's why you're here. That's what we do in America. We bring in ordinary citizens who have good, old-fashioned common sense. And we ask them to look at the facts that are in evidence, not inadmissible stuff that's not properly before a jury, because it's not reliable, but the evidence that's in the case, and apply their good common sense to it.

And when you apply your common sense to the evidence in this case, what does it show you? It's interesting, Congressman Traficant said that I told you he was guilty. No. I told you that the evidence tells you he's guilty because that's what you need to do. You need to focus on what the evidence says, not what I say, not what he says, not what anybody else says. It's what the evidence and the testimony and documents say.

Congressman Traficant spent an hour and a half, and he talked about everything under the sun except for one thing, the actual evidence and documents and testimony in this case as far as what people actually said.

He talked about freedoms being eroded and the IRS is bad and the FBI is bad and the government is bad. Who's he? He's the government. He's a U.S. Congressman, one of the 435 most powerful people in this country. If the government is so bad, what's he been doing for 18 years?

He talks about everything but the evidence. And then he says they don't have a damn thing. We don't have a damn bit of evidence. His words; not mine.

How would he know? He told you he never looked at the evidence. How would he know whether there's any evidence or not?

And make no mistake, when he starts talking about the fact that this was something corrupt, what he's really saying, what he's really saying is that I'm corrupt, and Matt is corrupt and Bernie is corrupt. We're all corrupt and we're all out to get him.

Well, your job is, again, to focus on the evidence, those six binders full of documents.

As you heard the arguments that he just made for the last hour and a half, I want you to think about one thing, and he brought it up, mentioned it. Michael Roberts, I think he called him a money expert. You recall him.

What happened when he came on the stand? He

came on and suggested to you that maybe Allen Sinclair, when he took that $2500 cash out of his paycheck every month, didn't give it to Congressman Traficant. And he showed you some records that showed that there were some $2500 deposits into an IOLTA account, his law client account. And he suggested to you that possibly those transactions could be the redeposit of the cash that was going into the IOLTA account instead of to Congressman Traficant.

And then it wasn't until cross-examination when I asked him, "Sir, did you ever pull any of the deposit items to see what those actually were?" And he officially said, "Yeah, three of them and those were checks, so those wouldn't count."

"Well, did you bother to look at the other 11?

"No. We didn't have time."

And then I came back and I showed him the actual checks that were deposited, payments from clients, from insurance companies that were properly deposited into an IOLTA account. What did he tell you? He said, "My entire thesis, my entire testimony is irrelevant."

You know, you go to a carnival, and they have something called cotton candy where they take a little sugar and spin it around real fast, and suddenly it becomes

a big mound of fluff that looks like something. You buy it and take a bite. The minute you take a bite, it disappears because there's nothing there.

That's what that testimony was. You take a few deposits, and you make it look like something that it's not, and then you get confronted with the actual documents. You take a bite into it, and there's nothing there.

Congressman Traficant talked an awful lot about fingerprints, that there's no fingerprints. We told you that right up front. Joe Bushner testified very early in this case. And what did he tell you? The documents that matter, the money, the burned envelopes, there were no fingerprints at all. And he explained to you why that is, and it makes perfect sense. And you can go back and pull on his testimony about that. It's very difficult to get fingerprints from paper documents because paper tends to absorb the very things that leave fingerprints. Sometimes you get them; sometimes you don't.

But with all those bills, there's no fingerprints. Not just not Congressman Traficant's fingerprints, none at all. Those were in evidence; those were available. He had access to them. He could have examined them. And while he's right, he doesn't have any duty to do any of that, he could have. There were no fingerprints, period.

And think about this: Congressman Traficant's own handwritten notes that some of his employees looked at and said that's clearly his writing, those didn't even have his fingerprints on them, and you know he touched those.

In fact, there was only one piece of evidence that even mattered in the entire case that had a single fingerprint on it, and it wasn't Congressman Traficant's. And we told you that, and it was this envelope right here. But look: This is full of cash (indicating) and I've pulled that out, and I hand it to somebody because I'm a former sheriff and I don't want my fingerprints on it. Would there be a fingerprint on it? No. His fingerprints are not on this. They're not on anything. So what? Does that mean he's innocent?

And what does that relate to? It only relates to Allen Sinclair's portion of the testimony.

Now, we put in a document that shows that lots of other documents were looked at. Agent Bushner told you what happened. There was one piece of Bucci evidence, that handwritten list that numerous of his employees looked at and identified it as his handwriting, that they wanted to see if any of his prints were on that, and it came back no prints. There were no prints on it.

But because it was in a file filled with

other documents that have been obtained for Buccis, their own internal business records that Congressman Traficant would have never seen, would have never touched, all those got printed, and some of those, not many, did have fingerprints, probably a tenth of all those paper documents. But we wouldn't expect his fingerprints to be on any of those. It's irrelevant.

The whole fingerprint issue is nothing but more cotton candy.

He talked about tapes. Why didn't they tape me? Why aren't there tapes in this case? Agents Bushner and Hassman explained to you why the decision was made not to tape record Congressman Traficant. And the biggest factor was this: We were investigating historic crimes that had already occurred. And Agent Hassman explained when you're doing that, it's very difficult to get tapes. You end up getting self-exculpatory tapes where the people come in and deny everything.

Why? Because they know they're under investigation. They're not going to talk like that, particularly when you have a case like this, where you have a defendant like Congressman Traficant who the evidence shows knew he was under investigation in December of 1999, over a month before Allen Sinclair came in and began to cooperate, was taking Allen Sinclair places, telling him he

couldn't talk to him in the car because he was afraid it was bugged.

He was a touchy-feely guy. Allen Sinclair was nervous. His father was dying. They didn't think he could pull it off. And more important, Congressman Traficant was paranoid about being tape-recorded in the first place.

Paul Marcone, his own friend and chief of staff, told you how Congressman Traficant pulled him out of the office and took him all the way down the congressional halls to the elevator because he was afraid the FBI had his congressional office wiretapped.

He wouldn't talk to Allen Sinclair in the car. When Allen Sinclair borrowed somebody else's car, he still wouldn't talk. He talked in code because he was afraid he was going to be tape-recorded.

This is just more cotton candy.

He says there's no evidence that Al Lange paid for the boat repairs. That's just not true. Al Lange kept detailed records, and you saw those records.

They're in evidence. Running tallies, signed receipts, cancelled checks, and even photographs of Ernst deGroot doing the work on the boat.

Take a look at Government's Exhibits 3-36, 8-37, 8-38 and 8-69. That's documentary evidence

documenting what was done on that boat.

Congressman Traficant says that Leisel Bucheit never said that he didn't pay. What's your recollection of the testimony? What she said was she left the company, but not until 1996, three years after the work was done, and at the time she left he had not made any effort to pay. Three years later they had not received a penny.

Just assume that's all it is. Then Congressman Traficant had an interest-free loan of $30,000 for three years. Is that something of value? Absolutely.

Congressman Traficant argues that Allen -- Al Lange's legal fees were paid by J.J. Cafaro and, therefore, you should set aside and throw out his entire testimony.

The testimony was that Al Lange was working for J.J. Cafaro's company when the investigation started. And his only legal problem was coming about because of the work he had been doing for that company, and so the lawyer who was hired to represent Mr. Cafaro and the company talked to Al Lange, came back and said, "You know what? Al Lange needs his own lawyer looking after his own interests," and suggested the company should pay that, and they did.

But what did they get for their money? He came in and sat on the stand, as Congressman Traficant

reminded you, and said, "I don't trust J.J. Cafaro. I don't like J.J. Cafaro." But the most important thing he said is, "At the advice of my independent counsel, no matter who he was being paid by, I provided information to the FBI against J.J. Cafaro that ended up getting J.J. Cafaro charged."

Does that sound like somebody that's being paid off?

And again, when you think of testimony of people like Al Lange, look at the corroboration. Look at what the documents say. Look at what the other witnesses say. And then ask yourself: Does what he's saying make sense?

Rather than address the massive amount of physical evidence that there is in this case, Congressman Traficant wants you to shift your focus to all these side issues that he talked about for the last hour and a half, what we could have done instead of what the evidence that's before you proves.

But the issue is not what we could have done, would have, could have, should have. The issue is based on the evidence that you've been given in this case, do you believe that Congressman Traficant is guilty as charged beyond a reasonable doubt. And he mentioned that topic, but remember, that's not something that Judge Wells cooked

up just to apply to this case. That's the standard that applies to every single criminal case across this whole country. And every single jury that's ever convicted a defendant has done so under that burden.

What the evidence proves is this repetitive pattern that simply cannot be explained away.

Congressman Traficant talked about the boat survey. The boat survey was prepared by the very guy that was trying to get Al Lange's business in the first place, and Al Lange told you what happened with that. They overstated the value of the boat and understated the value of the repairs so Al Lange would go ahead and do the boat deal so they could make money.

And how do you know that? You know that because of Congressman Traficant's own cross-examination of Al Lange. Do you remember when he said to Al Lange, "Al, isn't it true there are companies out there that buy boats like mine, they renovate them and sell them at a profit?" And Al Lange said, "Yes." If that boat was worth 30- to $35,000, why didn't Congressman Traficant take it to one of those companies and sell it to them for $26,000 so they could make a quick, if it was going to be worth 42 at the end, a quick 16,000?

Or why didn't he take it to some disinterested third party? Why would he take the risk and

try to sell it first to Bucci, and then to Bucheit, and then to Cafaro, if it's really worth all that money? Why risk the appearance of impropriety?

MR. TRAFICANT: Objection.

MR. MORFORD: Why face the potential ethics issues?

MR. TRAFICANT: Bucheit offered no evidence to that.

MR. MORFORD: Bob Gatti testified to that.

MR. TRAFICANT: Objection.

THE COURT: Congressman. Congressman. You can continue.

MR. MORFORD: You will recall the testimony of Bob Gatti about the boat.

Why create these potential ethical issues and create the potential bad press when you're so worried about this big, tough election that's coming up? Why? There's only one answer to that question: Because the boat wasn't worth $30,000 or $35,000. It wasn't worth $26,000, because it was rotting away in the water getting ready to sink.

Remember what he told Paul Marcone? "I've got to get rid of this boat. You've got to unload this boat." It was a problem.

It is kind of like the issue of the ownership of the farm. At the beginning of the trial, he suggested

it wasn't even his farm. Then witness after witness after witness came in, and when they were asked, usually by him, they'd say, "Well, it was my understanding it was your farm." And they were his horses. And it was his horse operation that was taking place on the farm.

Remember what Sandy Ferrante said. Who told her she could live in the farmhouse? It was Congressman Traficant. And who was it who told Dave Manevich and gave him the go-ahead for each little job added to the job? It was Congressman Traficant. And who sent Tony Bucci, Greg Tyson, Dave Sugar, George Buccella, Anthony Traficanti, Rich Rovnak out to the farm to do the work? It was Congressman Traficant. Congressman Traficant. Congressman Traficant.

And regardless of whose name they put the ownership in, it's no different than 11 Overhill Road. It was Henry DiBlasio's business whether he put it in Jeren's name or Chuirazzi's name. Why? Because he was the one that exercised dominion and control.

And it was Allen Sinclair's building whether he put it in his wife's name or KAS, because he exercised dominion and control. And it's Congressman Traficant's farm because he exercised dominion and control, and he was the one who benefited personally from every one of those jobs that was done out there, because they all helped his

horse operation.

The issue of the farm ownership is just more cotton candy.

He talked about all these witnesses that were immunized. Tony Bucci, James Sabatine, Sugar, Cafaro. They weren't immunized. You heard about the plea agreements. They were not immunized. The only witnesses that were immunized were five of Congressman Traficant's own employees who wouldn't testify about their dealings with Congressman Traficant without immunity, and one other witness, Al Lange, and then one of his witnesses, Greg Tyson. That's it, out of 55 witnesses.

And remember, he talked a lot during this case and during his questioning about Tony Bucci. What a terrible guy Tony Bucci is. And he had Greg Tyson tell you what an awful guy Tony Bucci was.

He called him a liar and a thief, and a convicted felon. But there's one name he forgot to mention. It was the name that Tom Williams testified to. Do you remember Tom Williams, when he said Congressman Traficant said to him, "Why did you get so mad about this?" And he said, "You're darned right I got mad. You took the side of two people you constantly referred to as your friends over 3,000 people who wanted to be in that damn park on a holiday weekend," quote-unquote.

And my question to you is not was Tony Bucci a bad guy. We brought that out in his direct examination. He was a really bad guy. The question is: Why is a U.S. Congressman embracing this bad guy? And why does he continue to embrace him after he knows he's a convicted felon? Why does he continue to embrace him after Greg Tyson has told him all the terrible things he's done to Greg Tyson, trying to put him out of business?

That took place in 1994, yet he's still going to bat for him in 1995 and 1996.

Why does he continue to embrace him after Tom Williams tells him what a creep Bucci is and all the terrible things Bucci is doing. Who's side does he take? He threatens to call the head of ODOT and the governor and the governor's chief of staff to get Tom Williams fired for doing what? For trying to enforce the law against this guy.

Why is Congressman Traficant embracing him and trying to fire Tom Williams? Or pushing the Department of Labor to let these people still do business even though they are crooked, or pushing ODOT or pushing Mahoning County into contracts they don't want to do? Why does he keep doing that if these people are so bad?

You know why. Because the evidence shows why. His own handwritten to-do list he gave the Buccis

tells you why. It is because they were doing what Congressman Traficant wanted to have done.

It's the same reason he embraced J.J. Cafaro and Sugar and Sabatine. The same reason he hired Allen Sinclair.

You know, there's an old saying: Tell me who you're running with, and I'll know what you're up to.

He's the one that chose to run with these people, these felons, these crooks, as he describes them.

Now, as you consider the testimony of some of these people, don't just think about what they testified to, but also think about what they didn't testify to. For instance, Dave Sugar. If Dave Sugar is lying to curry favor, why wouldn't he say, "You know what? When I made up those false invoices, I only did that because Congressman Traficant told me to."

That's not what he said. He said, "No, Congressman Traficant had nothing to do with that. I did that on my own."

If he's lying to curry favor, why doesn't he go all the way?

Another example, J.J. Cafaro, he testified about the Jeep and the two Avantis, and I said to him, "Were those gratuities?" And he said, "No. Those were actually -- that was going to be a sale. He just hadn't

paid me for them."

If J.J. Cafaro is lying to curry favor, why doesn't he say, "Absolutely, those were more gratuities"? But that's not what they said, so think about not only what these witnesses said, but what they didn't say.

Allen Sinclair, he says you shouldn't believe him because Allen Sinclair was facing bar disciplinary matters. What matters? There was a minor infraction involving advertising. And Allen Sinclair told you what we told him: "Whatever problem you have with the bar, that's your problem. We're not getting involved."

And Congressman Traficant brought out through cross-examination that Allen Sinclair could possibly lose his law license because of the misconduct that he admitted to you in this case, giving kickbacks to Congressman Traficant. And ask yourself this: Why would Allen Sinclair make this up and put his law license in jeopardy? That's his meal ticket.

Why would he give the FBI $24,500 of his own money? And how is it that within a couple days of his first interview with the FBI, he is able to come up with $24,500 in cash? And you saw his bank accounts. It wasn't coming out of there, and burned envelopes that just happened to have Henry DiBlasio's handwritten notations "J.T. personal." How does he pull all that off in a couple

days?

Congressman Traficant also told you that you should pay really close attention to his witnesses, and you should. Remember who those witnesses were. They were his employees, his friends, his loyalists, biased witnesses who admitted that they liked him. And as you think about their testimony, think about what Paul Marcone told you happened to him when Congressman Traficant took him out in the hallway and tried to put words in his mouth. This was Congressman Traficant's cross-examination, by the way.

"Paul, there's an opinion being widely circulated that I tried to get you to lie to the grand jury. Is that true?"

"You suggested what I should say if I were asked about certain individuals."

He persisted: "Did I ask you to lie to the grand jury, Paul?

"What you did is, you asked me -- you were trying to put words in my mouth."

Then he comes back again on redirect and he says, "So other than that conversation where you felt I was trying to put words in your mouth, is that your words, was there anything else ever?

"Anything in terms of what?

"In terms of this case."

"I mean, we had no discussion about this case."

You know, it's amazing. At the time he asked that question, he knew he had talked to Paul Marcone again just two weeks before Paul Marcone took the stand, because I came back on recross.

I said, "Mr. Marcone, Congressman Traficant just asked you some questions if there were ever any other discussions between you and him about this case other than that time when he brought you out in the hallway. Did he ever talk to you in the last few weeks about this case?

"Answer: He called me several weeks ago and I returned his phone call.

"Questions: Was there anything about that discussion that made you feel uncomfortable?

"Answer: The issue of Henry and Allen came up again, and he was trying to elicit from me that Henry and Allen worked hard, and I recall again reiterating I couldn't speak to that issue.

"Question: But that's something you'd explained to him all the way back in the hallway two years ago, correct?

"Answer: That's correct.

"Question: And now two weeks before this testimony, he's asking you again if you'll say something

that you've already told him you can't say?

"Answer: That's correct.

"Question: And did it bother you?

"Answer: I wouldn't be human if it didn't bother me."

And then he said one last thing that is very important, he said to you, "He told me, 'I'm fighting for my life, and I need some help here fighting for my life.'".

Remember that testimony and the way he tried to put words in Paul Marcone's mouth as you think about what his loyal cronies came in and said on this case.

On direct examination, Anthony Traficanti and Bob Barlow both came in and testified that Henry DiBlasio worked hard, the very thing he was trying to get Paul Marcone to say that Paul Marcone wouldn't say. But what happened on cross-examination? They had to admit, Anthony Traficanti, that he never worked directly with him, he and Henry had a hi-bye relationship, no one was allowed on the second floor, and Anthony Traficanti never had any business going up on the second floor.

Bob Barlow had to admit on cross-examination that it was infrequent for Henry to be involved in strikes. That's supposedly the big thing he does. He said there were three or four in the period of 11 years.

There was other testimony that they generally

lasted about five days, Betty Manente.

He said he worked downstairs and didn't know what Henry was doing during the day and that he had no idea how much congressional work Henry did or didn't do.

Then there was Mr. Kidwell. Mr. Kidwell tried to claim that USAG bought him over $5,000 worth of welding equipment so he could build these trailers that had to be built to strict Army specifications. Where? In his garage of his house, because he didn't even have a factory.

Even though USAG had a professional legitimate trailer manufacturer located right in Congressman Traficant's district, that Congressman Traficant set up for them supposedly. Now they're going to leave that professional manufacturer when they're going to get a big Army contract and have this joker build them out of his garage. Does that make any sense? And where is the evidence for that? It's ridiculous.

MR. TRAFICANT: Objection as to joker.

THE COURT: Ladies and Gentlemen, you heard the evidence in the case, and so you have to rely on your own recollection.

MR. MORFORD: You will also --

MR. TRAFICANT: Object to referring to a party as a joker. That's uncalled for.

THE COURT: Congressman. You can proceed.

MR. MORFORD: You will also recall the testimony that they didn't even get the Army contract until when? April of 2000. And yet if you look at the receipts on the welder and the generator, they're bought and sent in May and June of '99. Nine or ten months before they even have the contract. It's nonsense.

And he'd have you believe that they drop-shipped them to Virginia so they could put them on his trucks so he could drive them back to Mr. Kidwell so Mr. Kidwell could build these for the Army. But on cross-examination, Mr. Kidwell acknowledged that Congressman Traficant had talked to him about building an aluminum trailer that would have a sleeping compartment, but he didn't have an aluminum welder to do it, which is exactly what Al Lange testified to about the very first meeting when the welder was mentioned.

Lo and behold, this same hunting buddy, Mr. Kidwell, not only can provide this excuse about the welder, he claims he was there at YSU sitting in his truck waiting to pick up Congressman Traficant. Imagine that. What an amazing coincidence. How lucky can Congressman Traficant be? The same guy that can give the excuse on the welder is going to be able to talk about YSU.

But you know what's interesting? Compare the testimony of Mr. Kidwell and Percy Squire. What did

Mr. Kidwell say? Mr. Kidwell said that Congressman Traficant was the first to leave. Mr. Squire said he was one of the last to leave.

MR. TRAFICANT: No, he didn't.

MR. MORFORD: Mr. Squire said he walked out with Congressman Traficant and watched him get into his truck. Mr. Kidwell, asked by Mr. Traficant to describe the person that walked out with him, said, "It was a shorter fellow with gray hair."

Does that sound like a description of Percy Squire? Their stories don't even match up. They contradict each other.

Remember what else Percy Squire admitted: He admitted that he could not say that Congressman Traficant didn't take a few minutes and meet with J.J. Cafaro, because there was no way he could say that.

In closing, Ladies and Gentlemen, look at the evidence in this case, and ask yourself this question: What should my office have done that day when Tony Bucci's lawyer called and said, "I have a series of allegations I'm going to give you"? And the allegations were what you heard Tony Bucci say in this case about a sitting United States Congressman. Was it wrong to go out and see if, in fact, as Tony Bucci claimed, that Congressman Traficant was contacting all these agencies on Tony Bucci's behalf? And

once we confirmed that, in fact, through documents that happened, was it wrong to try to get documents to see if, in fact, Tony Bucci had done work for Congressman Traficant, like he said he did?

And once we established that, was it wrong as we received other allegations about other contractors doing the same thing, people like Dave Sugar and Jim Sabatine and Greg Tyson and Pete Bucheit, to go out and pull documentation on those, as well? It wasn't.

THE COURT: Mr. Morford, your time is up.

MR. MORFORD: Okay.

In closing, Ladies and Gentlemen --

MR. TRAFICANT: Your time is up.

MR. MORFORD: -- I would ask that you decide this case on the testimony and the evidence. And if you do, you will reach a verdict that is both fair and just in this case. That will be a verdict of guilty.

THE COURT: Thank you. The final instructions in this case are not very long, and so it seems to me to be prudent to just go forward with them. Is everybody comfortable with doing that? Is anybody not comfortable with doing that? Okay.

First let me give a brief instruction to the alternate jurors. When the jury retires to deliberate, which they will be doing very soon, I'd like all the

alternate jurors to remain right where you are, seated here, so I can release you to the marshals.

And now we'll give you the section of sort of practical jury instructions in this case.

I think you'll find in your books it begins on D-1, and you can follow along or you can just listen if you like.

Members of the Jury: Upon retiring to the jury room, you will immediately proceed to select one juror as foreperson. The purpose in appointing or electing a foreperson is not because anyone has any greater weight or authority than anyone else, but to ensure that deliberations are carried on in an orderly fashion. It is the responsibility of the foreperson to confine discussions in the jury room to the evidence and the law in this particular case.

This is a criminal case. It requires a unanimous verdict. Each and every one of you must individually consider and judge the evidence. The rules of law which were explained to you in these instructions are binding upon each of you as a member of the jury.

It is your duty as jurors to talk with each other about the evidence and to make every reasonable effort to reach unanimous agreement. Each of us has our own personal style. Some are gregarious, some shy, some

weigh many factors before they speak, others speak easily. We need all of you to make sure everyone participates fully, so make allowances for different styles. Each of you must decide the case for yourself, but you should keep an open mind as you listen to what your colleague jurors have to say. Do not hesitate to change your mind when you're convinced by others that your original position was wrong, but do not change your mind just because other jurors see things differently or just to get the case over with.

Remember that you must make your decision based only on the evidence that you saw and heard here in court. Do not try to gather any information about the case on your own while you're deliberating.

For example, do not conduct any experiments inside or outside the jury room. Do not bring any books, like a dictionary, or anything else with you to help you with your deliberations. Do not conduct any independent research, reading, or investigation about the case. And do not visit any of the places that were mentioned during the trial.

Make your decision based only on the evidence that you saw and heard here in court.

To find a defendant guilty, every one of you must agree the government has overcome the presumption of

innocence with evidence that proves guilt beyond a reasonable doubt.

To find a defendant not guilty, every one of you must agree the government has failed to convince you beyond a reasonable doubt.

Either way, guilty or not guilty, your verdicts must be unanimous.

Nothing in these instructions and nothing in any verdict form prepared for your convenience is meant to suggest or convey in any way or manner any idea as to what I think your verdict should be. What the verdict shall be is the sole and exclusive duty and responsibility of the jury.

A verdict form for each charge has been prepared for your convenience, which I'll now read to you. You don't find these in your book. There is only one copy of each of these forms. And I think if I hold it up, even though some of you are pretty far away, you'll get an idea as I read through it what we're looking at.

For each of the counts in the case, there is a verdict form. And on the top of each verdict form is the same caption you have at the beginning of your jury instructions, which identifies which case this is in. It identifies who the parties are, and it also -- and who the Judge is, and it says, verdict for Count 1, conspiracy, 18

U.S.C., Section 371. That's all in the top third of the page.

At the bottom part of the page, you'll see 12 signature lines, one of which is designated for your foreperson, and under that a date.

It's the heart of this, as well as the name of the verdict form, that varies between the counts.

This one is Count 1, and it says, "As to Count 1 of the indictment, that is, conspiracy to violate the federal bribery statute, we, the jury, find that James A. Traficant, Jr. is," and then there are two choices. After you've completed all of your deliberations on this count and you know what your unanimous choice is, then your foreman fills out this verdict form, signs it, and each of you signs it.

So this on each count is the last thing you do.

Here is Count 2, and it looks exactly the same in terms of signature lines and the caption across the top, but it says, "Verdict for Count 2, conspiracy, 18 U.S.C., Section 371."

And then in the core of it, it says, "As to Count 2 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the federal bribery statute, we, the jury, find that James A. Traficant, Jr.

is," and there are the two choices.

Now is when this gets a little boring. I'm going to go through each one of them and you'll see, until we get to the last one, they are fairly similar.

The same form. Caption on this one is, "Verdict for Count 3, conspiracy, 18 U.S.C., Section 371," and it says, "As to Count 3 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the federal bribery statute, we, the jury, find that James A. Traficant, Jr. is," guilty or not guilty.

This is for Count 4, and it says, "As to Count 4 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the federal bribery statute, we, the jury, find that James A. Traficant, Jr. is," and the two choices are there.

This is the verdict form for Count 5, illegal gratuity, 18, U.S.C., 201(c)(1)(B). "As to Count 5 of the indictment, that is, receiving an illegal gratuity, we, the jury, find that James A. Traficant, Jr. is," and you have your choices, signature lines, and date.

This is the verdict form for Count 6, obstruction of justice, 18, United States Code, Section 1503. "As to Count 6 of the indictment, that is, obstruction of justice, we, the jury, find that James A. Traficant, Jr. is," and your choices are here.

Each of these relate right back into the substantive jury instructions that I gave you before as to each count.

This is the verdict form for Count 7, conspiracy to defraud the United States, Title 18, U.S.C., Section 371. "As to Count 7 of the indictment, that is, conspiracy to defraud the United States, we, the jury, find that James A. Traficant, Jr. is," and you choose according to your deliberations and decision.

This is the verdict for Count 8, filing false tax return. "As to Count 8 of the indictment, that is, willfully filing a false tax return for tax year 1998, we, the jury, find that James A. Traficant, Jr. is," and then you exercise your decision and record it on this verdict form.

Verdict for filing false tax return, and it gives the code section. "As to Count 9 of the indictment, that is, willfully filing a false tax return for the tax year 1999, we, the jury, find that James A. Traficant, Jr. is."

Now we come to Count 10, which is a little different. This is the RICO count, and it gives the statute up at the top. It says, "As to Count 10 of the indictment, that is, participation in the affairs of an enterprise through a pattern of racketeering activity, we,

the jury, find that James A. Traficant, Jr. is," and then you record your decision here and you sign this.

And at the bottom of this page, unlike the other ones, this is a two-page document. It says, "Go to the next page for the special RICO verdict form."

The second page is captioned, "Special RICO verdict form, Count 10." And in italics there is some instructive language.

The first sentence says, "If you found the defendant not guilty on Count 10, stop here and do not complete this page."

Then there's a dividing space, and the next instruction is, "If you found the defendant guilty on Count 10, please record which racketeering acts you unanimously found that the defendant knowingly committed by checking the, quote, committed column for those particular acts."

And then it lists 11 alleged racketeering acts, and next to each one of them there's a column with a blank that says, "committed."

"Act 1, bribery relating to Bucci. Act 2, illegal gratuity relating to Bucheit. Act 3, illegal gratuity relating to Tyson. Act 4, illegal gratuity relating to Cafaro. Act 5, illegal gratuity relating to Sugar, parens, 1999. Act 6, illegal gratuity relating to Sugar, parens. Act 7, illegal gratuity relating to

Sinclair. Act 8, illegal gratuity relating to Sabatine. Act 9, mail fraud relating to Buccella. 10, mail fraud related to Traficanti. 11, mail fraud relating to Rovnak."

And again, you find 12 signature lines, one of them designated for your foreperson, and a date.

You're going to take these verdict forms back to your jury room. When you've reached unanimous agreement as to your verdict for each charge, you will have your foreperson fill in, date, and each of you will sign the forms which set forth the verdicts upon which you unanimously agree. After you have reached a verdict on all of the charges against the defendant, then contact us.

Remember that the defendant is only on trial for the particular crimes charged in the indictment. Your job is limited to deciding whether the government has proved the crimes charged.

Also remember that whether anyone else should be prosecuted and convicted for these crimes is not a proper matter for you to consider. The possible guilt of others is no defense to a criminal charge. Your job is to decide if the government has proved the defendant guilty. Do not let the possible guilt of others influence your decision in any way.

I hope these instructions have been sufficiently clear to enable you to perform your duties.

If you have a question about these instructions, it should be discussed first in the privacy of your jury room. If you disagree as to the meaning of these instructions, it may be possible under certain circumstances to review those matters by a request to the Court.

If you wish to send any communication of any kind to the Court, you must put it in writing, have it signed by your foreperson, and seal it in an envelope. Then contact the clerk and deliver the envelope to him or her. The clerk will deliver it to me. You may reach the clerk by using the telephone located in your deliberation room. The Court will then contact the parties with your question. You will be notified as to how we will proceed.

No member of the jury should attempt to communicate with the Judge by any means other than a signed writing, and only through the foreperson. I will not communicate with any member of the jury except here in open court with all jurors, parties, and counsel present.

Until you have reached a unanimous verdict and signed all of the appropriate verdict forms, you are not to reveal to any person, not even the Judge, how the jury stands numerically or otherwise on your deliberations.

Deliberations are to take place only in the jury room and only with all jurors present.

The admonitions I gave you during the trial

in regard to forming or expressing an opinion about the case and discussing the case with your colleague jurors are removed when you retire to the jury room and begin your deliberations.

The other admonitions I gave you in regard to the media, radio, television, newspapers, and Internet, and the admonition not to discuss the case with anyone except now your colleague jurors, and not to allow anyone to talk to you about the case, are still in effect until a verdict has been reached and announced in court.

Members of the Jury, after your verdict is returned and you are discharged as jurors in this case, you may discuss it with anyone. However, whether or not you do is a matter of your own personal preference. If you decide to discuss this case, please do not speak for any of the other jurors in the case.

Ladies and Gentlemen of the Jury, having carefully weighed all of the evidence in this case and applied the law as stated in these instructions, let your verdict be fair and impartial, thus assuring you've been mindful of your solemn oath or affirmation to well and truly try the issues joined in this case.

The case is now in your hands for a verdict.

(Jury out at 1:09 p.m.)

THE COURT: You can all be seated. And now

for our four alternates, I need to give you your admonitions as you go forward in your responsibilities in this case. As alternate jurors, you continue to be bound by your oaths or affirmations and your responsibilities as alternate jurors to do justice. Whenever and wherever you are, you shall not discuss this case with anyone.

You must not permit yourself to be addressed by any person who wants to discuss this case. If anyone tries to speak to you about this case or puts you under pressure, you know you must report the incident immediately to the U.S. Marshal.

In addition, you must not read, watch, or listen to any conversation on the subject of this trial, nor read, watch, or listen to any newspaper, magazine, computer, radio, television, or other information on the subject of this trial.

When the verdicts are returned in this case, you will each be free for yourself to decide if you want to talk about the case or not. It will then be a matter of your own free choice. And as you heard me say to the other jurors, please remember not to speak on behalf of other people, jurors or alternates in the case.

So now I am going to release you to the marshals for your care, and thank you for your long attention, but you'll be staying with us throughout the

balance of this case.

(The alternate jurors were excused at 1:11 p.m.)

THE COURT: Everybody can be seated for one more minute. I need to talk to the lawyers and the defendant.

This is the period of the case where actually the jurors themselves determine the times during which they're going to be deliberating, within limits. They'll put in a full day at least. But as all of you who have been involved in trials know, we never know exactly when we're going to be needed. We have to stay available. I need all the lawyers and the Congressman to stay available to us.

I suggest that a 30 to 40-minute distance away from the courthouse is about all we can tolerate. I don't know whether we'll have a jury that will have questions or whether they'll have just one or two, or they may have more than that.

We need to be able to reach you. So I need a contact number for everybody, but this has to be a 24-hour number that actually works. And we can't stop everything for long periods of time while we hunt people down.

So Congressman, if you'll provide one to my staff.

MR. TRAFICANT: I've already talked to Lynn,

and I will give her my confidential number where she can reach me.

THE COURT: Okay. Very well. All right? Anything further then? Well, enjoy your lunch, and this is yet another phase of this trial.

(Trial adjourned at 1:13 p.m.)

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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.

Heidi Blueskye Geizer, RMR, CRR 4-24-02
Date

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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 TUESDAY, APRIL 9, 2002

Jury Trial

Volume 35

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Bruce A. Matthews RDR-CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 685-9949

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

(The following proceedings were held in chambers, with the attorneys and pro se defendant participating on the telephone, starting at 2:44 p.m.)

THE COURT: Hi. This is Judge Wells.

MR. MORFORD: Hi, Your Honor.

THE COURT: We've had a question from the jury, and it's a very common kind of question. And so I'll read you the question and I'll tell you the response, and it may be since there's nothing unusual about it, that we can just go forward by answering it in writing. I don't know, but let me tell you what the question is.

"We would like to view the Tom Williams testimony tape."

That's it. It's a request really, not a question.

Now, they were instructed that they treat videotape deposition testimony as if it were testimony of a witness in the courtroom. And just as we don't send back to the jury room transcripts of a witness's oral testimony, we would not be sending back a videotape of this. So that's sort of where we are with this.

I'll listen to either of you if you have anything you want to say.

MR. MORFORD: We agree with that as far as the law goes, Your Honor. We have no objection to that

response.

THE COURT: Congressman, what we could do, unless you want us to do it otherwise, because it's a fairly routine request and response, I could write out the answer. It's all a matter of record. It's preserved with the record, and our conversation right here is part of the transcript of the case, and I could simply send back the written answer. I could read you what I would send back, and you could then avoid needing to come all the way down here and having the jury come out and so forth.

It's a request to take another look at Tom Williams' testimony.

MR. TRAFICANT: And if they want to see Tom Williams' testimony, what are you going to tell them?

THE COURT: Here is what I would send back. What they do is: They send out a piece of paper, and then I then write on that same paper, so it's all a matter of the record, the answer, and here is what I would write.

I would say on the paper, "As you know, you should treat videotape deposition testimony as if it were testimony of a witness in the courtroom. See page B-13." That's in their instructions. And then I would add the sentence, "Just as we do not send to the jury room transcripts of a witness's oral testimony, we do not send to the jury room a witness's videotape testimony," period.

MR. TRAFICANT: Well, the only problem I have is you let the prosecutor get into Bucheit and DiBlasio and make statements and did not overrule. You did not sustain my objections. I don't know what you're doing with this case, but that was highly unusual, and you do whatever you want.

THE COURT: Well, if you want to come down --

MR. TRAFICANT: I don't want to come down there. But I am telling you, you let the prosecution open up two areas that were not offered, let them make statements about Bucheit and DiBlasio in his final close. I objected. You did not sustain it. And you have one guy that's sitting here that is totally upset.

Now, you do whatever you're going to do. I am going to stipulate to nothing. Now, whatever you do, just send me a copy of it. I don't want no one calling here, no one knowing where I am. I don't want no more FBI following me around. And if this number gets out to anybody, I'm going to be highly upset.

Send me a copy. When the Justice Department gets off the phone, I will give a fax number to your assistant.

THE COURT: We don't send copies of jury questions and jury answers to anybody. They become part of the record in the case.

MR. TRAFICANT: Well, you didn't let any of my information become part of the evidence in this case, so treat this as you will. I don't need to drive down for this.

THE COURT: Okay, Congressman.

MR. TRAFICANT: Thank you.

THE COURT: Thank you. Thank you, gentlemen.

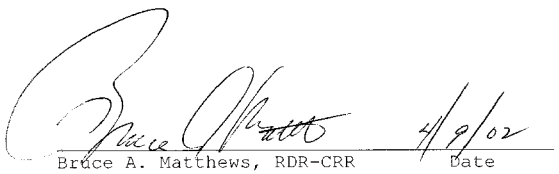
MR. MORFORD: Thank you, Your Honor. Good-bye.

THE COURT: I'm going to ask that this be sealed until a verdict is returned in the case.

(Proceedings adjourned at 2:50 p.m.)

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.



Bruce A. Matthews, RDR-CRR 4/9/02
Date

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, APRIL 11, 2002

Jury Trial

Volume 36

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APPEARANCES:

For the Government: CRAIG S. MORFORD,
BERNARD SMITH,
MATTHEW KALL,
Assistant U.S. Attorneys
1800 Bank One Center
600 Superior Avenue, East
Cleveland, Ohio 44114-2600
(216) 622-3600

For the Defendant: Pro Se

Official Court Reporter: Heidi Blueskye Geizer, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 861-3005

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

MORNING SESSION, THURSDAY, APRIL 11, 2001 12:00 NOON.

(Proceedings had in open court, out of the presence of the Jury. The Defendant was present by way of telephone.)

THE COURT: Please be seated. Good morning everybody.

MR. MORFORD: Good morning, Your Honor.

MR. SMITH: Good morning, Your Honor.

THE COURT: Congressman, are you on the line?

THE CLERK: Can you hear us?

MR. TRAFICANT: Hello. Hello.

THE CLERK: Hello.

THE COURT: Hi, Congressman. Can you hear me now?

MR. TRAFICANT: I thought the jury had a question. I didn't know you were going to bring the jury in for session.

THE COURT: The jury isn't in for a session. The jury did have a question. You have the right information.

MR. TRAFICANT: Well, is the jury present there now?

THE COURT: No.

MR. TRAFICANT: What is the question?

THE COURT: I'm about to read it,

Congressman. I just want to make sure you could hear me.

MR. TRAFICANT: I can hear you.

THE COURT: Very well.

The question is, "In deciding RICO Count 10, act one, relating to Bucci," and then there's a parentheses, "for example," end parentheses, "what is meant," and then there's a parentheses, "page 37, part 3, paragraph A" -- that refers to the indictment in the case --

MR. TRAFICANT: Page 37, part 3, paragraph A --

THE COURT: "Paragraph A." And then it says, "Do we need to agree on all," underlined, "overt acts or just one," underlined, "as in the original Count 1?"

That's the entire question, and I'll give both sides an opportunity to respond to that question.

Congressman, I don't know if you have a copy of the --

MR. TRAFICANT: I don't have a copy of anything here.

I don't give a damn what you do. That's for the record.

Now, I just want to know what the issue is, and I want to know what you're ruling and what you're telling this jury, and at what stage this jury is, because

you know how this case has been mishandled completely, and I am so upset that you just do what you want to do.

I object to anything now that you do.

THE COURT: Thank you. I'll let the government respond.

MR. MORFORD: Your Honor --

MR. TRAFICANT: I can't hear him. Why don't you tell him to bring his people close to desk level so I can hear?

MR. MORFORD: Can you now hear me, Congressman?

MR. TRAFICANT: Not very well.

MR. MORFORD: How is this?

MR. TRAFICANT: Can you hear me?

MR. MORFORD: Yes, I can. Can you hear me now?

MR. TRAFICANT: Speak up.

MR. MORFORD: Can you hear me now?

MR. TRAFICANT: I will respond after you.

MR. MORFORD: Can you hear me now?

MR. TRAFICANT: Are you getting loud with me on the phone?

THE COURT: Congressman, if you want to come down here, we'll --

MR. TRAFICANT: I said I could hear you a

couple minutes ago.

THE COURT: You indicated you did not want to come, but if you want to be down here, come.

MR. MORFORD: Racketeering act one charges a substantive bribe and not a conspiracy to commit bribery, and therefore, they don't need to find any overt act at all. They merely need to find what's in the Court's instruction for a bribery offense.

MR. TRAFICANT: So in other words, all they've got to do is believe that I've been bribed, and there's a conspiracy count, according to the Judge's instructions, they must hold against me.

Is that the question here? I'm asking the Judge.

THE COURT: I read the question to you, and I'll be happy to read it again.

MR. TRAFICANT: I want to know your answer. I don't want to know what the question is.

You conspire with somebody to do something, and if they're still dealing with the Bucci case, then I don't know where the hell they are in this case. Because if they have anything to believe about the Buccis, we've got a problem with this jury, and I want to know where we are.

I'm over here, and I'm spending four days

waiting by a telephone, and quite frankly, I'm getting tired of it. I think it's time you instruct this jury to make their decisions, because I think your instructions were such that if they didn't follow your instructions that they couldn't rule. And I think this jury has been limited, I think they should be allowed to rule on what they believe is truth and nontruth, and what they believe in their heart to be the case, period.

THE COURT: Thank you very much.

MR. TRAFICANT: I can't hear you.

THE COURT: I said thank you very much.

MR. TRAFICANT: Now, what is your decision?

THE COURT: I'll tell you as soon as I make it, sir.

Anything further from the government?

MR. MORFORD: No, Your Honor. It would just want to let them know that it's a substantive bribery --

MR. TRAFICANT: There is no conspiracy with the Buccis. That's been brought out through testimony. And I disagree with the fact you will not make available to them written testimony.

THE COURT: Congressman, the government was in the middle of a sentence. I'm going to ask him to finish.

MR. TRAFICANT: I can't hear you.

THE COURT: Okay.

MR. MORFORD: Your Honor, it would be our position that they should be instructed that overt -- or racketeering act one is a substantive bribery. In the instruction that the Court gave as to the elements of a substantive bribery are the elements that have to be proven beyond a reasonable doubt.

MR. TRAFICANT: Now --

MR. MORFORD: And that there is no overt act requirement in that instruction.

MR. TRAFICANT: Now, my response is what the government gave them was a bunch of bullshit, and I think the jury recognizes it, and I think you should free the jury to make up their minds about right and wrong.

THE COURT: Thank you. This will conclude this part of this.

MR. TRAFICANT: I can't hear you.

THE COURT: This will conclude this part of this conversation, and we will bring the jury out and give them an instruction. We'll keep you on the line. Okay?

THE CLERK: All rise for the jury.

(Jury in courtroom at 12:09 p.m.)

THE COURT: Good morning.

JURORS: Good morning.

THE COURT: Please be seated. Well, you

asked a very good question, Ladies and Gentlemen. We're going to give you an answer to the question.

Congressman Traficant is here, but by telephone. And because he's on a telephone, it's sort of like a conference call. We have to make sure he can hear from time to time.

We've had an opportunity for both sides to respond to your question. I'm now going to read the question into the record. And what I've sent my clerk back to get is something which is basically a simplification of the elements of bribery.

The question was a very good one that you asked. I'm going to read it so that the record shows your question. "In deciding RICO Count 10, act one, relating to Bucci, for example, what is meant, page 37, part 3, paragraph A," and there you're referring to the superseding indictment in the case. "Do we need to agree on all overt acts or just one as in the original Count 1?"

And that was a good question, and in order to -- although bribery is described in your instructions back on C 14, it seems to me that it would assist you in having the elements broken down, and so we're going to prepare for you something that takes those elements and spells them out.

We do distinguish in your instructions

between illegal gratuity and bribery, but because your question relates to this aspect of it, racketeering act one alleges a substantive bribery charge. In order to find that racketeering act one was committed, you need not find that the defendant committed any of the overt acts alleged in Count 1.

You must find that each and every element of the crime of bribery has been proven beyond a reasonable doubt by the government. And those are suggested right there in your instructions, but I'm going to give them to you, and then what I'll provide to you with your question coming back to you is what they are. I think I can do it orally here, but we'll do it for you in writing so that you have a sheet to add to your instructions.

The three essential elements that have to be proven by the government beyond a reasonable doubt are, one: That the defendant demanded, sought, or received something of value as described in the indictment.

Two: The defendant was at that time a public official of the United States or was acting on behalf of the United States.

And three: The defendant demanded, sought, or received the item of value corruptly in return for being influenced in the performance of any official act."

And you will find those are familiar words to

you because they're in your instructions, but your question properly prompts a special response, and so we'll make it to you in writing, and it will be brought back to you right away. But I don't need to keep you out here while we do that.

So thank you very much for your continuing attention, and we will ask you to go back and continue your deliberations, and this will follow quickly.

THE CLERK: All rise for the jury.

(The jury exited the courtroom.)

THE CLERK: This Honorable Court is now adjourned.

THE COURT: Thank you very much. Thank you, Congressman.

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AFTERNOON SESSION, THURSDAY, APRIL 11, 2002 4:25 P.M.

THE COURT: Bring in the jury.

THE CLERK: All rise for the jury.

(The jury entered the courtroom.)

THE COURT: Let the record show that all parties are present in court, pro se Defendant Congressman James A. Traficant, Jr., and the United States as represented by counsel.

Members of the Jury, have you reached verdicts?

JURY FOREPERSON: We have reached a verdict.

THE COURT: Thank you. Will you please hand your verdicts up to my clerk?

THE COURT: Congressman Traficant, please rise.

Members of the Jury, I'm going to read each of these verdict forms, and I want you to listen carefully as I read what's reported on these forms.

As to Count 1 of the indictment, that is conspiracy to violate the federal bribery statute, we the jury find that Defendant James A. Traficant, Jr. is guilty. This verdict form is signed by all 12 jurors.

So say you Members of the Jury?

JURY FOREPERSON: Yes.

THE COURT: Do you want the jury to be

polled?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: Is this your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: Thank you. As to Count 2 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the federal bribery statute, we the jury find that James A. Traficant, Jr., is guilty. And this is signed by all Members of the Jury.

Ladies and Gentlemen, is that your verdict?

JURORS: Yes.

THE COURT: Do you want them to be polled?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: As to Count 3 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the Federal Bribery Statute, we the jury find that James A. Traficant, Jr., is guilty. This is signed by all 12 Members of the Jury.

Ladies and Gentlemen, is that your verdict?

JURORS: Yes.

THE COURT: Would you like them to be polled?

MR. TRAFICANT: No.

THE COURT: As to Count 4 of the indictment, that is, conspiracy to violate the illegal gratuity provision of the Federal Bribery Statute, we the jury find that James A. Traficant, Jr., is guilty, signed by all Members of the Jury.

Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: Would you like them to be polled?

MR. TRAFICANT: No.

THE COURT: As to Count 5 of the indictment, that is, receiving an illegal gratuity, we the jury find that James A. Traficant, Jr. is guilty, signed by all Members of the Jury.

Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: "No" to polling.

As to Count 6 of the indictment, that is, obstruction of justice, we the jury find that James A. Traficant, Jr., is guilty. That's signed by 12 Members of the Jury.

Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

MR. TRAFICANT: (The Defendant shook his head

in the negative.)

THE COURT: No polling.

As to Count 7 of the indictment, that is, conspiracy to defraud the United States, we the jury find that James A. Traficant, Jr., is guilty. And this is signed by 12 Members of the Jury.

Ladies and Gentlemen, is that your verdict?

JURORS: Yes.

THE COURT: Poll?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: Okay.

As to Count 8 of the indictment, that is, willfully filing a false tax return for the tax year 1998, we the Jury find that James A. Traficant, Jr., is guilty.

This is signed by all Members of the Jury. Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: Would you like them polled?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: As to Count 9 of the indictment, that is, willfully filing a false tax return for tax year 1999, we the Jury find that James A. Traficant, Jr. is guilty, signed by all Members of the Jury.

Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: Would you like them to be polled?

MR. TRAFICANT: (The Defendant shook his head in the negative.)

THE COURT: As to Count 10 of the indictment, that is, participation in the affairs of an enterprise through a pattern of racketeering activity, we the Jury find that James A. Traficant, Jr., is guilty, signed by all Members of the Jury.

Is that your verdict, Ladies and Gentlemen?

JURORS: Yes.

THE COURT: And there is on this a special RICO verdict form, which I will read. As to alleged racketeering act, I'll read the ones that were checked as committed by the jury:

One: Bribery relating to Bucci.

Two: Illegal gratuity relating to Bucheit.

Four: Illegal gratuity relating to Cafaro.

Five: Illegal gratuity relating to Sugar, 1999.

Seven: Illegal gratuity relating to Sinclair.

Nine: Mail fraud relating to Buccella.

Ten: Mail fraud relating to Traficanti.

Eleven: Mail fraud relating to Rovnak.

Ladies and Gentlemen, is that your verdict on Count 10?

JURORS: Yes.

THE COURT: Both sections?

JURORS: Yes.

THE COURT: Do you wish them to be polled?

MR. TRAFICANT: No.

THE COURT: Thank you.

Ladies and Gentlemen, because of your finding on Count 10, you have a little bit more work to do, one more task to perform in this court.

What I'm going to do now is give you a brief recess, and then we will bring you back out and give you instructions on the next phase of a RICO charge which has to do with forfeiture.

So we'll let you go back now, and then we'll re-bring you out shortly, very shortly. Okay? Thank you very much.

THE CLERK: All rise for the jury.

(The jury exited the courtroom.)

THE COURT: I'm going to ask that the alternates, as well, be escorted out. We'll bring you back in for the instructions.

(The alternative jurors exited the

courtroom.)

THE COURT: Okay. Everyone can be seated. And Congressman, if you would stand, I'll take these one by one.

Based upon the verdicts in this case, the verdict of the jury finding you guilty, first of the offense of conspiracy to violate the Federal Bribery Statute, the Court adjudges you guilty of that offense. That's Count 1.

As to Count 2, conspiracy to violate the illegal gratuity provision of the Federal Bribery Statute, the Court will find you guilty of that as it is related in Count 2 of the indictment, as in Count 3 of the indictment, and as in Count 4 of the indictment.

As to Count 5 of the indictment, based on the verdict of this jury, the Court will find you or adjudge you guilty of receiving an illegal gratuity.

On the same basis, on the basis of reading the verdict form from the jury, Count 6, obstruction of justice, the Court adjudges you guilty of obstruction of justice, and guilty, as the jury found in Count 7, of conspiracy to defraud the United States.

The Court adjudges you guilty of willfully filing a false tax return for the tax year 1998, based on the verdict of the jury, and for 1999, based on Count 9 of

the indictment and the verdict of the jury.

And as to Count 10, participation in the affairs of an enterprise through a pattern of racketeering activity, based upon the verdict of the jury, the Court will adjudge you guilty of those.

We'll continue you on bond until there's a presentence investigation and report, and your sentencing will be on Thursday, June 27th, 2002. And at that time you'll be given all of your appeal rights. You also will be able to allocute or talk to the Court.

There will be a presentence investigation report that will be provided to you when it's ready, and you have an opportunity to make objections to it or not, as you choose. Sometimes those are resolved before sentencing. If they aren't, then they can be resolved at the sentencing hearing.

Now what we're going into is a series of instructions and some discussion of RICO forfeiture, so you can be seated, sir, and we will move to that stage of this.

I want to bring both the jury back out and the alternates back out. So we'll get them from their separate places, and I'll allow you to make whatever comments you want to make before having instructions for the jury and what their responsibilities are regarding forfeiture. Okay?

You can bring the jury out.

(The jury entered the courtroom.)

THE COURT: We can all be seated. We're waiting for the alternates.

(The alternate jurors entered the courtroom.)

THE COURT: You will find on your seats a copy of -- it's a very short copy of an instruction. These are supplemental instructions on RICO forfeiture. And because of the verdict on Count 10, this becomes something additional that you need to turn your attention to. We'll let the government and the defendant make whatever remarks, if any, they want to make, and then I'll give you the instructions just as we did before, which is to say, I'm going to sit here and read them all to you word by word, and then we'll send you back.

Thank you. Mr. Morford?

MR. KALL: Thank you, Your Honor.

THE COURT: Mr. Kall. Congressman, you can be seated. Thank you.

MR. KALL: Ladies and Gentlemen, as the Judge will instruct you, the final issue for your consideration is the issue of forfeiture. As part of the indictment, Congressman Traficant is accused of having received proceeds or property as a result of his racketeering activity. By your verdict, you have found him guilty on

Count 10, the RICO count, and have found that he conducted the affairs of the charged enterprise, his congressional office, through a pattern of racketeering activity. And you returned special verdicts finding him guilty as to racketeering acts as to Bucci, Bucheit, Cafaro, David Sugar for 1999; Allen Sinclair, kickbacks; George Buccella, Anthony Traficanti, and Richard Rovnak, acts of mail fraud.

It is your final responsibility to determine the value, if any, of the property and proceeds that Congressman Traficant received as a result of this racketeering activity.

In making this determination, the government is relying on the same evidence that you heard over the course of the nine-week trial and that we presented to you, and the same evidence that you used to find the Congressman guilty of the RICO count.

In determining whether he received property or proceeds as a result of the racketeering activity, we would like to ask you to please recall the following evidence that you heard.

As to racketeering act one, the Bucci count, you will recall by seeing Exhibit 2-6 in Mr. Bucci's testimony that the Buccis forgave a bill for some $12,985, and that would be proceeds that he received.

You will also recall Mr. Bucci and a number

of the Bucci farm workers testifying about substantial work and improvements being done at the Congressman's farm after that, including bringing up to 30 truckloads of sawdust, work doing regrading, slagging in the driveway, and roads in back of the farmhouse, hauling away stumps and garbage, giving a two or $3,000 lawnmower to the Congressman, loaning him a truck, sending farm worker Joe Alteiro out there for several months.

And value of that, we would submit, would be at least $10,000, putting the value for racketeering act one of the property and proceeds received being at least $22,985.

As to racketeering act two, the work done by the carpenters hired by Pete Bucheit, you've seen the checks and you heard the testimony of Dave Manevich. And totaling up the value of those checks as to Mr. Manevich for the work that was done out at the Congressman's farm comes to a total of $26,994, and those checks were in Exhibit 7-37.

You will also recall hearing the testimony of Tom Passewitz, the electrician that was hired by Aey Electric to do work at Congressman Traficant's farm. Aey Electric was paid by the Bucheits for that work, and you will also recall the testimony of Leisel Bucheit that they were never paid by the Congressman for that work.

Taking those two items together, the value of the property or proceeds received as to racketeering act two would be at least $30,000.

As to racketeering act four, dealing with J.J. Cafaro and the U.S. Aerospace Group, you heard testimony that the value of the boat repairs was at least $26,000, that Mr. Cafaro gave at least -- gave the sum of $13,000 cash to Congressman Traficant, putting down at least $39,000.

If you also include the welder and the generator at Exhibits 8-43 and 8-46, the welder was $2,250, the generator was $2,714, that puts the value of the property and proceeds for racketeering act four to be at least $44,000.

As to racketeering act five for Dave Sugar, he testified that the value of the work done at the farm was between 10 to $12,000. Taking the conservative number there, we would ask that you find property or proceeds as to $10,000 for that racketeering act.

Finally, as to the Allen Sinclair kickbacks, he testified he gave $2,500 a month to the Congressman for a period of 13 months, coming to a total of $32,500.

Given the difficulty of putting a value on the work done by Traficanti, Rovnak and Buccella, we're not going to ask you to return any verdict of forfeiture as to

those racketeering acts.

But as you total up what I've just described, the work done by Bucci, Bucheit, Cafaro, Sugar in 1999, and the kickbacks given by Allen Sinclair, the government would ask you to return a verdict of forfeiture in the amount of at least $139,000.

Thank you.

THE COURT: Thank you. Congressman?

MR. TRAFICANT: I accept your verdict, but if you recall, the testimony of Susan Bucci said that the Bucci family owed me money.

Number two, on Pete Bucheit, the last statement of his daughter was, she never knew if the amount was paid or not, only her father knew, and they did not call her father.

Quite frankly, the Judge after my closing arguments allowed the prosecution to open up DiBlasio and Bucheit, which I objected to, and she overruled. And quite frankly, it was a very unfair process.

Pete Bucheit, until today, no one knows whether he was paid or not. So if you listened carefully to the testimony, she said she did not know if that account was paid. Pete Bucheit was their witness; he wasn't called to court.

The third one is Cafaro. You had three

witnesses on the welder, the generator. You had photographs. You had two witnesses that claimed that Mr. Cafaro did not leave the building with me. He didn't give me the $13,000.

He said he lied in the previous trial under oath, but it wasn't perjury; but I guess you accepted Cafaro's statements.

Second of all, you now see this table surrounded by the investigators of the United States Government. Not one of them offered testimony against me, because they were scared to death of my cross-examination.

Fourth of all, Sugar, he declared $70,500 on his income tax, and they assessed his total work at somewhere between 10,000. They're asking for $10,000, where he claimed $7,500 in income tax.

Sinclair said he bought a house for $275,000. I don't know if you looked at the evidence, but he had a mortgage for $276,000. When do you buy a home without putting down a down payment?

In addition, my employee bought a brand new Buick van, leased a new car, spent $50,000 on advertising. Thirty-two, five.

What the government has asked for the government has gotten. And you are the jury, and you made that decision, but I will say this to you: That whatever

you do and whatever action you take, you go ahead and take it, because I will accept it.

But I will say one thing about trial and what you've done: You've allowed a trial of the most severe criminal nature to be resolved by circumstantial evidence. And I understand it, I understand the government, I understand the country very well. And whatever you decide, I'll live by it and take whatever legal grounds I can take.

Thank you for your time.

THE COURT: Ladies and Gentlemen, I'll read, and you can read along, or you can simply listen if you'd like. You'll have those instructions with you.

Members of the Jury: As you know, Count 10 of the indictment charged Defendant Traficant with having violated Title 18, United States Code, Section 1962, by participating through a pattern of racketeering activity in the affairs of an enterprise, the activities of which affected interstate commerce.

Since you have determined by your verdict that Defendant Traficant did violate this section as charged in Count 10, you must now decide whether Defendant Traficant must forfeit certain properties as alleged in Count 10 as being subject to forfeiture under Section 1963(a)(1) and (3) of Title 18 of the United States Code.

That part of the law provides that anyone who

violates this section may be required as part of the penalty to forfeit to the United States any interest acquired or maintained in violation of the section, or any property constituting or derived from any proceeds which the person obtained directly or indirectly from racketeering activity in violation of Section 1962.

The term "forfeiture" means to be divested or deprived of the ownership of something as a penalty for the commission of a crime. A part of the indictment describes in particular the interest and proceeds allegedly subject to forfeiture to the United States, and you'll have a copy of that portion of the indictment with you in the jury room for your study during your supplemental deliberations.

With regard to forfeiture, you're instructed that to be entitled to such forfeiture, the government must have proved each of the following elements beyond a reasonable doubt:

First: That the property or proceeds sought to be forfeited constituted an interest acquired by Defendant Traficant.

Second: That such interest was acquired by Defendant Traficant as a result of the conduct of the enterprise's affairs through the pattern of racketeering activity, or constituted or was derived from proceeds which the defendant obtained directly or indirectly from

racketeering activity committed by Defendant Traficant as charged in Count 10, in violation of Title 18, United States Code, Section 1962(c).

In your consideration of the forfeiture claims, you're instructed that your previous determination that Defendant Traficant was guilty of having committed the offense alleged in Count 10 is final and conclusive, and you must not seek to discuss or determine anew his guilt or innocence.

You are further instructed that all of the instructions previously given to you concerning your consideration of the evidence, the credibility or believability of the witnesses, the government's burden of proof beyond a reasonable doubt, your duty to deliberate together, and the necessity of a unanimous verdict, will all continue to apply during your supplemental deliberations concerning the forfeiture claim.

The specific instructions I gave you earlier concerning Count 10 and the definition of the terms "enterprise" and "pattern of racketeering activity" also continue to apply.

With respect to these claims of forfeiture, you'll be provided a special verdict form for your convenience and use.

Here it is. It has the familiar format. Up

at the top is the name of the case and the caption, and so forth. And down below that -- oh, and there's a title, "Special verdict for Count 10, RICO forfeiture, 18 U.S.C. 1963." And then it reads, "As to Count 10 of the indictment, do you unanimously find that James A. Traficant, Jr. has property or proceeds subject to forfeiture?"

There's a "yes" and a "no." And then in italics, as you're familiar with, there is some instructions at the bottom of this page. It says, "If your answer to the above question was no, stop here, and do not complete the next question."

It also says, "If your answer to the above question was yes, then turn the page and complete the next question."

And the next question is, "What is the value of the property or proceeds that you unanimously find to be subject to forfeiture?" And there's a blank space for you to fill in the value.

Then all the signature lines follow, with one for the foreperson, and the date.

So you're familiar with our form, and this is the last form to be done. It's a special verdict form.

You'll take this verdict form to the jury room, and when you've reached unanimous agreement as to the

claim of forfeiture, you complete the form and contact the clerk.

Thank you.

THE CLERK: All rise for the jury.

(The jury retired to deliberate.)

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(6:30 p.m.)

THE COURT: The record should show that the parties are present in court, the pro se defendant Congressman James Traficant, and the United States represented by counsel.

Members of the Jury, have you reached your special verdict?

JURY FOREPERSON: We have, Your Honor.

THE COURT: Thank you. Could you hand it up, please? Members of the Jury, listen to the verdict as recorded carefully. Thank you. Congressman?

As to Count 10 of the indictment, do you unanimously find that James A. Traficant, Jr. has property or proceeds subject to forfeiture?

The answer is yes.

What is the value of the property or proceeds that you unanimously find to be subject to forfeiture?

The sum recorded is $96,000.

This verdict form is signed by all jurors.

Ladies and Gentlemen, is that your verdict?

JURORS: Yes.

THE COURT: Do you want them to be polled, sir? Congressman?

MR. TRAFICANT: No, I don't want them to be polled at all.

THE COURT: Thank you.

MR. TRAFICANT: But I do have a question. Does this jury have any jurisdiction over fines, or is that the jurisdiction of the Court?

THE COURT: No. That's something that will be considered at the time of sentencing.

MR. TRAFICANT: Will that be subject to forfeiture?

THE COURT: All of the things that will be before the Court at sentencing will be presented to you in the papers that come to you before sentencing.

MR. TRAFICANT: Now I want to make a statement to the Court.

THE COURT: Okay. Well, what I want to do before you do that is proceed with the regular proceedings with the jurors and the alternates, then you can make a statement to the Court.

MR. TRAFICANT: You've had 11 of my witnesses that weren't allowed to address this jury, and denying my

tapes that they weren't allow to hear.

Are you going to release them before I can speak again? Is that your statement?

THE COURT: Well, the jury has returned their verdict in your case, sir.

MR. TRAFICANT: They have after not hearing --

THE COURT: And they're entitled to be released, and I am going to release them, and also the alternates.

MR. TRAFICANT: I want to speak to the jury before they're released, because I believe they set a precedent in the United States --

THE COURT: Well, you can take that up as you go forward with whatever you want to go forward with, but they returned their verdict. We accepted their verdict, you were adjudged guilty under that verdict, and now we've had the forfeiture returned.

MR. TRAFICANT: Well, then I do have a question of the jury.

THE COURT: Well, you don't put questions to this jury.

MR. TRAFICANT: You said do I want to poll the jury.

THE COURT: I did, and you said you didn't.

MR. TRAFICANT: The government said they wanted $139,000 in forfeitures, and they come back with $96,000. I want to know which of the $33,000 was not, in fact, found by the jury.

THE COURT: Congressman, I'm about to discharge these men and women from their duty.

MR. TRAFICANT: Do what you're going to do.

THE COURT: They're not responsible to answer your questions at this point in the proceedings.

MR. TRAFICANT: Do what you're going to do.

THE COURT: Thank you. Members of the Jury, and also your colleagues, the alternates, who are here with us today, on behalf of the public and the parties in the case, and myself, accept our deep appreciation for your thoughtfulness, for your perseverance, for your careful attention, and for your service.

When we started this out all together, I think when you were prospective jurors, I talked about our recognition, those of us who serve here in the courts, of the necessary but great inconvenience that is occasioned by jury service. These are not only necessary, but as you've learned better than many people who have an opportunity to do difficult public duties that we perform, we have these responsibilities as Americans. You help guarantee the rule of law. You help guarantee social order and precious

rights under the Constitution.

This right to a trial by jury is rare across human experience. It is fundamental really to our 200-year-old system of government under law and justice.

And the other thing we talked about when we began was we enjoy all these rights and liberties. We enjoy the social order which government under law permits us to have in this country, and we enjoy these blessings of liberty and justice that our 200-year-old, more than 200-year-old Constitution protects, but these were hard-won rights and liberties. And the promises are one thing, these 200-year-old promises, that's one thing, and they're high minded, but the actual men and women who day in and day out make justice real under these promises, that's another story, and you've lived it.

So your verdicts have come in, your service has ended. You're now released from those odd rules that you've had to live under week after week. You now can speak if you wish to speak about this case. On the other hand, you need never speak about it if that's your choice. You've met the high calling, and now you're going to be free of these strange rules that govern you.

Just remember to speak, if you speak, for yourselves and not for your colleagues, and know that you go away from here having functioned as part of the Court

where the duty and the hours were long, but you performed exceedingly well. And it was a pleasure and a great privilege for me to serve with you on the court.

Please go back now to the jury room, all of you together, including the alternates, and relax a little so we can move everybody out of the Court area here in a reasonable way, and then we will dismiss you from the court, but you're discharged from your duties as of now.

Thank you very much.

THE CLERK: All rise for the jury.

(Proceedings concluded.)

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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.

Heidi Blueskye Geizer 4/15/02

Heidi Blueskye Geizer, RMR, CRR Date